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HOUSE BILL 1160

**43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997**

INTRODUCED BY

EARLENE ROBERTS

AN ACT

RELATING TO LICENSING BOARDS; ELIMINATING STATE CONTROL OVER THE  
NEW MEXICO ATHLETIC COMMISSION, THE BOARD OF OPTOMETRY, THE  
CHIROPRACTIC BOARD, THE NEW MEXICO BOARD OF DENTAL HEALTH CARE,  
THE DENTAL HYGIENISTS COMMITTEE, THE NUTRITION AND DIETETICS  
PRACTICE BOARD, THE BOARD OF PODIATRY, THE NEW MEXICO STATE  
BOARD OF PSYCHOLOGIST EXAMINERS, THE COUNSELING AND THERAPY  
PRACTICE BOARD, THE BOARD OF OSTEOPATHIC MEDICAL EXAMINERS, THE  
BOARD OF PHARMACY, THE PHYSICAL THERAPY BOARD, THE BOARD OF  
EXAMINERS FOR OCCUPATIONAL THERAPY, THE BOARD OF RESPIRATORY  
CARE PRACTITIONERS, THE BOARD OF MASSAGE THERAPY, THE BOARD OF  
NURSING HOME ADMINISTRATORS, THE BOARD OF ACUPUNCTURE AND  
ORIENTAL MEDICINE, THE SPEECH LANGUAGE PATHOLOGY, AUDIOLOGY AND  
HEARING AID DISPENSING PRACTICES BOARD, THE ATHLETIC TRAINER  
PRACTICE BOARD, THE BOARD OF BARBERS AND COSMETOLOGISTS, THE  
BOARD OF LANDSCAPE ARCHITECTS, THE INTERIOR DESIGN BOARD, THE

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1 PRIVATE INVESTIGATORS AND POLYGRAPHERS BOARD, THE NEW MEXICO  
2 STATE BOARD OF PUBLIC ACCOUNTANCY, THE NEW MEXICO REAL ESTATE  
3 COMMISSION, THE REAL ESTATE APPRAISERS BOARD, THE BOARD OF  
4 SOCIAL WORK EXAMINERS AND THE BOARD OF THANATOPRACTICE; MAKING  
5 EXCEPTIONS TO STATE LAWS PERTAINING TO STATE MONEY, PERSONNEL,  
6 RETIREMENT, TORT CLAIMS AND ATTORNEY GENERAL AND STATE AUDITOR  
7 SERVICES; EXEMPTING THE LICENSING BOARDS AND THEIR EMPLOYEES  
8 FROM CERTAIN STATE LAWS AND COVERING THEM UNDER OTHERS;  
9 EXTENDING SUNSET DATES ON CERTAIN LICENSING BOARDS; PROVIDING  
10 FOR TRANSFERS OF MONEY, APPROPRIATIONS AND OTHER PERSONAL  
11 PROPERTY TO THE LICENSING BOARDS; REPEALING THE PHYSICAL  
12 THERAPIST ACT; ENACTING THE PHYSICAL THERAPY ACT; AMENDING,  
13 REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

16 Section 1. Section 60-2A-1 NMSA 1978 (being Laws 1980,  
17 Chapter 90, Section 1) is amended to read:

18 "60-2A-1. SHORT TITLE. -- [~~This act~~] Chapter 60, Article 2A  
19 NMSA 1978 may be cited as the "Professional Athletic Competition  
20 Act". "

21 Section 2. Section 60-2A-2 NMSA 1978 (being Laws 1980,  
22 Chapter 90, Section 2, as amended) is amended to read:

23 "60-2A-2. DEFINITIONS. -- As used in the Professional  
24 Athletic Competition Act:

25 A. "board" means the medical advisory board;

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1           B. "commission" means the New Mexico athletic  
2 commission;

3           C. "foreign co-promoter" means a promoter who has no  
4 place of business in this state;

5           D. "professional boxer" or "professional wrestler"  
6 means an individual who competes for money, prizes or purses or  
7 who teaches, pursues or assists in the practice of boxing,  
8 wrestling or martial arts as a means of obtaining a livelihood  
9 or pecuniary gain;

10           E. "professional contest" means any professional  
11 boxing, wrestling or martial arts contest or exhibition, whether  
12 or not an admission fee is charged for admission of the public;

13           F. "promoter" means any person, and in the case of a  
14 corporate promoter includes any officer, director or stockholder  
15 of the corporation, who produces or stages any professional  
16 boxing, wrestling or martial arts contest, exhibition or closed  
17 circuit television show;

18           G. "purse" means the financial guarantee or any other  
19 remuneration, or part thereof, for which professional boxers or  
20 professional wrestlers are participating in a contest or  
21 exhibition and includes ~~[the]~~ a participant's share of any  
22 payment received for radio broadcasting, television or motion  
23 picture rights; and

24           H. "ring official" means any person who performs an  
25 official function during the progress of a contest or exhibition

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1 [and

2 I. ~~"department" means the regulation and licensing~~  
3 ~~department]. "~~

4 Section 3. Section 60-2A-3 NMSA 1978 (being Laws 1980,  
5 Chapter 90, Section 3, as amended) is amended to read:

6 "60-2A-3. COMMISSION CREATED--TERMS--RESTRICTIONS. --

7 A. There is created the "New Mexico athletic  
8 commission". ~~[The commission shall be administratively attached~~  
9 ~~to the department.]~~

10 B. The commission shall consist of five members who  
11 are New Mexico residents and who are appointed by the governor.  
12 Three of the members shall have experience in ~~[the]~~ professional  
13 sports, and the other two members shall represent the public.  
14 The public members shall not have been licensed or have any  
15 financial interest, direct or indirect, in the profession  
16 regulated. The members shall be appointed for staggered terms  
17 of four years each. Each member shall hold office until the  
18 expiration of the term for which appointed or until a successor  
19 has been appointed and qualified. Not more than three members  
20 of the commission shall be appointed from the same political  
21 party. No commission member shall serve more than two full  
22 terms consecutively.

23 C. No member shall at any time during his membership  
24 on the commission promote or sponsor any professional contest or  
25 have any financial interest in the promotion or sponsorship of

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1 any professional contest. "

2 Section 4. Section 60-2A-4 NMSA 1978 (being Laws 1980,  
3 Chapter 90, Section 4, as amended) is amended to read:

4 "60-2A-4. CHAIRMAN--RULES. --

5 A. The commission shall elect annually in December a  
6 chairman and such other officers as it deems necessary. The  
7 commission shall meet as often as necessary for the conduct of  
8 business, but no less than twice a year. Meetings shall be  
9 called by the chairman or upon the written request of three or  
10 more members of the commission. Three members, at least one of  
11 whom is a public member, shall constitute a quorum.

12 B. The commission may adopt, purchase and use a seal.

13 C. The commission may adopt rules [~~subject to the~~  
14 ~~provisions of~~] in accordance with the State Rules Act for the  
15 administration of the Professional Athletic Competition Act [~~not~~  
16 ~~inconsistent with the provisions of the Professional Athletic~~  
17 ~~Competition Act~~]. The rules shall include [~~but not be limited~~  
18 ~~to~~] the:

19 (1) number and qualifications of ring officials  
20 required in a professional contest;

21 (2) powers, duties and compensation of ring  
22 officials; and

23 (3) qualifications of licensees.

24 D. The commission shall prepare all forms of contracts  
25 between sponsors, licensees, promoters and contestants.

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1                   E. The commission may contract or enter into leases  
2 for the provision of space and administrative support. "

3                   Section 5. Section 60-2A-5 NMSA 1978 (being Laws 1980,  
4 Chapter 90, Section 5) is amended to read:

5                   "60-2A-5. EXECUTIVE SECRETARY. -- The commission may employ  
6 an executive secretary who shall not be a member of the  
7 commission and who may serve as a full-time employee. The  
8 executive secretary may employ such staff and clerical  
9 assistants, subject to approval of the commission, as deemed  
10 necessary to carry out his duties. The commission may provide  
11 for health insurance or other benefits for its employees.

12 Except as otherwise provided in the Professional Athletic  
13 Competition Act, employees serve at the pleasure of the  
14 commission and are exempt from the provisions of the Personnel  
15 Act. "

16                   Section 6. Section 60-2A-6 NMSA 1978 (being Laws 1980,  
17 Chapter 90, Section 6) is amended to read:

18                   "60-2A-6. PER DIEM AND MILEAGE. -- The commission members  
19 shall ~~[be entitled to per diem and mileage as provided in the~~  
20 ~~Per Diem and Mileage Act and shall receive no other~~  
21 ~~compensation, perquisite or allowance]~~ serve without  
22 compensation other than reasonable reimbursement for mileage and  
23 per diem as determined by the commission and paid from  
24 commission funds. "

25                   Section 7. A new section of the Professional Athletic

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1 Competition Act is enacted to read:

2 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the  
3 commission, the attorney general shall provide such legal  
4 services to the commission necessary for the administration of  
5 the Professional Athletic Competition Act; provided, however,  
6 the commission may, in its discretion, employ or contract with  
7 private attorneys. "

8 Section 8. A new section of the Professional Athletic  
9 Competition Act is enacted to read:

10 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

11 A. The commission is specifically exempted from the  
12 provisions of the Procurement Code, the Art in Public Places  
13 Act, the Information and Communication Management Act and  
14 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
15 through 15-3-34 NMSA 1978.

16 B. The commission is also specifically exempted from  
17 the provisions of the Deferred Compensation Act, the Group  
18 Benefits Act, the Public Employee Bargaining Act, the Per Diem  
19 and Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
20 provided, however, that an employee of the regulation and  
21 licensing department who subsequently becomes employed by the  
22 commission without a break in service may, by agreement of the  
23 commission, continue to participate in and be covered by the  
24 provisions of those acts until separation from employment with  
25 the commission. Where required under those acts, the commission

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1 shall make contributions for participating employees.

2 C. The commission is also specifically exempted from  
3 the provisions of the Public Employees Retirement Act and the  
4 Retiree Health Care Act; provided, however, that an employee of  
5 the regulation and licensing department who subsequently becomes  
6 employed by the commission without a break in service may, by  
7 agreement of the commission, continue to participate in the  
8 public employee retirement system under the terms and conditions  
9 of the Public Employees Retirement Act and the retiree health  
10 care system under the terms and conditions of the Retiree Health  
11 Care Act until separation from employment with the commission.  
12 The commission shall make contributions as required by those  
13 acts for a participating employee.

14 D. The commission is also specifically exempted from  
15 the provisions of the Personnel Act; provided, however, that an  
16 employee in the classified service in the regulation and  
17 licensing department who subsequently becomes employed by the  
18 commission without a break in service may, by agreement of the  
19 commission, remain in the classified service and be covered by  
20 that act until separation from employment with the commission.  
21 For all other employees, the commission may adopt its own  
22 employment policies. "

23 Section 9. A new section of the Professional Athletic  
24 Competition Act is enacted to read:

25 " [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The



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1 commission, as an organization and its individual members and  
2 employees, is specifically subject to and covered by the  
3 provisions of the Tort Claims Act, the Joint Powers Agreements  
4 Act, the Inspection of Public Records Act, the Public Records  
5 Act, the Open Meetings Act, the Governmental Conduct Act, the  
6 Financial Disclosure Act and any other state law applicable to  
7 the commission unless otherwise specifically exempted. "

8 Section 10. Section 60-2A-17 NMSA 1978 (being Laws 1980,  
9 Chapter 90, Section 17) is amended to read:

10 "60-2A-17. INSURANCE. --

11 A. The commission may by rule require insurance  
12 coverage for each licensed professional boxer or professional  
13 wrestler to provide for medical, surgical and hospital care for  
14 injuries sustained while preparing for or engaged in a  
15 professional contest, in an amount of one thousand dollars  
16 (\$1,000) payable to ~~[such]~~ the boxer or wrestler as beneficiary.

17 B. In lieu of or in addition to the insurance provided  
18 for in Subsection A of this section, the commission may  
19 establish a voluntary injury fund ~~[in the state treasury]~~ to  
20 provide for the medical care of a professional boxer or  
21 professional wrestler injured in the course of a professional  
22 contest. The fund shall consist solely of voluntary  
23 contributions by promoters equal to two percent of the gross  
24 receipts of the professional contest. ~~[The funds may be~~  
25 ~~expended upon vouchers signed by the chairman of the commission~~

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1 ~~and warrants drawn by the secretary of finance and~~  
2 ~~administration.]"~~

3 Section 11. Section 60-2A-24 NMSA 1978 (being Laws 1980,  
4 Chapter 90, Section 24) is amended to read:

5 "60-2A-24. ATHLETIC COMMISSION FUND. --

6 A. The proceeds of the privilege tax on promotions and  
7 of the privilege tax on closed-circuit television or motion  
8 pictures, together with any license fees or other fees  
9 authorized under the Professional Athletic Competition Act,  
10 shall be deposited [~~with the state treasurer to the credit of~~  
11 ~~the "athletic commission fund" which is hereby created.~~

12 ~~Expenditures from the athletic commission fund shall only be~~  
13 ~~made on vouchers issued and signed by the person designated by~~  
14 ~~the commission upon warrants drawn by the department of finance~~  
15 ~~and administration in accordance with the budget approved by the~~  
16 ~~department of finance and administration] by the commission in  
17 an account in a federally insured financial institution in New  
18 Mexico. Money in the account shall be withdrawn on the order of  
19 the commission or its designee and used only to carry out the  
20 commission's duties pursuant to the Professional Athletic  
21 Competition Act.~~

22 B. In accordance with the provisions of the Audit Act,  
23 the state auditor may examine the accounts and books of the  
24 commission, including its receipts, disbursements, contracts,  
25 leases and other records relating to the performance of its

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1 duties pursuant to the Professional Athletic Competition Act.  
2 In addition, the governor may call for any additional, special  
3 audits by the state auditor whenever deemed necessary for the  
4 protection and oversight of commission funds.

5 C. Money of the commission is not public money or  
6 state funds within the meaning of any law of the state relating  
7 to investment, deposit, security or expenditure of public  
8 money. "

9 Section 12. Section 61-2-6 NMSA 1978 (being Laws 1973,  
10 Chapter 353, Section 5, as amended) is amended to read:

11 "61-2-6. ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND  
12 DUTIES.--

13 A. The board shall annually elect a chairman, a vice  
14 chairman and a secretary-treasurer, each of whom shall serve  
15 until his successor is elected and qualified.

16 B. The board shall meet at least annually for the  
17 purpose of examining candidates for licensure. Special meetings  
18 may be called by the chairman and shall be called upon the  
19 written request of a majority of the board members. A majority  
20 of the board members currently serving constitutes a quorum.

21 C. Members of the board [~~may be reimbursed as provided~~  
22 ~~in the Per Diem and Mileage Act but shall receive no other~~  
23 ~~compensation, perquisite or allowance] shall serve without  
24 compensation other than reasonable reimbursement for mileage and  
25 per diem as determined by the board and paid from board funds.~~

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D. The board shall:

(1) administer and enforce the provisions of the Optometry Act;

(2) adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules and regulations for the implementation and enforcement of the provisions of the Optometry Act;

(3) adopt and use a seal;

(4) administer oaths and take testimony on any matters within the board's jurisdiction;

(5) keep an accurate record of all its meetings, receipts and disbursements;

(6) keep a record of all examinations held, together with the names and addresses of all persons taking the examinations and the examination results. Within thirty days after any examination, the board shall give written notice to each applicant examined of the results of the examination as to the respective applicant;

(7) certify as passing each applicant who obtains a grade of at least seventy-five percent on each subject upon which he is examined; providing that any applicant failing may apply for re-examination at the next scheduled examination date;

(8) keep a book of registration in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals,

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1 suspensions and revocations;

2 (9) grant, deny, renew, suspend or revoke  
3 licenses to practice optometry in accordance with the provisions  
4 of the Uniform Licensing Act for any cause stated in the  
5 Optometry Act;

6 (10) develop and administer qualifications for  
7 certification for the use of topical ocular pharmaceutical  
8 agents and oral pharmaceutical agents as authorized in Section  
9 61-2-10.2 NMSA 1978, including minimum educational requirements  
10 and examination, as required by Section 61-2-10 NMSA 1978, and  
11 provide the board of pharmacy with an annual list of  
12 optometrists certified to use topical ocular pharmaceutical  
13 agents and oral pharmaceutical agents as authorized in Section  
14 61-2-10.2 NMSA 1978; and

15 (11) provide for the suspension of an  
16 optometrist's license for sixty days upon a determination of use  
17 of pharmaceutical agents without prior certification in  
18 accordance with Section 61-2-10 NMSA 1978, after proper notice  
19 and an opportunity to be heard before the board. [~~and~~

20 ~~(12) have the power to]~~

21 E. The board may:

22 (1) employ agents or ~~[attorneys]~~ other staff it  
23 deems necessary to assist it in carrying out its duties pursuant  
24 to the Optometry Act, and the board may provide for health  
25 insurance or other benefits for those employees. Except as

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1 otherwise provided in that act, employees serve at the pleasure  
2 of the board and are exempt from the provisions of the Personnel  
3 Act; and

4 (2) enter into contracts. "

5 Section 13. Section 61-2-7 NMSA 1978 (being Laws 1973,  
6 Chapter 353, Section 6) is amended to read:

7 "61-2-7. [~~DISPOSITION OF~~] BOARD FUNDS- - [~~OPTOMETRY FUND~~  
8 ~~CREATED METHOD OF PAYMENTS~~] BONDS. - -

9 [~~A. There is created the "optometry fund".~~

10 B. ~~All funds received by the board and money~~  
11 ~~collected under the Optometry Act shall be deposited with the~~  
12 ~~state treasurer who shall place the same to the credit of the~~  
13 ~~optometry fund.~~

14 C. ~~All payments out of the optometry fund shall be~~  
15 ~~made on vouchers issued and signed by the secretary-treasurer of~~  
16 ~~the board upon warrants drawn by the department of finance and~~  
17 ~~administration in accordance with the budget approved by that~~  
18 ~~department.~~

19 D. ~~All amounts in the optometry fund shall be subject~~  
20 ~~to the order of the board and shall be used only for the purpose~~  
21 ~~of meeting necessary expenses incurred in:~~

22 (1) ~~the performance of the provisions of the~~  
23 ~~Optometry Act and the duties and powers imposed thereby; and~~

24 (2) ~~the promotion of optometric education and~~  
25 ~~standards in this state within the budgetary limits.~~

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1           ~~E. All funds which may have accumulated to the credit~~  
2 ~~of the board under any previous law shall be transferred to the~~  
3 ~~optometry fund and shall continue to be available for use by the~~  
4 ~~optometry board in accordance with the provisions of the~~  
5 ~~Optometry Act. All money unused at the end of the fiscal year~~  
6 ~~shall not revert but shall remain in the optometry fund for use~~  
7 ~~in accordance with the provisions of the Optometry Act.]~~

8           A. All money received by the board from fees provided  
9 for in the Optometry Act shall be deposited in an account in a  
10 federally insured financial institution qualified to do business  
11 in New Mexico. The money in the account shall be withdrawn on  
12 the order of the board or its designee and be used only to carry  
13 out the board's duties pursuant to that act.

14           B. In accordance with the provisions of the Audit Act,  
15 the state auditor may examine the accounts and books of the  
16 board, including its receipts, disbursements, contracts, leases  
17 and other records relating to the performance of its duties  
18 pursuant to the Optometry Act. In addition, the governor may  
19 call for any additional, special audits to be conducted by the  
20 state auditor whenever deemed necessary for the protection and  
21 oversight of board funds.

22           C. Money of the board is not public money or state  
23 funds within the meaning of any law of the state relating to  
24 investment, deposit, security or expenditure of public money.

25           [F.] D. The secretary-treasurer of the board and any

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1 employee of the board who handles money or who certifies the  
2 receipt or disbursal of money received by the board shall,  
3 within thirty days after election or employment by the board,  
4 execute a bond in accordance with the provisions of the Surety  
5 Bond Act, conditioned on the faithful performance of the duties  
6 of the office or position and on an accounting of all funds  
7 coming into his hands.

8 [G. ~~The secretary treasurer shall make, at the end of~~  
9 ~~each fiscal year, an itemized report to the governor of all~~  
10 ~~receipts and disbursements of the board for the prior fiscal~~  
11 ~~year, together with a report of the records and information~~  
12 ~~required by the Optometry Act. A copy of the annual report to~~  
13 ~~the governor shall be presented to the board at its first~~  
14 ~~meeting in July of each year.~~]"

15 Section 14. A new section of the Optometry Act is enacted  
16 to read:

17 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
18 the attorney general shall provide such legal services to the  
19 board necessary for the administration of the Optometry Act;  
20 provided, however, the board may, in its discretion, employ or  
21 contract for the services of other attorneys to assist it in the  
22 administration of that act. "

23 Section 15. A new section of the Optometry Act is enacted  
24 to read:

25 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --



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1           A. The board is specifically exempted from the  
2 provisions of the Procurement Code, the Art in Public Places  
3 Act, the Information and Communication Management Act and  
4 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
5 through 15-3-34 NMSA 1978.

6           B. The board is also specifically exempted from the  
7 provisions of the Deferred Compensation Act, the Group Benefits  
8 Act, the Public Employee Bargaining Act, the Per Diem and  
9 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
10 provided, however, that an employee of the regulation and  
11 licensing department who subsequently becomes employed by the  
12 board without a break in service may, by agreement of the board,  
13 continue to participate in and be covered by those acts until  
14 separation from employment with the board. Where required under  
15 those acts, the board shall make contributions for any such  
16 employee so participating.

17           C. The board is also specifically exempted from the  
18 provisions of the Public Employees Retirement Act and the  
19 Retiree Health Care Act; provided, however, that an employee of  
20 the regulation and licensing department who subsequently becomes  
21 employed by the board without a break in service may, by  
22 agreement of the board, continue to participate in the public  
23 employee retirement system under the terms and conditions of the  
24 Public Employees Retirement Act and the retiree health care  
25 system under the terms and conditions of the Retiree Health Care

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1 Act until separation from employment with the board. The board  
2 shall make contributions as required by those acts for any such  
3 employee so participating.

4 D. The board is also specifically exempted from the  
5 provisions of the Personnel Act; provided, however, that an  
6 employee in the classified service in the regulation and  
7 licensing department who subsequently becomes employed by the  
8 board without a break in service may, by agreement of the board,  
9 remain in the classified service and be covered by the Personnel  
10 Act until separation from employment with the board. For all  
11 other employees, the board may adopt its own employment  
12 policies. "

13 Section 16. A new section of the Optometry Act is enacted  
14 to read:

15 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
16 an organization and its individual members and employees, is  
17 specifically subject to and covered by the provisions of the  
18 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
19 of Public Records Act, the Public Records Act, the Open Meetings  
20 Act, the Governmental Conduct Act, the Financial Disclosure Act  
21 and any other state law applicable to the board unless otherwise  
22 specifically exempted in the Optometry Act. "

23 Section 17. Section 61-2-18 NMSA 1978 (being Laws 1979,  
24 Chapter 12, Section 3, as amended) is amended to read:

25 "61-2-18. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --The

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1 board of optometry is terminated on July 1, [1997] 2003 pursuant  
2 to the Sunset Act. The board shall continue to operate  
3 according to the provisions of Chapter 61, Article 2 NMSA 1978  
4 until July 1, [1998] 2004. Effective July 1, [1998 ~~Article 2~~  
5 ~~of~~] 2004, Chapter 61, Article 2 NMSA 1978 is repealed. "

6 Section 18. Section 61-4-3 NMSA 1978 (being Laws 1968,  
7 Chapter 3, Section 3, as amended) is amended to read:

8 "61-4-3. BOARD CREATED--APPOINTMENT--OFFICERS--DUTIES--  
9 COMPENSATION.--

10 A. There is created the "chiropractic board". The  
11 board shall consist of six persons. Four shall have been  
12 continuously engaged in the practice of chiropractic in New  
13 Mexico for five years immediately prior to their appointment.  
14 Two persons shall represent the public and shall not have  
15 practiced chiropractic in this state or any other jurisdiction.  
16 No person shall be appointed to the board who is an officer or  
17 employee of or who is financially interested in any school or  
18 college of chiropractic, medicine, surgery or osteopathy.

19 B. Members of the board shall be appointed by the  
20 governor for staggered terms [~~one of the members shall be~~  
21 ~~appointed for a term ending July 1, 1980, one for a term ending~~  
22 ~~July 1, 1981, one for a term ending July 1, 1982, one for a term~~  
23 ~~ending July 1, 1983 and one for a term ending July 1, 1984.~~  
24 ~~Thereafter, appointments shall be made for terms]~~ of five years  
25 or less and [~~be made~~] in such a manner that the term of one

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1 board member expires on July 1 of each year. A list of five  
2 names for each professional member vacancy shall be submitted by  
3 the New Mexico chiropractic associations to the governor for his  
4 consideration in the appointment of board members. A vacancy  
5 shall be filled by appointment for the unexpired term. Board  
6 members shall serve until their successors have been appointed  
7 and qualified.

8 C. The board shall annually elect a chairman and a  
9 secretary-treasurer. A majority of the board constitutes a  
10 quorum. The board shall meet quarterly. Special meetings may  
11 be called by the chairman and shall be called upon the written  
12 request of two members of the board. Notification of special  
13 meetings shall be made by certified mail unless such notice is  
14 waived by the entire board and the action noted in the minutes.  
15 Notice of all regular meetings shall be made by regular mail at  
16 least ten days prior to the meeting, and copies of the minutes  
17 of all meetings shall be mailed to each board member within  
18 thirty days after any meeting.

19 D. Any board member failing to attend three  
20 consecutive meetings, either regular or special, shall  
21 automatically be removed as a member of the board.

22 E. The board shall adopt a seal.

23 F. The board shall promulgate and file, in accordance  
24 with the State Rules Act, all rules and regulations necessary  
25 for the implementation and enforcement of the provisions of the

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1 Chiropractic Physician Practice Act, including educational  
2 requirements for a chiropractic assistant.

3 G. The board shall cause examinations to be held at  
4 least twice a year, and all applicants shall be notified in  
5 writing of each examination.

6 H. The board, for the [~~purpose~~] purposes of protecting  
7 the health and well-being of the citizens of this state and  
8 maintaining and continuing informed professional knowledge and  
9 awareness, shall establish by regulations adopted in accordance  
10 with the provisions of the Uniform Licensing Act mandatory  
11 continuing education requirements for chiropractors licensed in  
12 this state.

13 I. Failure to comply with the rules and regulations  
14 adopted by the board shall be grounds for investigation, which  
15 may lead to revocation of license.

16 J. Members of the board shall [~~be reimbursed as~~  
17 ~~provided in the Per Diem and Mileage Act, but shall receive no~~  
18 ~~other compensation, perquisite or allowance for each day~~  
19 ~~necessarily spent in the discharge of their duties~~] serve  
20 without compensation other than reasonable reimbursement for  
21 mileage and per diem as determined by the board and paid from  
22 board funds.

23 K. The board may employ such staff as it deems  
24 necessary to assist it in carrying out its duties pursuant to  
25 the Chiropractic Physician Practice Act and may provide for

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1 health insurance or other benefits for its staff. Except as  
2 provided in that act, employees serve at the pleasure of the  
3 board and are exempt from the provisions of the Personnel Act.

4 L. The board may enter into contracts. "

5 Section 19. A new section of the Chiropractic Physician  
6 Practice Act is enacted to read:

7 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
8 the attorney general shall provide such legal services to the  
9 board necessary for the administration of the Chiropractic  
10 Physician Practice Act; provided, however, the board may, in its  
11 discretion, employ or contract for the services of other  
12 attorneys to assist it in the administration of that act. "

13 Section 20. A new section of the Chiropractic Physician  
14 Practice Act is enacted to read:

15 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

16 A. The board is specifically exempted from the  
17 provisions of the Procurement Code, the Art in Public Places  
18 Act, the Information and Communication Management Act and  
19 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
20 through 15-3-34 NMSA 1978.

21 B. The board is also specifically exempted from the  
22 provisions of the Deferred Compensation Act, the Group Benefits  
23 Act, the Public Employee Bargaining Act, the Per Diem and  
24 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
25 provided, however, that an employee of the regulation and

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1 licensing department who subsequently becomes employed by the  
2 board without a break in service may, by agreement of the board,  
3 continue to participate in and be covered by those acts until  
4 separation from employment with the board. Where required  
5 pursuant to those acts, the board shall make contributions for  
6 the participating employee.

7 C. The board is also specifically exempted from the  
8 provisions of the Public Employees Retirement Act and the  
9 Retiree Health Care Act; provided, however, that an employee of  
10 the regulation and licensing department who subsequently becomes  
11 employed by the board without a break in service may, by  
12 agreement of the board, continue to participate in the public  
13 employee retirement system under the terms and conditions of the  
14 Public Employees Retirement Act and the retiree health care  
15 system under the terms and conditions of the Retiree Health Care  
16 Act until separation from employment with the board. The board  
17 shall make contributions as required by those acts for the  
18 participating employee.

19 D. The board is also specifically exempted from the  
20 provisions of the Personnel Act; provided, however, that an  
21 employee in the classified service in the regulation and  
22 licensing department who subsequently becomes employed by the  
23 board without a break in service may, by agreement of the board,  
24 remain in the classified service and be covered by the Personnel  
25 Act until separation from employment with the board. For all

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1 other employees, the board may adopt its own employment  
2 policies. "

3 Section 21. A new section of the Chiropractic Physician  
4 Practice Act is enacted to read:

5 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
6 an organization and its individual members and employees, is  
7 specifically subject to and covered by the provisions of the  
8 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
9 of Public Records Act, the Public Records Act, the Open Meetings  
10 Act, the Governmental Conduct Act, the Financial Disclosure Act  
11 and any other state law applicable to the board unless otherwise  
12 specifically exempted in the Chiropractic Physician Practice  
13 Act. "

14 Section 22. Section 61-4-7 NMSA 1978 (being Laws 1968,  
15 Chapter 3, Section 7, as amended) is amended to read:

16 "61-4-7. [~~DISPOSITION OF~~] BOARD FUNDS-- [~~CHIROPRACTIC FUND~~  
17 ~~CREATED~~] METHOD OF PAYMENT-- BOND. --

18 [A. ~~There is created the "chiropractic fund".~~

19 B. ~~All funds received by the board and money collected~~  
20 ~~under the Chiropractic Physician Practice Act shall be deposited~~  
21 ~~with the state treasurer. The state treasurer shall place the~~  
22 ~~money to the credit of the chiropractic fund.~~

23 C. ~~Payments out of the chiropractic fund shall be made~~  
24 ~~on vouchers issued and signed by the secretary of the board upon~~  
25 ~~warrants drawn by the department of finance and administration~~



Underscored material = new  
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1 ~~in accordance with the budget approved by the department of~~  
2 ~~finance and administration.~~

3 ~~D. All amounts paid into the chiropractic fund shall~~  
4 ~~be subject to the order of the board and shall only be used for~~  
5 ~~the purpose of meeting necessary expenses incurred in the~~  
6 ~~performance of the purposes of the Chiropractic Physician~~  
7 ~~Practice Act, the duties imposed by that act and the promotion~~  
8 ~~of chiropractic education and standards in this state. All~~  
9 ~~money unused at the end of the fiscal year shall remain in the~~  
10 ~~chiropractic fund for use in accordance with the provisions of~~  
11 ~~the Chiropractic Physician Practice Act to further its purpose.]~~

12 A. All money received by the board from fees provided  
13 for in the Chiropractic Physician Practice Act shall be  
14 deposited in an account in a federally insured financial  
15 institution qualified to do business in New Mexico. The money  
16 in the account shall be withdrawn on the order of the board or  
17 its designee and shall be used only to carry out the board's  
18 duties pursuant to that act.

19 B. In accordance with the provisions of the Audit Act,  
20 the state auditor may examine the accounts and books of the  
21 board, including its receipts, disbursements, contracts, leases  
22 and other records relating to the performance of its duties. In  
23 addition, the governor may call for additional, special audits  
24 by the state auditor whenever deemed necessary for the  
25 protection and oversight of board funds.

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1            C. Money of the board is not public money or state  
2 funds within the meaning of any law of the state relating to  
3 investment, deposit, security or expenditure of public money.

4            [~~E.~~] D. All funds that may have accumulated to the  
5 credit of the board under any previous act shall be continued  
6 for use by the board in the administration of the Chiropractic  
7 Physician Practice Act.

8            [~~F.~~] E. The [~~treasurer~~] secretary-treasurer of the  
9 board shall give bond in the amount of five thousand dollars  
10 (\$5,000) for the faithful discharge of his duties, in such form  
11 as meets the approval of the board. The [~~treasurer~~] secretary-  
12 treasurer shall make, at the first meeting after July 1 of each  
13 year, an itemized report of all receipts and disbursements of  
14 the board for the prior year.

15            [~~G.~~] F. The board shall, by rule, designate a portion  
16 of the annual licensing fee for the exclusive purposes of  
17 investigating and funding hearings regarding complaints against  
18 doctors of chiropractic. "

19            Section 23. Section 61-4-17 NMSA 1978 (being Laws 1979,  
20 Chapter 77, Section 2, as amended) is amended to read:

21            "61-4-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. -- The  
22 chiropractic board is terminated on July 1, [~~1997~~] 2003 pursuant  
23 to the Sunset Act. The board shall continue to operate  
24 according to the provisions of Chapter 61, Article 4 NMSA 1978  
25 until July 1, [~~1998~~] 2004. Effective July 1, [~~1998, Article 4~~

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1 ~~of]~~ 2004, Chapter 61, Article 4 NMSA 1978 is repealed. "

2 Section 24. Section 61-5A-1 NMSA 1978 (being Laws 1994,  
3 Chapter 55, Section 1) is amended to read:

4 "61-5A-1. SHORT TITLE. -- [~~Sections 1 through 29 of this act]~~  
5 Chapter 61, Article 5A NMSA 1978 may be cited as the "Dental  
6 Health Care Act". "

7 Section 25. Section 61-5A-8 NMSA 1978 (being Laws 1994,  
8 Chapter 55, Section 8) is amended to read:

9 "66-5A-8. BOARD CREATED. --

10 A. There is created the nine-member "New Mexico board  
11 of dental health care". The board shall consist of five  
12 dentists, two dental hygienists and two public members. The  
13 dentists shall be actively practicing and have been licensed  
14 practitioners and residents of New Mexico for a period of five  
15 years preceding the date of appointment. The dental hygienist  
16 members shall be members of the committee and shall be elected  
17 annually to sit on the board by those sitting on the committee.  
18 The appointed public members shall be residents of New Mexico  
19 and shall have no financial interest, direct or indirect, in the  
20 professions regulated in the Dental Health Care Act.

21 B. The governor may appoint the dentist members from a  
22 list of names submitted by the New Mexico dental association.  
23 There shall be one member from each district. All board members  
24 shall serve until their successors have been appointed and  
25 qualified. No member shall be employed by or receive

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1 remuneration from a dental or dental hygiene educational  
2 institution.

3 C. Appointments for dentists and public members shall  
4 be for terms of five years. Dentists' appointments shall be  
5 made so that the term of one dentist member expires on July 1 of  
6 each year. Public members' five-year terms begin at the date of  
7 appointment.

8 D. Any board member failing to attend three board or  
9 committee meetings, either regular or special, during the board  
10 member's term shall automatically be removed as a member of the  
11 board unless excused from attendance by the board for good cause  
12 shown.

13 E. No board member shall serve more than two full  
14 terms.

15 F. In the event of any vacancy, the secretary of the  
16 board shall immediately notify the governor, the board and [the]  
17 committee members and the New Mexico dental association of the  
18 reason for its occurrence and action taken by the board, so as  
19 to expedite appointment of a new board member.

20 G. The board shall meet quarterly every year. The  
21 board may also hold special meetings and emergency meetings in  
22 accordance with rules of the board upon written notice to all  
23 members of the board and committee.

24 H. Members of the board shall [be reimbursed as  
25 provided in the Per Diem and Mileage Act and shall receive no

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1 ~~other compensation, perquisite or allowance]~~ serve without  
2 compensation other than reasonable reimbursement for mileage and  
3 per diem as determined by the board and paid from board funds;  
4 provided, however, the secretary-treasurer may be compensated at  
5 the discretion of the board.

6 I. A simple majority of the board members currently  
7 serving shall constitute a quorum, provided at least two of that  
8 quorum are not dentist members and three are dentist members.

9 J. The board shall elect officers annually as deemed  
10 necessary to administer its duties and as provided in its rules  
11 and regulations. "

12 Section 26. Section 61-5A-9 NMSA 1978 (being Laws 1994,  
13 Chapter 55, Section 9) is amended to read:

14 "61-5A-9. COMMITTEE CREATED. --

15 A. There is created the seven-member "New Mexico  
16 dental hygienists committee". The committee shall consist of  
17 five dental hygienists, one dentist and one public member. The  
18 dental hygienists [~~must~~] shall be actively practicing and have  
19 been licensed practitioners and residents of New Mexico for a  
20 period of five years preceding the date of their appointment.  
21 The dentist and public member shall be members of the board and  
22 shall be elected annually to sit on the committee by those  
23 members sitting on the board.

24 B. The governor may appoint the dental hygienists from  
25 a list of names submitted by the New Mexico dental hygienists'

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1 association. There may be one member from each district. The  
2 list submitted shall consist, whenever possible, of names of  
3 dental hygienists in the district being considered but may also  
4 include names of dental hygienists at large. No more than two  
5 dental hygienists shall serve from the same district at one  
6 time. All members shall serve until their successors have been  
7 appointed and qualified. No member shall be employed by or  
8 receive remuneration from a dental or dental hygiene educational  
9 institution.

10 C. Appointments for dental hygienist members shall be  
11 for terms of five years. Appointments shall be made so that the  
12 term of one dental hygienist expires on July 1 of each year.

13 D. Any committee member failing to attend three  
14 committee or board meetings, either regular or special, during  
15 the committee member's term shall automatically be removed as a  
16 member of the committee unless excused from attendance by the  
17 committee for good cause shown. Members of the committee not  
18 sitting on the board shall not be required to attend board  
19 disciplinary hearings.

20 E. No committee member shall serve more than two full  
21 terms.

22 F. In the event of any vacancy, the secretary of the  
23 committee shall immediately notify the governor, the committee  
24 and board members and the New Mexico dental hygienists'  
25 association of the reason for its occurrence and action taken by

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1 the committee, so as to expedite appointment of a new committee  
2 member.

3 G. The committee shall meet quarterly every year. The  
4 committee may also hold special meetings and emergency meetings  
5 in accordance with ~~[the]~~ rules and regulations of the board upon  
6 written notification to all members of the committee and the  
7 board.

8 H. Members of the committee shall ~~[be reimbursed as~~  
9 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
10 ~~other compensation, perquisite or allowance]~~ serve without  
11 compensation other than reasonable reimbursement for mileage and  
12 per diem as determined by the board and paid from board funds.

13 I. A simple majority of the committee members  
14 currently serving shall constitute a quorum, provided at least  
15 one of that quorum is not a hygienist member.

16 J. The committee shall elect officers annually as  
17 deemed necessary to administer its duties and as provided in  
18 rules and regulations. "

19 Section 27. Section 61-5A-10 NMSA 1978 (being Laws 1994,  
20 Chapter 55, Section 10) is amended to read:

21 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND  
22 COMMITTEE. --In addition to any other authority provided by law,  
23 the board or the committee shall have the power to:

24 A. enforce and administer the provisions of the Dental  
25 Health Care Act;

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1           B. adopt, publish, [~~and~~] file and revise, in  
2 accordance with the Uniform Licensing Act and the State Rules  
3 Act, all rules and regulations as may be necessary to:

4                   (1) regulate the examination and licensure of  
5 dentists and, through the committee, regulate the examination  
6 and licensure of dental hygienists;

7                   (2) provide for the examination and certification  
8 of dental assistants by the board;

9                   (3) provide for the regulation of dental  
10 technicians by the board; and

11                   (4) regulate the practice of dentistry, dental  
12 assisting and, through the committee, regulate the practice of  
13 dental hygiene;

14           C. adopt and use a seal;

15           D. administer oaths to all applicants, witnesses and  
16 others appearing before the board or the committee, as  
17 appropriate;

18           E. keep an accurate record of all meetings, receipts  
19 and disbursements;

20           F. grant, deny, review, suspend and revoke licenses  
21 and certificates to practice dentistry, dental assisting and,  
22 through the committee, dental hygiene; and censure, reprimand,  
23 fine and place on probation and stipulation dentists, dental  
24 assistants and, through the committee, dental hygienists, in  
25 accordance with the Uniform Licensing Act for any cause stated



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1 in the Dental Health Care Act;

2 G. maintain records in which the name, address and  
3 license number of all licensees shall be recorded, together with  
4 a record of all license renewals, suspensions, revocations,  
5 probations, stipulations, censures, reprimands and fines;

6 H. hire staff and administrators as necessary to carry  
7 out the provisions of the Dental Health Care Act and provide for  
8 health insurance or other benefits for those persons. Except as  
9 otherwise provided in that act, employees of the board or  
10 committee serve at the pleasure of the board or committee and  
11 are exempt from the provisions of the Personnel Act;

12 I. establish ad hoc committees whose members shall be  
13 appointed by the chairman with the advice and consent of the  
14 board or committee, as it deems necessary for carrying on its  
15 business;

16 J. ~~[have the authority to]~~ pay per diem and mileage to  
17 individuals who are appointed by the board or the committee to  
18 serve on ad hoc committees;

19 K. ~~[have the authority to]~~ hire or contract with  
20 investigators to investigate possible violations of the Dental  
21 Health Care Act;

22 L. ~~[have the authority to]~~ hire an attorney to give  
23 advice and counsel in regard to any matter connected with the  
24 duties of the board ~~[and]~~ or the committee, to represent the  
25 board or the committee in any legal proceedings and to aid in

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1 the enforcement of the laws in relation to the Dental Health  
2 Care Act and to fix the compensation to be paid to such  
3 attorney; provided, however, such attorney shall be compensated  
4 from the funds of the board. Alternatively, the board may  
5 request the attorney general to provide legal services to the  
6 board necessary for the administration of that act;

7 M. ~~[have the authority to]~~ issue investigative  
8 subpoenas prior to the issuance of a notice of contemplated  
9 action for the purpose of investigating complaints against  
10 dentists, dental assistants and, through the committee, dental  
11 hygienists licensed under the Dental Health Care Act; ~~[and]~~

12 N. establish continuing education or continued  
13 competency requirements for dentists, certified dental  
14 assistants in expanded functions, dental technicians and,  
15 through the committee, dental hygienists; and

16 O. enter into contracts. "

17 Section 28. A new section of the Dental Health Care Act is  
18 enacted to read:

19 " [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

20 A. The board is specifically exempted from the  
21 provisions of the Procurement Code, the Art in Public Places  
22 Act, the Information and Communication Management Act and  
23 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
24 through 15-3-34 NMSA 1978.

25 B. The board is also specifically exempted from the

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1 provisions of the Deferred Compensation Act, the Group Benefits  
2 Act, the Public Employee Bargaining Act, the Per Diem and  
3 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
4 provided, however, that an employee of the regulation and  
5 licensing department who subsequently becomes employed by the  
6 board without a break in service may, by agreement of the board,  
7 continue to participate in and be covered by those acts until  
8 separation from employment with the board. Where required under  
9 those acts, the board shall make contributions for the  
10 participating employee.

11 C. The board is also specifically exempted from the  
12 provisions of the Public Employees Retirement Act and the  
13 Retiree Health Care Act; provided, however, that an employee of  
14 the regulation and licensing department who subsequently becomes  
15 employed by the board without a break in service may, by  
16 agreement of the board, continue to participate in the public  
17 employee retirement system under the terms and conditions of the  
18 Public Employees Retirement Act and the retiree health care  
19 system under the terms and conditions of the Retiree Health Care  
20 Act until separation from employment with the board. The board  
21 shall make contributions as required by those acts for the  
22 participating employee.

23 D. The board is also specifically exempted from the  
24 provisions of the Personnel Act; provided, however, that an  
25 employee in the classified service in the regulation and

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1 licensing department who subsequently becomes employed by the  
2 board without a break in service may, by agreement of the board,  
3 remain in the classified service and be covered by the Personnel  
4 Act until separation from employment with the board. For all  
5 other employees, the board may adopt its own employment  
6 policies. "

7 Section 29. A new section of the Dental Health Care Act is  
8 enacted to read:

9 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
10 an organization and its individual members and employees, is  
11 specifically subject to and covered by the provisions of the  
12 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
13 of Public Records Act, the Public Records Act, the Open Meetings  
14 Act, the Governmental Conduct Act, the Financial Disclosure Act  
15 and any other state law applicable to the board unless otherwise  
16 specifically exempted in the Dental Health Care Act. "

17 Section 30. Section 61-5A-26 NMSA 1978 (being Laws 1994,  
18 Chapter 55, Section 26) is repealed and a new Section 61-5A-26  
19 NMSA 1978 is enacted to read:

20 "61-5A-26. [NEW MATERIAL] BOARD FUNDS. --

21 A. All money received by the board from fees provided  
22 for in the Dental Health Care Act shall be deposited in an  
23 account in a federally insured financial institution qualified  
24 to do business in New Mexico. Money in the account shall be  
25 withdrawn on the order of the board or its designee and be used

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1 only to carry out the board's duties pursuant to that act. Fees  
2 collected by the board from fines shall be deposited in the  
3 board's account and, at the discretion of the board and  
4 committee, may be transferred into the impaired dentists and  
5 dental hygienists fund created in Section 61-5B-11 NMSA 1978.

6 B. In accordance with the provisions of the Audit Act,  
7 the state auditor may examine the accounts and books of the  
8 board, including its receipts, disbursements, contracts, leases  
9 and other records relating to the performance of its duties  
10 pursuant to the Dental Health Care Act. In addition, the  
11 governor may call for any additional, special audits by the  
12 state auditor whenever deemed necessary for the protection and  
13 oversight of board funds.

14 C. Money of the board is not public money or state  
15 funds within the meaning of any law of the state relating to  
16 investment, deposit, security or expenditure of public money."

17 Section 31. Section 61-5A-30 NMSA 1978 (being Laws 1994,  
18 Chapter 55, Section 42) is amended to read:

19 "61-5A-30. DELAYED REPEAL. -- The New Mexico board of dental  
20 health care is terminated on July 1, [1997] 2003 pursuant to the  
21 Sunset Act. The board shall continue to operate according to  
22 the provisions of the Dental Health Care Act and the Impaired  
23 Dentists and Dental Hygienists Act until July 1, [1998] 2004.  
24 Effective July 1, [1998] 2004, the Dental Health Care Act and  
25 the Impaired Dentists and Dental Hygienists Act are repealed."

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1           Section 32. Section 61-5B-11 NMSA 1978 (being Laws 1994,  
2 Chapter 55, Section 40) is amended to read:

3           "61-5B-11. IMPAIRED DENTISTS AND DENTAL HYGIENISTS FUND  
4 CREATED. --

5           A. There is created an "impaired dentists and dental  
6 [~~hygienist~~] hygienists fund".

7           B. The impaired dentists and dental hygienists fund  
8 shall be initially established by an assessment to all licensees  
9 as determined by the board and the dental hygienists committee.

10          C. All [~~funds~~] money received by the board for an  
11 impaired assessment, either special or at time of relicensure,  
12 shall be deposited [~~with the state treasurer. The state~~  
13 ~~treasurer shall credit this money to the impaired dentists and~~  
14 ~~dental hygienists fund.~~

15          D. ~~Payments out of the fund shall be on vouchers~~  
16 ~~issued and signed by the secretary-treasurer of the board upon~~  
17 ~~warrants drawn by the department of finance and administration~~  
18 ~~in accordance with the responsibilities of the board as approved~~  
19 ~~by that department]~~ by the board in an account in a federally  
20 insured financial institution qualified to do business in New  
21 Mexico. Money in the account shall be separate from other board  
22 funds provided for in Section 61-5A-26 NMSA 1978, unless the  
23 board, in its discretion as granted under that section,  
24 transfers board money into the impaired dentists and dental  
25 hygienists fund.

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1            [E-] D. All amounts paid into the impaired dentists  
2 and dental hygienists fund are subject to the order of the board  
3 and are to be used only for meeting necessary expenses incurred  
4 in executing the provisions and duties of the Impaired Dentists  
5 and Dental Hygienists Act. All money unused at the end of any  
6 fiscal year shall remain in the fund for use in accordance with  
7 provisions of the Impaired Dentists and Dental Hygienists Act.

8            E. In accordance with the Audit Act, the state auditor  
9 may examine the accounts and books of the board, including its  
10 receipts, disbursements, contracts, leases and other records  
11 relating to the performance of its duties under the Impaired  
12 Dentists and Dental Hygienists Act. In addition, the governor  
13 may call for additional, special audits to be conducted by the  
14 state auditor whenever deemed necessary for the protection and  
15 oversight of board funds. Money in the impaired dentists and  
16 dental hygienists fund is not public money or state funds within  
17 the meaning of any law of the state relating to investment,  
18 deposit, security or expenditure of public money.

19            F. Licensees shall be assessed an impaired fee at the  
20 time of renewal. The amount of the impaired fee shall be  
21 determined by the board and the committee and shall be  
22 established to meet the need for enforcing the Impaired Dentists  
23 and Dental Hygienists Act.

24            G. The impaired dentists and dental hygienists fund  
25 shall be used for the purpose of administration, testing,

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1 monitoring, hearings and consultation fees by the board or  
2 dental hygienists committee or their agent, which are necessary  
3 to enforce the Impaired Dentists and Dental Hygienists Act. It  
4 is not the purpose of the fund to pay for treatment of impaired  
5 dentists and dental hygienists. "

6 Section 33. Section 61-7A-1 NMSA 1978 (being Laws 1989,  
7 Chapter 387, Section 1) is amended to read:

8 "61-7A-1. SHORT TITLE. -- [~~Sections 1 through 15 of this act]~~  
9 Chapter 61, Article 7A NMSA 1978 may be cited as the "Nutrition  
10 and Dietetics Practice Act". "

11 Section 34. Section 61-7A-5 NMSA 1978 (being Laws 1989,  
12 Chapter 387, Section 5, as amended) is amended to read:

13 "61-7A-5. BOARD CREATED. --

14 A. There is created the "nutrition and dietetics  
15 practice board" [~~administratively attached to the regulation and~~  
16 ~~licensing department~~]. The board shall consist of five members  
17 who are New Mexico residents and who are appointed by the  
18 governor for staggered three-year terms. Three members shall be  
19 licensed dietitians or nutritionists with at least three years  
20 of nutrition or dietetics practice in New Mexico and two members  
21 shall represent the public. There shall be at least one  
22 dietitian and at least one nutritionist on the board at all  
23 times. The public members shall not have been licensed as [~~a~~  
24 ~~dietitian or nutritionist~~] dietitians or nutritionists or have  
25 any financial interest, direct or indirect, in the professions



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1 regulated.

2 B. Each member shall hold office until the expiration  
3 of the term for which appointed or until a successor has been  
4 appointed ~~[Vacancies]~~ and qualified. A vacancy shall be filled  
5 for the balance of the unexpired term within ninety days of the  
6 vacancy by appointment by the governor.

7 C. No board member shall serve more than two full  
8 terms.

9 D. The board shall elect annually a chairman and such  
10 other officers as it deems necessary. The board shall meet as  
11 often as necessary for the conduct of business, but no less than  
12 twice a year. Meetings shall be called by the chairman or upon  
13 the written request of two or more members of the board. Three  
14 members, at least two of whom are professional members and at  
15 least one of whom is a public member, shall constitute a quorum.  
16 Any member failing to attend, after proper notice, three  
17 consecutive meetings shall automatically be removed as a board  
18 member.

19 E. The members of the board shall ~~[be reimbursed as~~  
20 ~~provided for nonsalaried public officers in the Per Diem and~~  
21 ~~Mileage Act and shall receive no other compensation, perquisite~~  
22 ~~or allowance]~~ serve without compensation other than reasonable  
23 reimbursement for mileage and per diem as determined by the  
24 board and paid from board funds."

25 Section 35. Section 61-7A-6 NMSA 1978 (being Laws 1989,

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1 Chapter 387, Section 6, as amended) is amended to read:

2 "61-7A-6. BOARD--DUTIES. --

3 A. The board shall:

4 (1) develop and administer an appropriate  
5 examination for qualified applicants;

6 (2) evaluate the qualifications of applicants for  
7 licensure [~~under~~] pursuant to the Nutrition and Dietetics  
8 Practice Act;

9 (3) issue licenses to applicants who meet the  
10 requirements of the Nutrition and Dietetics Practice Act;

11 (4) investigate persons engaging in practices  
12 that may violate the provisions of the Nutrition and Dietetics  
13 Practice Act;

14 (5) revoke, suspend or deny a license in  
15 accordance with the provisions of the Uniform Licensing Act;

16 (6) adopt an annual budget;

17 (7) adopt a code of ethics; and

18 (8) adopt in accordance with the Uniform  
19 Licensing Act and file in accordance with the State Rules Act  
20 rules and regulations necessary to carry out the provisions of  
21 the Nutrition and Dietetics Practice Act; provided, no rule or  
22 regulation may be adopted, amended or repealed except by a vote  
23 of three-fifths of the board members.

24 B. The board may [~~contract with the regulation and~~  
25 ~~licensing department for office space and administrative~~

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1 ~~support]~~ enter into contracts.

2 C. The board may employ the staff it deems necessary  
3 to assist it in carrying out its duties pursuant to the  
4 Nutrition and Dietetics Practice Act and provide for health  
5 insurance or other benefits for them. Except as otherwise  
6 provided in that act, employees serve at the pleasure of the  
7 board and are exempt from the provisions of the Personnel Act."

8 Section 36. A new section of the Nutrition and Dietetics  
9 Practice Act is enacted to read:

10 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
11 the attorney general shall provide such legal services to the  
12 board necessary for the administration of the Nutrition and  
13 Dietetics Practice Act; provided, however, that the board may,  
14 in its discretion, employ or contract for the services of other  
15 attorneys to assist it in the administration of that act."

16 Section 37. A new section of the Nutrition and Dietetics  
17 Practice Act is enacted to read:

18 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

19 A. The board is specifically exempted from the  
20 provisions of the Procurement Code, the Art in Public Places  
21 Act, the Information and Communication Management Act and  
22 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
23 through 15-3-34 NMSA 1978.

24 B. The board is also specifically exempted from the  
25 provisions of the Deferred Compensation Act, the Group Benefits

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1 Act, the Public Employee Bargaining Act, the Per Diem and  
2 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
3 provided, however, that an employee of the regulation and  
4 licensing department who subsequently becomes employed by the  
5 board without a break in service may, by agreement of the board,  
6 continue to participate in and be covered by those acts until  
7 separation from employment with the board. Where required under  
8 those acts, the board shall make contributions for the  
9 participating employee.

10 C. The board is also specifically exempted from the  
11 provisions of the Public Employees Retirement Act and the  
12 Retiree Health Care Act; provided, however, that an employee of  
13 the regulation and licensing department who subsequently becomes  
14 employed by the board without a break in service may, by  
15 agreement of the board, continue to participate in the public  
16 employee retirement system under the terms and conditions of the  
17 Public Employees Retirement Act and the retiree health care  
18 system under the terms and conditions of the Retiree Health Care  
19 Act until separation from employment with the board. The board  
20 shall make contributions as required by those acts for a  
21 participating employee.

22 D. The board is also specifically exempted from the  
23 provisions of the Personnel Act; provided, however, that an  
24 employee in the classified service in the regulation and  
25 licensing department who subsequently becomes employed by the

Underscored material = new  
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1 board without a break in service may, by agreement of the board,  
2 remain in the classified service and be covered by the Personnel  
3 Act until separation from employment with the board. For all  
4 other employees, the board may adopt its own employment  
5 policies. "

6 Section 38. A new section of the Nutrition and Dietetics  
7 Practice Act is enacted to read:

8 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
9 an organization and its individual members and employees, is  
10 specifically subject to and covered by the provisions of the  
11 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
12 of Public Records Act, the Public Records Act, the Open Meetings  
13 Act, the Governmental Conduct Act, the Financial Disclosure Act  
14 and any other state law applicable to the board unless otherwise  
15 specifically exempted in the Nutrition and Dietetics Practice  
16 Act. "

17 Section 39. Section 61-7A-12 NMSA 1978 (being Laws 1989,  
18 Chapter 387, Section 12) is repealed and a new Section 61-7A-12  
19 NMSA 1978 is enacted to read:

20 "61-7A-12. [NEW MATERIAL] BOARD FUNDS. --

21 A. All money received by the board from fees provided  
22 for in the Nutrition and Dietetics Practice Act shall be  
23 deposited in an account in a federally insured financial  
24 institution qualified to do business in New Mexico. Money in  
25 the account shall be withdrawn on the order of the board or its

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1 designee and shall be used only to carry out the board's duties  
2 pursuant to that act.

3 B. In accordance with the provisions of the Audit Act,  
4 the state auditor may examine the accounts and books of the  
5 board, including its receipts, disbursements, contracts, leases  
6 and other records relating to the performance of its duties  
7 pursuant to the Nutrition and Dietetics Practice Act. In  
8 addition, the governor may call for any additional, special  
9 audits by the state auditor whenever deemed necessary for the  
10 protection and oversight of board funds.

11 C. Money of the board is not public money or state  
12 funds within the meaning of any law of the state relating to  
13 investment, deposit, security or expenditure of public money."

14 Section 40. Section 61-7A-14 NMSA 1978 (being Laws 1989,  
15 Chapter 387, Section 14) is amended to read:

16 "61-7A-14. PENALTY--ENFORCEMENT. --

17 A. Violation of any provision of the Nutrition and Di-  
18 etetics Practice Act is a misdemeanor.

19 B. The [~~department or the~~] board may bring civil  
20 action in any district court to enforce any of the provisions of  
21 the Nutrition and Dietetics Practice Act. "

22 Section 41. Section 61-7A-15 NMSA 1978 (being Laws 1989,  
23 Chapter 387, Section 15, as amended) is amended to read:

24 "61-7A-15. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --The  
25 board is terminated on July 1, [~~1997~~] 2001 pursuant to the

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1 Sunset Act. The board shall continue to operate according to  
2 the provisions of the Nutrition and Dietetics Practice Act until  
3 July 1, [1998] 2002. Effective July 1, [1998] 2002, the  
4 Nutrition and Dietetics Practice Act is repealed. "

5 Section 42. Section 61-8-1 NMSA 1978 (being Laws 1977,  
6 Chapter 221, Section 1) is amended to read:

7 "61-8-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 8  
8 NMSA 1978 may be cited as the "Podiatry Act". "

9 Section 43. Section 61-8-6 NMSA 1978 (being Laws 1977,  
10 Chapter 221, Section 6) is amended to read:

11 "61-8-6. BOARD ORGANIZATION--MEETINGS--COMPENSATION--POWERS  
12 AND DUTIES.--

13 A. The board shall meet annually in the month of June  
14 or July and shall elect a chairman, vice chairman and [a]  
15 secretary-treasurer from [~~their~~] its membership, each of whom  
16 shall serve until his successor is [~~selected~~] appointed and  
17 qualified.

18 B. The board shall hold a minimum of one examination  
19 for licensure each year in the month of June or July at such a  
20 place and at such a time as the board may designate. Notice of  
21 [~~such~~] the examination shall be given to all applicants at least  
22 thirty days prior to the date of [~~such~~] the examination. The  
23 board shall adopt and file in accordance with the State Rules  
24 Act such regulations as it deems necessary to properly conduct  
25 its examinations and meetings.

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1 C. Special meetings may be called by the chairman and  
2 shall be called upon the written request of any three board  
3 members. Notice of all regular meetings shall be made by  
4 regular mail at least ten days prior to ~~[such]~~ the meeting, and  
5 notification of special meetings shall be made by certified mail  
6 unless ~~[such]~~ the notice is waived by the entire board and the  
7 action noted in the minutes.

8 D. ~~Members of the board [may be reimbursed as provided~~  
9 ~~in the Per Diem and Mileage Act, but shall receive no other~~  
10 ~~compensation, perquisite or allowance, except]~~ shall serve  
11 without compensation other than reasonable reimbursement for  
12 mileage and per diem as determined by the board and paid from  
13 board funds; provided, however, that the secretary-treasurer may  
14 receive an additional honorarium in an amount determined by the  
15 board.

16 E. The board shall:

17 (1) administer and enforce the provisions of the  
18 Podiatry Act;

19 (2) adopt, publish and file, in accordance with  
20 the Uniform Licensing Act and the State Rules Act, all rules and  
21 regulations for the implementation and enforcement of the  
22 provisions of the Podiatry Act;

23 (3) adopt and use a seal;

24 (4) administer oaths and take testimony on any  
25 matters within the board's jurisdiction;



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1 (5) keep an accurate record of all its meetings,  
2 receipts and disbursements;

3 (6) keep a record of all examinations held,  
4 together with the names and addresses of all persons taking  
5 [~~such~~] the examinations and the examination results [~~and~~].  
6 Within forty-five days after any examination, the board shall  
7 give written notice to each applicant examined of the results of  
8 the examination as to the respective applicant;

9 (7) certify as passing each applicant who obtains  
10 a grade of at least sixty percent on each subject upon which he  
11 is examined and an overall grade of seventy-five percent;

12 (8) keep a book of registration in which the  
13 name, address and license number of all licensed podiatrists  
14 [~~shall be~~] are recorded, together with a record of all license  
15 renewals, suspensions and revocations;

16 (9) grant, deny, renew, suspend or revoke  
17 licenses to practice podiatry in accordance with the provisions  
18 of the Uniform Licensing Act for any cause stated in the  
19 Podiatry Act;

20 (10) adopt regulations setting standards of  
21 preliminary and professional qualifications for the practice of  
22 podiatry;

23 (11) investigate, review and accredit any school  
24 or college of podiatric medicine requesting accreditation and  
25 meeting standards set by the board. Such standards shall

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1 provide that accreditation of a school or college of podiatric  
2 medicine by the council on podiatry education of the American  
3 podiatry association is a prerequisite to accreditation by the  
4 board; and

5 (12) adopt such regulations and prepare and  
6 administer such examinations for the licensure and regulation of  
7 podiatric hygienists as are necessary to protect the public.

8 The regulations shall include definitions and limitations on the  
9 practice of podiatric hygienists, qualifications for applicants  
10 for licensure, a license fee in an amount not to exceed ten  
11 dollars (\$10.00) per year, provisions for the regulation of  
12 podiatric hygienists and the suspension or revocation of  
13 licenses. The qualifications for an applicant for licensure  
14 shall require that the applicant has successfully completed at  
15 least one year of academic education in an institution  
16 accredited by the council on podiatry education of the American  
17 podiatry association or holds a current license as a registered  
18 nurse or a licensed practical nurse. [~~and~~

19 ~~(13) have the power to]~~

20 F. The board may:

21 (1) employ agents [~~or attorneys~~] or other staff  
22 it deems necessary to assist it in carrying out its duties  
23 pursuant to the Podiatry Act, and may provide for health  
24 insurance or other benefits for them. Except as otherwise  
25 provided in that act, employees serve at the pleasure of the

Underscored material = new  
[bracketed material] = delete

1 board and are exempt from the provisions of the Personnel Act:

2 and

3 (2) enter into contracts. "

4 Section 44. A new section of the Podiatry Act is enacted to  
5 read:

6 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
7 the attorney general shall provide legal services to the board  
8 necessary for the administration of the Podiatry Act; provided,  
9 however, that the board may, in its discretion, employ or  
10 contract for the services of other attorneys to assist it in the  
11 administration of that act. "

12 Section 45. A new section of the Podiatry Act is enacted to  
13 read:

14 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

15 A. The board is specifically exempted from the  
16 provisions of the Procurement Code, the Art in Public Places  
17 Act, the Information and Communication Management Act and  
18 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
19 through 15-3-34 NMSA 1978.

20 B. The board is also specifically exempted from the  
21 provisions of the Deferred Compensation Act, the Group Benefits  
22 Act, the Public Employee Bargaining Act, the Per Diem and  
23 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
24 provided, however, that an employee of the regulation and  
25 licensing department who subsequently becomes employed by the

Underscored material = new  
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1 board without a break in service may, by agreement of the board,  
2 continue to participate in and be covered by those acts until  
3 separation from employment with the board. Where required  
4 pursuant to those acts, the board shall make contributions for  
5 the participating employee.

6 C. The board is also specifically exempted from the  
7 provisions of the Public Employees Retirement Act and the  
8 Retiree Health Care Act; provided, however, an employee of the  
9 regulation and licensing department who subsequently becomes  
10 employed by the board without a break in service may, by  
11 agreement of the board, continue to participate in the public  
12 employee retirement system under the terms and conditions of the  
13 Public Employees Retirement Act and the retiree health care  
14 system under the terms and conditions of the Retiree Health Care  
15 Act until separation from employment with the board. The board  
16 shall make contributions as required by those acts for a  
17 participating employee.

18 D. The board is also specifically exempted from the  
19 provisions of the Personnel Act; provided, however, an employee  
20 in the classified service in the regulation and licensing  
21 department who subsequently becomes employed by the board  
22 without a break in service may, by agreement of the board,  
23 remain in the classified service and be covered by the Personnel  
24 Act until separation from employment with the board. For all  
25 other employees, the board may adopt its own employment

Underscored material = new  
[bracketed material] = delete

1 policies. "

2 Section 46. A new section of the Podiatry Act is enacted to  
3 read:

4 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
5 an organization and its individual members and employees, is  
6 specifically subject to and covered by the provisions of the  
7 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
8 of Public Records Act, the Public Records Act, the Open Meetings  
9 Act, the Governmental Conduct Act, the Financial Disclosure Act  
10 and any other state law applicable to the board unless otherwise  
11 specifically exempted in the Podiatry Act. "

12 Section 47. Section 61-8-7 NMSA 1978 (being Laws 1977,  
13 Chapter 221, Section 7) is amended to read:

14 "61-8-7. [~~DISPOSITION OF~~] BOARD FUNDS-- [~~PODIATRY FUND~~  
15 ~~CREATED--METHOD OF PAYMENTS--~~] BONDS. --

16 [A. ~~There is created the "podiatry fund".~~

17 B. ~~All funds received by the board and money collected~~  
18 ~~under the Podiatry Act shall be deposited with the state~~  
19 ~~treasurer who shall place the same to the credit of the podiatry~~  
20 ~~fund.~~

21 C. ~~All payments out of the podiatry fund shall be made~~  
22 ~~on vouchers issued and signed by the secretary-treasurer of the~~  
23 ~~board upon warrants drawn by the department of finance and~~  
24 ~~administration in accordance with the budget approved by that~~  
25 ~~department.~~

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1           ~~D. All amounts in the podiatry fund shall be subject~~  
2 ~~to the order of the board and shall be used only for the purpose~~  
3 ~~of meeting the necessary expenses incurred in:~~

4                     ~~(1) the performance of the provisions of the~~  
5 ~~Podiatry Act and the powers and duties imposed thereby; and~~

6                     ~~(2) the promotion of education and standards of~~  
7 ~~practice in the field of podiatry in New Mexico within the~~  
8 ~~budgetary limits.~~

9           ~~E. All funds which may have accumulated to the credit~~  
10 ~~of the board under any previous law shall be transferred to the~~  
11 ~~podiatry fund and shall continue to be available for use by the~~  
12 ~~board in accordance with the provisions of the Podiatry Act.~~  
13 ~~Balances at the end of the fiscal year shall not revert, but~~  
14 ~~shall remain in the podiatry fund for use in accordance with the~~  
15 ~~provisions of the Podiatry Act.]~~

16           A. All money received by the board from fees provided  
17 for in the Podiatry Act shall be deposited in an account in a  
18 federally insured financial institution qualified to do business  
19 in New Mexico. Money in the account shall be withdrawn on the  
20 order of the board or its designee and shall be used only to  
21 carry out the board's duties pursuant to the Podiatry Act.

22           B. In accordance with the provisions of the Audit Act,  
23 the state auditor may examine the accounts and books of the  
24 board, including its receipts, disbursements, contracts, leases  
25 and other records relating to the performance of its duties

Underscored material = new  
[bracketed material] = delete

1 pursuant to the Podiatry Act. In addition, the governor may  
2 call for any additional, special audits by the state auditor  
3 whenever deemed necessary for the protection and oversight of  
4 board funds.

5 C. Money of the board is not public money or state  
6 funds within the meaning of any law of the state relating to  
7 investment, deposit, security or expenditure of public money.

8 [F.] D. The secretary-treasurer and any employee who  
9 handles money or who certifies the receipt or disbursement of money  
10 received by the board shall, within thirty days after election  
11 or employment by the board, execute a bond in accordance with  
12 the provisions of the Surety Bond Act, conditioned on the  
13 faithful performance of the duties of the office or position and  
14 on an accounting of all funds coming into his hands.

15 [G.] E. The secretary-treasurer shall make, at the end  
16 of each [~~fi~~scal] year, an itemized report to the [~~governor~~]  
17 board of all receipts and disbursements of the board for that  
18 [~~fi~~scal] year, together with a report of the records and  
19 information required by the Podiatry Act. A copy of the annual  
20 report [~~to the governor~~] shall be presented to the board at its  
21 annual meeting in June or July."

22 Section 48. Section 61-8-17 NMSA 1978 (being Laws 1979,  
23 Chapter 385, Section 2, as amended) is amended to read:

24 "61-8-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. -- The  
25 board of podiatry is terminated on July 1, [~~1997~~] 2003 pursuant

Underscored material = new  
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1 to the Sunset Act. The board shall continue to operate  
2 according to the provisions of Chapter 61, Article 8 NMSA 1978  
3 until July 1, [~~1998~~] 2004. Effective July 1, [~~1998 Article 8~~  
4 ~~of~~] 2004, Chapter 61, Article 8 NMSA 1978 is repealed. "

5 Section 49. Section 61-9-1 NMSA 1978 (being Laws 1963,  
6 Chapter 92, Section 1) is amended to read:

7 "61-9-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 9  
8 NMSA 1978 may be cited as the "Professional Psychologist Act". "

9 Section 50. Section 61-9-5 NMSA 1978 (being Laws 1989,  
10 Chapter 41, Section 5, as amended by Laws 1996, Chapter 51,  
11 Section 6 and also by Laws 1996, Chapter 54, Section 3) is  
12 amended to read:

13 "61-9-5. STATE BOARD OF EXAMINERS[~~--PSYCHOLOGY FUND~~]. --

14 A. There is created a "New Mexico state board of  
15 psychologist examiners" consisting of eight members appointed by  
16 the governor who are residents of New Mexico and who shall serve  
17 for three-year staggered terms. The members shall be appointed  
18 as follows:

19 (1) four members shall be professional members  
20 who are licensed under the Professional Psychologist Act as  
21 psychologists. The governor shall appoint the professional  
22 members from a list of names nominated by the New Mexico  
23 psychological association, the state psychologist association  
24 and the New Mexico school psychologist association;

25 (2) one member shall be licensed under the



Underscored material = new  
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1 Professional Psychologist Act as a psychologist or psychologist  
2 associate; and

3 (3) three members shall be public members who are  
4 laymen and have no significant financial interest, direct or  
5 indirect, in the practice of psychology.

6 B. Each member shall hold office until the expiration  
7 of his appointed term or until a successor is duly appointed.  
8 When the term of each member ends, the governor shall appoint  
9 his successor for a term of three years. Any vacancy occurring  
10 in the board membership other than by expiration of term shall  
11 be filled by the governor by appointment for the unexpired term  
12 of the member. The governor may remove any board member for  
13 misconduct, incompetency or neglect of duty.

14 C. ~~[All money received by the board shall be credited~~  
15 ~~to the "psychology fund". Money in the psychology fund at the~~  
16 ~~end of the fiscal year shall not revert to the general fund and~~  
17 ~~shall be used in accordance with the provisions of the~~  
18 ~~Professional Psychologist Act.]~~ The members of the board [may  
19 be reimbursed as provided in the Per Diem and Mileage Act, but  
20 shall receive no other compensation, perquisite or allowance]  
21 shall serve without compensation other than reasonable  
22 reimbursement for mileage and per diem as determined by the  
23 board and paid from board funds. "

24 Section 51. Section 61-9-6 NMSA 1978 (being Laws 1963,  
25 Chapter 92, Section 5, as amended by Laws 1996, Chapter 51,

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1 Section 7 and also by Laws 1996, Chapter 54, Section 4) is  
2 amended to read:

3 "61-9-6. BOARD--MEETING--POWERS.--

4 A. The board shall, annually in the month of July,  
5 hold a meeting and elect from its membership a chairman, vice  
6 chairman and secretary-treasurer. The board shall meet at such  
7 other times as it deems necessary or advisable or as deemed  
8 necessary and advisable by the chairman or a majority of its  
9 members or the governor. Reasonable notice of all meetings  
10 shall be given in the manner prescribed by the board. A  
11 majority of the board constitutes a quorum at any meeting or  
12 hearing.

13 B. The board is authorized to:

14 (1) adopt and from time to time revise such rules  
15 and regulations not inconsistent with the law as may be  
16 necessary to carry into effect the provisions of the  
17 Professional Psychologist Act. Such rules and regulations shall  
18 include [~~but not be limited to~~] a code of conduct for  
19 psychologists and psychologist associates in the state;

20 (2) employ, within the funds available, an  
21 administrator and other personnel necessary for the proper  
22 performance of its work under the Professional Psychologist Act.  
23 The board may provide for health insurance or other benefits for  
24 them. Except as otherwise provided in the Professional  
25 Psychologist Act, employees serve at the pleasure of the board

Underscored material = new  
[bracketed material] = delete

1 and are exempt from the provisions of the Personnel Act;

2 (3) adopt a seal, and the administrator shall  
3 have the care and custody of the seal;

4 (4) examine for, approve, deny, revoke, suspend  
5 [and] or renew the licensure of [psychologist] psychologists and  
6 psychologist [associate applicants] associates as provided in  
7 the Professional Psychologist Act;

8 (5) conduct hearings upon complaints concerning  
9 the disciplining of a psychologist or psychologist associate;  
10 [and]

11 (6) cause the prosecution and enjoinder of all  
12 persons violating the Professional Psychologist Act and incur  
13 necessary expenses therefor; and

14 (7) enter into contracts.

15 [~~C. Within sixty days after the close of each fiscal~~  
16 ~~year, the board shall submit a written or printed report,~~  
17 ~~reviewed and signed by the board members, to the governor~~  
18 ~~concerning the work of the board during the preceding fiscal~~  
19 ~~year. The report shall include the names of all psychologists~~  
20 ~~and psychologist associates to whom licenses have been granted;~~  
21 ~~any cases heard and decisions rendered in relation to the work~~  
22 ~~of the board; the recommendations of the board as to future~~  
23 ~~policies; the names, remuneration and duties of any employees of~~  
24 ~~the board; and an account of all money received and expended by~~  
25 ~~the board.]"~~

Underscored material = new  
[bracketed material] = delete

1           Section 52. A new section of the Professional Psychologist  
2 Act is enacted to read:

3           "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
4 the attorney general shall provide such legal services to the  
5 board necessary for the administration of the Professional  
6 Psychologist Act; provided, however, that the board may, in its  
7 discretion, employ or contract for the services of other  
8 attorneys to assist it in the administration of that act."

9           Section 53. A new section of the Professional Psychologist  
10 Act is enacted to read:

11           "[NEW MATERIAL] BOARD FUNDS. --

12           A. All money received by the board from fees provided  
13 for in the Professional Psychologist Act shall be deposited in  
14 an account in a federally insured financial institution  
15 qualified to do business in New Mexico. Money in the account  
16 shall be withdrawn on the order of the board or its designee and  
17 shall only be used to carry out the board's duties pursuant to  
18 that act.

19           B. In accordance with the provisions of the Audit Act,  
20 the state auditor may examine the accounts and books of the  
21 board, including its receipts, disbursements, contracts, leases  
22 and other records relating to the performance of its duties  
23 pursuant to the Professional Psychologist Act. In addition, the  
24 governor may call for any additional, special audits by the  
25 state auditor whenever deemed necessary for the protection and

Underscored material = new  
[bracketed material] = delete

1 oversight of board funds.

2 C. Money of the board is not public money or state  
3 funds within the meaning of any law of the state relating to  
4 investment, deposit, security or expenditure of public money."

5 Section 54. A new section of the Professional Psychologist  
6 Act is enacted to read:

7 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

8 A. The board is specifically exempted from the  
9 provisions of the Procurement Code, the Art in Public Places  
10 Act, the Information and Communication Management Act and  
11 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
12 through 15-3-34 NMSA 1978.

13 B. The board is also specifically exempted from the  
14 provisions of the Deferred Compensation Act, the Group Benefits  
15 Act, the Public Employee Bargaining Act, the Per Diem and  
16 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
17 provided, however, that an employee of the regulation and  
18 licensing department who subsequently becomes employed by the  
19 board without a break in service may, by agreement of the board,  
20 continue to participate in and be covered by those acts until  
21 separation from employment with the board. Where required under  
22 those acts, the board shall make contributions for the  
23 participating employee.

24 C. The board is also specifically exempted from the  
25 provisions of the Public Employees Retirement Act and the

Underscored material = new  
[bracketed material] = delete

1 Retiree Health Care Act; provided, however, that an employee of  
2 the regulation and licensing department who subsequently becomes  
3 employed by the board without a break in service may, by  
4 agreement of the board, continue to participate in the public  
5 employee retirement system under the terms and conditions of the  
6 Public Employees Retirement Act and the retiree health care  
7 system under the terms and conditions of the Retiree Health Care  
8 Act until separation from employment with the board. The board  
9 shall make contributions as required by those acts for the  
10 participating employee.

11 D. The board is also specifically exempted from the  
12 provisions of the Personnel Act; provided, however, that an  
13 employee in the classified service in the regulation and  
14 licensing department who subsequently becomes employed by the  
15 board without a break in service may, by agreement of the board,  
16 remain in the classified service and be covered by the Personnel  
17 Act until separation from employment with the board. For all  
18 other employees, the board may adopt its own employment  
19 policies. "

20 Section 55. A new section of the Professional Psychologist  
21 Act is enacted to read:

22 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
23 an organization and its individual members and employees, is  
24 specifically subject to and covered by the provisions of the  
25 Tort Claims Act, the Joint Powers Agreements Act, the Inspection

Underscored material = new  
[bracketed material] = delete

1 of Public Records Act, the Public Records Act, the Open Meetings  
2 Act, the Governmental Conduct Act, the Financial Disclosure Act  
3 and any other state law applicable to the board unless otherwise  
4 specifically exempted in the Professional Psychologist Act. "

5 Section 56. Section 61-9-7 NMSA 1978 (being Laws 1963,  
6 Chapter 92, Section 6, as amended) is amended to read:

7 "61-9-7. FEES-- LICENSE RENEWAL. --

8 A. All fees from applicants seeking licensure under  
9 the Professional Psychologist Act and all license renewal fees  
10 received [~~under~~] pursuant to the Professional Psychologist Act  
11 shall be [~~credited to the psychology fund~~] deposited in the  
12 board's account. No fees shall be refunded.

13 B. The board shall set the charge for an application  
14 fee of up to three hundred dollars (\$300) to applicants for  
15 licensure [~~under~~] pursuant to Sections 61-9-9 through 61-9-11.1  
16 NMSA 1978.

17 C. Each licensee shall renew his license annually on  
18 or before July 1 by remitting to the board the renewal fee set  
19 by the board not exceeding three hundred dollars (\$300) and  
20 providing proof of continuing education as required by  
21 regulation of the board. Any license issued by the board may be  
22 suspended if the holder fails to renew his license by July 1 of  
23 any year. A license suspended for failure to renew may be  
24 renewed within a period of one year after the suspension upon  
25 payment of the renewal fee plus a late fee of one hundred

Underscored material = new  
[bracketed material] = delete

1 dollars (\$100), together with proof of continuing education  
2 satisfactory to the board. The license shall be revoked if the  
3 license has not been renewed within one year of the suspension  
4 for failure to renew. Prior to issuing a new license, the board  
5 may in its discretion require full or partial examination of a  
6 former licensee whose license was revoked because of failure to  
7 renew. "

8 Section 57. Section 61-9-19 NMSA 1978 (being Laws 1978,  
9 Chapter 188, Section 2, as amended by Laws 1996, Chapter 51,  
10 Section 8 and also by Laws 1996, Chapter 54, Section 11) is  
11 amended to read:

12 "61-9-19. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --The  
13 New Mexico state board of psychologist examiners is terminated  
14 on July 1, [1997] 2001 pursuant to the Sunset Act. The board  
15 shall continue to operate according to the provisions of Chapter  
16 61, Article 9 NMSA 1978 until July 1, [1998] 2002. Effective  
17 July 1, [~~1998 Article 9 of~~] 2002, Chapter 61, Article 9 NMSA  
18 1978 is repealed. "

19 Section 58. Section 61-9A-1 NMSA 1978 (being Laws 1993,  
20 Chapter 49, Section 1) is amended to read:

21 "61-9A-1. SHORT TITLE. -- [~~Sections 1 through 30 of this act]~~  
22 Chapter 61, Article 9A NMSA 1978 may be cited as the "Counseling  
23 and Therapy Practice Act". "

24 Section 59. Section 61-9A-3 NMSA 1978 (being Laws 1993,  
25 Chapter 49, Section 3, as amended) is amended to read:



Underscored material = new  
[bracketed material] = delete

1 "61-9A-3. DEFINITIONS. --As used in the Counseling and  
2 Therapy Practice Act:

3 A. "accredited institution" means a university or  
4 college accredited by a nationally recognized accrediting agency  
5 of institutions of higher education or an approved institution  
6 or program as determined by the board;

7 B. "alcohol abuse counselor" means an individual who  
8 engages in the practice of alcohol abuse counseling;

9 C. "alcohol and drug abuse counselor" means an  
10 individual who engages in the practice of alcohol and drug abuse  
11 counseling;

12 D. "appraisal" means selecting, administering, scoring  
13 and interpreting instruments designed to assess an individual's  
14 aptitudes, attitudes, abilities, achievements, interests,  
15 personal characteristics and current emotional or mental state  
16 by appropriately educated, trained and experienced clinicians  
17 and the use of nonstandardized methods and techniques for  
18 understanding human behavior in relation to coping with,  
19 adapting to or changing life situations of a physical, mental or  
20 emotional nature;

21 E. "appropriate supervision" means supervision by a  
22 professional clinical mental health counselor, professional  
23 mental health counselor, marriage and family therapist,  
24 professional art therapist, psychiatrist, psychologist, social  
25 worker, psychiatric nurse or other similar supervision approved

1 by the board;

2 F. "board" means the counseling and therapy practice  
3 board;

4 G. "clinical counseling" means the rendering of  
5 counseling services involving the application of principles of  
6 psychotherapy, human development, learning theory, group  
7 dynamics and the etiology of mental illness and dysfunctional  
8 behavior to individuals, couples, families or groups for the  
9 purpose of treating psychopathology and promoting optimal mental  
10 health;

11 H. "consulting" means the application of scientific  
12 principles and procedures in psychotherapeutic counseling,  
13 guidance and human development to provide assistance in  
14 understanding and solving a problem that the consultee may have  
15 in relation to a third party;

16 I. "counseling" means the application of scientific  
17 principles and procedures in therapeutic counseling, guidance  
18 and human development to provide assistance in understanding and  
19 solving a mental, emotional, physical, social, moral,  
20 educational, spiritual or career development and adjustment  
21 problem that a client may have;

22 J. "counseling and therapy practice" means the  
23 practice of professional art therapy, professional clinical  
24 mental health counseling, professional mental health counseling,  
25 marriage and family therapy, alcohol abuse counseling, drug

Underscored material = new  
[bracketed material] = delete

1 abuse counseling and alcohol and drug abuse counseling;

2 K. "counselor and therapist practitioners" means  
3 professional art therapists, professional clinical mental health  
4 counselors, professional mental health counselors, marriage and  
5 family therapists, registered mental health counselors,  
6 registered independent mental health counselors, alcohol abuse  
7 counselors, drug abuse counselors and alcohol and drug abuse  
8 counselors as a group;

9 [~~L.~~] "~~department~~" ~~means the regulation and licensing~~  
10 ~~department or the division of the department designated to~~  
11 ~~administer the counseling and therapy practice board;~~

12 M.] L. "drug abuse counselor" means an individual who  
13 engages in the practice of drug abuse counseling;

14 [~~N.~~] M. "marriage and family therapy" means the  
15 diagnosis and treatment of nervous and mental disorders, whether  
16 cognitive, affective or behavioral, within the context of  
17 marriage and family systems;

18 [~~Ø.~~] N. "marriage and family therapist" means an  
19 individual who engages in the practice of marriage and family  
20 therapy;

21 [~~P.~~] O. "mental disorder" means any of several  
22 conditions or disorders that meet the diagnostic criteria  
23 contained in the diagnostic and statistical manual of the  
24 American psychiatric association or the world health  
25 organization's international classification of diseases manual;

Underscored material = new  
[bracketed material] = delete

1           [Q-] P. "practice of alcohol and drug abuse  
2 counseling" means the rendering of counseling services, as  
3 defined by regulation of the board, to individuals, couples,  
4 families or groups. The services may include screening,  
5 assessment, consultation, development of treatment plans, case  
6 management, counseling, referral, appraisal, crisis  
7 intervention, education, reporting and recordkeeping;

8           [R-] Q. "practice of art therapy" means the rendering  
9 to individuals, families or groups of services that use art  
10 media as a means of expression and communication to promote  
11 perceptive, intuitive, affective and expressive experiences that  
12 alleviate distress; reduce physical, emotional, behavioral and  
13 social impairment; and lead to growth or reintegration of one's  
14 personality. Art therapy services include [~~but are not limited~~  
15 ~~to~~] diagnostic evaluation, development of patient treatment  
16 plans, goals and objectives, case management services and  
17 therapeutic treatment as defined by regulation of the board;

18           [S-] R. "practice of marriage and family therapy"  
19 means the rendering of marriage and family therapy services to  
20 individuals, family groups and marital couples, singly or in  
21 groups. The "practice of marriage and family therapy" involves  
22 the professional application of psychotherapeutic and family  
23 systems theories and techniques, as defined by regulation of the  
24 board, in the delivery of services to individuals, married  
25 couples and families and involves the presence of a diagnosed

Underscored material = new  
[bracketed material] = delete

1 mental or physical disorder in at least one member of the couple  
2 or family being treated;

3 [F.] S. "practice of professional clinical mental  
4 health counseling" means the rendering of mental health  
5 counseling to individuals, couples, families or groups and the  
6 diagnosis and treatment of mental and emotional disorders,  
7 including psychopathology as defined by the American psychiatric  
8 association or the world health organization. "Practice of  
9 professional clinical mental health counseling" includes [~~but is~~  
10 ~~not limited to~~] development of patient treatment plans, goals  
11 and objectives, case management services, therapeutic treatment,  
12 research and clinical mental health appraisal, consulting,  
13 counseling and referral as defined by regulation of the board;

14 [U.] T. "practice of professional mental health  
15 counseling" means the rendering of a therapeutic counseling  
16 service that integrates a wellness and multicultural model of  
17 human behavior involving certain methods and techniques of  
18 appraisal, including [~~but not limited to~~] consulting, counseling  
19 and referral as defined by regulation of the board;

20 [V.] U. "practice of registered mental health  
21 counseling" means the rendering, under appropriate supervision,  
22 of a therapeutic counseling service that integrates a wellness  
23 and multicultural model of human behavior involving certain  
24 methods and techniques of appraisal, including [~~but not limited~~  
25 ~~to~~] consulting, counseling and referral as defined by regulation

1 of the board;

2 [W.] V. "professional art therapist" means an  
3 individual who engages in the practice of art therapy;

4 [X.] W. "professional clinical mental health  
5 counselor" means an individual who engages in the independent  
6 practice of professional clinical mental health counseling  
7 without supervision;

8 [Y.] X. "professional mental health counselor" means  
9 an individual who engages in the practice of professional mental  
10 health counseling without supervision;

11 [Z.] Y. "referral" means the evaluation of information  
12 to identify needs of the person being counseled to determine the  
13 advisability of sending the person being counseled to other  
14 specialists, informing the person being counseled of such  
15 judgment and communicating the information to other counseling  
16 services as deemed appropriate;

17 [AA.] Z. "registered mental health counselor" means an  
18 individual who is registered with the board and is authorized by  
19 the board to engage in the practice of mental health counseling  
20 under appropriate supervision;

21 [BB.] AA. "substance abuse counselor" means an  
22 individual who is licensed to practice alcohol and drug abuse  
23 counseling, alcohol abuse counseling or drug abuse counseling;  
24 and

25 [CC.] BB. "substance abuse intern" means an individual

Underscored material = new  
[bracketed material] = delete

1 who is registered to practice alcohol and drug abuse counseling,  
2 alcohol abuse counseling or drug abuse counseling under  
3 appropriate supervision. "

4 Section 60. Section 61-9A-7 NMSA 1978 (being Laws 1993,  
5 Chapter 49, Section 7, as amended) is amended to read:

6 "61-9A-7. BOARD CREATED--MEMBERS--APPOINTMENT--TERMS--  
7 COMPENSATION.--

8 A. There is created the "counseling and therapy  
9 practice board" [~~which is administratively attached to the~~  
10 ~~department~~].

11 B. The board shall consist of nine members who are  
12 United States citizens and have been New Mexico residents for at  
13 least five years prior to their appointment. Of the nine  
14 members:

15 (1) five members shall be professional members,  
16 who shall be a professional mental health counselor, a  
17 professional clinical mental health counselor, a marriage and  
18 family therapist, a professional art therapist and an alcohol  
19 and drug abuse counselor, licensed under the Counseling and  
20 Therapy Practice Act and shall have engaged in a counselor and  
21 therapist practice for at least five years. These members shall  
22 not hold any elected or appointed office in any professional  
23 organization of counseling, psychology or closely related field  
24 during their tenure on the board, nor shall they be school  
25 owners. The initial professional members shall meet

Underscored material = new  
[bracketed material] = delete

1 requirements for licensure and be licensed within one year after  
2 the effective date of the licensure requirements. The  
3 professional mental health counselor shall also represent the  
4 registered mental health counselors; and

5 (2) four members shall represent the public. The  
6 public members shall not have been licensed or have practiced as  
7 counselor or therapist practitioners or in any other regulated  
8 mental health profession, nor have any significant financial  
9 interest, either direct or indirect, in the professions  
10 regulated.

11 C. All members of the board shall be appointed by the  
12 governor for staggered terms of four years, except that the  
13 initial board shall be appointed so that the terms of one  
14 professional and one public member expire June 30, 1994, the  
15 terms of one professional and one public member expire June 30,  
16 1995, the terms of one professional and one public member expire  
17 [~~on~~] June 30, 1996 and the terms of one professional and one  
18 public member expire June 30, 1997. The alcohol and drug abuse  
19 counselor shall be appointed to a four-year term beginning July  
20 1, 1996. Each member shall hold office until his successor is  
21 appointed and qualified. Vacancies shall be filled in the same  
22 manner as original appointments. No appointee shall serve more  
23 than two terms.

24 D. The governor may appoint professional board members  
25 from a list of nominees submitted by qualified individuals and



Underscored material = new  
[bracketed material] = delete

1 organizations, including the New Mexico counseling association,  
2 the New Mexico association for marriage and family therapy, the  
3 New Mexico art therapy association and the alcohol and drug  
4 directors association.

5 E. Members of the board shall ~~[be reimbursed as~~  
6 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
7 ~~other compensation, perquisite or allowance]~~ serve without  
8 compensation other than reasonable reimbursement for mileage and  
9 per diem as determined by the board and paid from board funds.

10 F. The board shall elect annually from its membership  
11 a chairman and a secretary and other officers as necessary to  
12 carry out its duties.

13 G. The board shall meet at least twice a year and at  
14 other times deemed necessary. Other meetings may be called by  
15 the chairman upon the written request of three members of the  
16 board. A simple majority of the board members shall constitute  
17 a quorum of the board. "

18 Section 61. Section 61-9A-8 NMSA 1978 (being Laws 1993,  
19 Chapter 49, Section 8, as amended) is amended to read:

20 "61-9A-8. ~~[DEPARTMENT]~~ BOARD DUTIES. -- The ~~[department, with~~  
21 ~~the consultation of the]~~ board ~~[shall]~~:

22 A. shall process applications and conduct and review  
23 the required examinations;

24 B. shall issue licenses and certificates of  
25 registration to applicants who meet the requirements of the

Underscored material = new  
[bracketed material] = delete

1 Counseling and Therapy Practice Act;

2 C. shall administer, coordinate and enforce the  
3 provisions of the Counseling and Therapy Practice Act and  
4 investigate persons engaging in practices that may violate the  
5 provisions of that act;

6 D. may hire staff [~~as necessary~~] to carry out the  
7 provisions of the Counseling and Therapy Practice Act and  
8 provide for health insurance or other benefits for them.  
9 Except as otherwise provided in the Counseling and Therapy  
10 Practice Act, employees serve at the pleasure of the board and  
11 are exempt from the provisions of the Personnel Act;

12 E. shall maintain records, including financial  
13 records; [~~and~~]

14 F. shall maintain a current register of licensees and  
15 registrants as a matter of public record; and

16 G. may enter into contracts. "

17 Section 62. Section 61-9A-9 NMSA 1978 (being Laws 1993,  
18 Chapter 49, Section 9, as amended) is amended to read:

19 "61-9A-9. BOARD--ADDITIONAL POWERS AND DUTIES. --

20 A. The board shall have the power to:

21 (1) adopt in accordance with the Uni form  
22 Licensing Act and file in accordance with the State Rules Act  
23 rules and regulations necessary to carry out the provisions of  
24 the Counseling and Therapy Practice Act;

25 (2) select and provide for the administration of,

1 at least, semi annual examinations for licensure;

2 (3) establish the passing scores for  
3 examinations;

4 (4) take any disciplinary action allowed by and  
5 in accordance with the Uniform Licensing Act;

6 (5) censure, reprimand or place a licensee or  
7 registrant on probation for a period not to exceed one year;

8 (6) require and establish criteria for continuing  
9 education;

10 (7) establish by rule procedures for receiving,  
11 investigating and resolving complaints;

12 (8) approve appropriate supervision and post-  
13 graduate experience for persons seeking licensure or  
14 registration;

15 (9) provide for the issuance of licenses and  
16 certificates of registration;

17 (10) determine eligibility of individuals for  
18 licensure or registration;

19 (11) set fees for administrative services,  
20 licenses and registration, as authorized by the Counseling and  
21 Therapy Practice Act, and authorize all disbursements necessary  
22 to carry out the provisions of that act;

23 (12) establish criteria for supervision and  
24 supervisory requirements; and

25 (13) establish a code of ethics.

Underscored material = new  
[bracketed material] = delete

1           B. The board may establish a standards committee for  
2 each licensed profession. The members of each standards  
3 committee shall be appointed by the board [~~with the consent of~~  
4 ~~the department~~] and shall include at least one board member from  
5 the licensed profession and at least one public board member.  
6 The board member representing each respective profession shall  
7 chair its standards committee and the committee shall:

8                   (1) recommend and periodically review a code of  
9 ethics;

10                   (2) review license applications and recommend  
11 approval or disapproval;

12                   (3) develop criteria for supervision; and

13                   (4) recommend rules and regulations.

14           C. ~~Members of the standards committees [may be~~  
15 ~~reimbursed as provided in the Per Diem and Mileage Act, but~~  
16 ~~shall receive no other compensation, perquisite or allowance]~~  
17 shall serve without compensation other than reasonable  
18 reimbursement for mileage and per diem as determined by the  
19 board and paid from board funds. These members shall not hold  
20 any elected office in any professional organization of  
21 counseling, psychology or closely related field during their  
22 tenure on the standards committees. "

23           Section 63. A new section of the Counseling and Therapy  
24 Practice Act is enacted to read:

25           " [NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,

Underscored material = new  
[bracketed material] = delete

1 the attorney general shall provide such legal services to the  
2 board necessary for the administration of the Counseling and  
3 Therapy Practice Act; provided, however, that the board may, in  
4 its discretion, employ or contract for the services of other  
5 attorneys to assist it in the administration of that act."

6 Section 64. A new section of the Counseling and Therapy  
7 Practice Act is enacted to read:

8 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

9 A. The board is specifically exempted from the  
10 provisions of the Procurement Code, the Art in Public Places  
11 Act, the Information and Communication Management Act and  
12 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
13 through 15-3-34 NMSA 1978.

14 B. The board is also specifically exempted from the  
15 provisions of the Deferred Compensation Act, the Group Benefits  
16 Act, the Public Employee Bargaining Act, the Per Diem and  
17 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
18 provided, however, that an employee of the regulation and  
19 licensing department who subsequently becomes employed by the  
20 board without a break in service may, by agreement of the board,  
21 continue to participate in and be covered by those acts until  
22 separation from employment with the board. Where required under  
23 those acts, the board shall make contributions for the  
24 participating employee.

25 C. The board is also specifically exempted from the

Underscored material = new  
[bracketed material] = delete

1 provisions of the Public Employees Retirement Act and the  
2 Retiree Health Care Act; provided, however, that an employee of  
3 the regulation and licensing department who subsequently becomes  
4 employed by the board without a break in service may, by  
5 agreement of the board, continue to participate in the public  
6 employee retirement system under the terms and conditions of the  
7 Public Employees Retirement Act and the retiree health care  
8 system under the terms and conditions of the Retiree Health Care  
9 Act until separation from employment with the board. The board  
10 shall make contributions as required by those acts for the  
11 participating employee.

12 D. The board is also specifically exempted from the  
13 provisions of the Personnel Act; provided, however, that an  
14 employee in the classified service in the regulation and  
15 licensing department who subsequently becomes employed by the  
16 board without a break in service may, by agreement of the board,  
17 remain in the classified service and be covered by the Personnel  
18 Act until separation from employment with the board. For all  
19 other employees, the board may adopt its own employment  
20 policies. "

21 Section 65. A new section of the Counseling and Therapy  
22 Practice Act is enacted to read:

23 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
24 an organization and its individual members and employees, is  
25 specifically subject to and covered by the provisions of the

Underscored material = new  
[bracketed material] = delete

1 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
2 of Public Records Act, the Public Records Act, the Open Meetings  
3 Act, the Governmental Conduct Act, the Financial Disclosure Act  
4 and any other state law applicable to the board unless otherwise  
5 specifically exempted in the Counseling and Therapy Practice  
6 Act. "

7 Section 66. Section 61-9A-25 NMSA 1978 (being Laws 1993,  
8 Chapter 49, Section 25) is repealed and a new Section 61-9A-25  
9 NMSA 1978 is enacted to read:

10 "61-9A-25. [NEW MATERIAL] BOARD FUNDS. --

11 A. All money received by the board from fees provided  
12 for in the Counseling and Therapy Practice Act shall be  
13 deposited in an account in a federally insured financial  
14 institution qualified to do business in New Mexico. Money in  
15 the account shall be withdrawn on the order of the board or its  
16 designee and shall be used only to carry out the board's duties  
17 pursuant to that act.

18 B. In accordance with the provisions of the Audit Act,  
19 the state auditor may examine the accounts and books of the  
20 board, including its receipts, disbursements, contracts, leases  
21 and other records relating to the performance of its duties  
22 pursuant to the Counseling and Therapy Practice Act. In  
23 addition, the governor may call for any additional, special  
24 audits by the state auditor whenever deemed necessary for the  
25 protection and oversight of board funds.

Underscored material = new  
[bracketed material] = delete

1 C. Money of the board is not public money or state  
2 funds within the meaning of any law of the state relating to  
3 investment, deposit, security or expenditure of public money."

4 Section 67. Section 61-10-5 NMSA 1978 (being Laws 1933,  
5 Chapter 117, Section 4, as amended) is amended to read:

6 "61-10-5. BOARD OF EXAMINERS--APPOINTMENT--TERMS--  
7 MEETINGS--MEMBERSHIP--EXAMINATIONS.--

8 A. There is created the "board of osteopathic medical  
9 examiners". The board consists of five members appointed by the  
10 governor; three members shall be regularly licensed osteopathic  
11 physicians in good standing in New Mexico, who have been so  
12 engaged for a period of at least two years immediately prior to  
13 their appointment and who are possessed of all the  
14 qualifications for applicants for licensure specified in Section  
15 61-10-8 NMSA 1978, and two members shall represent the public.  
16 The public members of the board shall not have been licensed as  
17 osteopathic physicians, nor shall the public members have any  
18 significant financial interest, direct or indirect, in the  
19 [~~occupation~~] profession regulated.

20 B. Board members' terms shall be for five years. The  
21 vacancy of the term of any member shall be filled by appointment  
22 by the governor to the unexpired portion of the five-year term.  
23 A board member whose term has expired shall serve until his  
24 successor is appointed and qualified.

25 C. The board shall meet during the first quarter of



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1 the ~~[fiscal]~~ year and shall elect officers for the ensuing  
2 ~~[fiscal]~~ year. The board may hold other meetings as it deems  
3 necessary. A majority of the board constitutes a quorum.

4 D. The board shall have and use a common seal and is  
5 authorized to make and adopt all necessary rules and regulations  
6 relating to the enforcement of the provisions of Chapter 61,  
7 Article 10 NMSA 1978.

8 E. Examinations shall be made at least twice a year at  
9 the time and place fixed by the board. All applicants shall be  
10 given written notice of examinations at a reasonable prior date.

11 F. ~~Members of the board shall [be reimbursed as~~  
12 ~~provided in the Per Diem and Mileage Act, but shall receive no~~  
13 ~~other compensation, perquisite or allowance, for each day~~  
14 ~~necessarily spent in the discharge of their duties]~~ serve  
15 without compensation other than reasonable reimbursement for  
16 mileage and per diem as determined by the board and paid from  
17 board funds.

18 G. Any board member failing to attend three  
19 consecutive meetings, either regular or special, shall  
20 automatically be removed as a member of the board.

21 H. The board may employ staff it deems necessary to  
22 assist it in carrying out its duties pursuant to Chapter 61,  
23 Article 10 NMSA 1978 and may provide for health insurance or  
24 other benefits for them. Except as otherwise provided in  
25 Chapter 61, Article 10 NMSA 1978, employees serve at the

Underscored material = new  
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1 pleasure of the board and are exempt from the provisions of the  
2 Personnel Act.

3 I. The board may enter into contracts."

4 Section 68. A new section of Chapter 61, Article 10 NMSA  
5 1978 is enacted to read:

6 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
7 the attorney general shall provide such legal services to the  
8 board necessary for the administration of Chapter 61, Article 10  
9 NMSA 1978; provided, however, that the board may, in its  
10 discretion, employ or contract for the services of other  
11 attorneys to assist it in the administration of that act."

12 Section 69. A new section of Chapter 61, Article 10 NMSA  
13 1978 is enacted to read:

14 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

15 A. The board is specifically exempted from the  
16 provisions of the Procurement Code, the Art in Public Places  
17 Act, the Information and Communication Management Act and  
18 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
19 through 15-3-34 NMSA 1978.

20 B. The board is also specifically exempted from the  
21 provisions of the Deferred Compensation Act, the Group Benefits  
22 Act, the Public Employee Bargaining Act, the Per Diem and  
23 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
24 provided, however, that an employee of the regulation and  
25 licensing department who subsequently becomes employed by the

Underscored material = new  
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1 board without a break in service may, by agreement of the board,  
2 continue to participate in and be covered by those acts until  
3 separation from employment with the board. Where required under  
4 those acts, the board shall make contributions for the  
5 participating employee.

6 C. The board is also specifically exempted from the  
7 provisions of the Public Employees Retirement Act and the  
8 Retiree Health Care Act; provided, however, that an employee of  
9 the regulation and licensing department who subsequently becomes  
10 employed by the board without a break in service may, by  
11 agreement of the board, continue to participate in the public  
12 employee retirement system under the terms and conditions of the  
13 Public Employees Retirement Act and the retiree health care  
14 system under the terms and conditions of the Retiree Health Care  
15 Act until separation from employment with the board. The board  
16 shall make contributions as required by those acts for the  
17 participating employee.

18 D. The board is also specifically exempted from the  
19 provisions of the Personnel Act; provided, however, that an  
20 employee in the classified service in the regulation and  
21 licensing department who subsequently becomes employed by the  
22 board without a break in service may, by agreement of the board,  
23 remain in the classified service and be covered by the Personnel  
24 Act until separation from employment with the board. For all  
25 other employees, the board may adopt its own employment

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1 policies. "

2 Section 70. A new section of Chapter 61, Article 10 NMSA  
3 1978 is enacted to read:

4 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
5 an organization and its individual members and employees, is  
6 specifically subject to and covered by the provisions of the  
7 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
8 of Public Records Act, the Public Records Act, the Open Meetings  
9 Act, the Governmental Conduct Act, the Financial Disclosure Act  
10 and any other state law applicable to the board unless otherwise  
11 specifically exempted in Chapter 61, Article 10 NMSA 1978. "

12 Section 71. A new section of Chapter 61, Article 10 NMSA  
13 1978 is enacted to read:

14 "[NEW MATERIAL] BOARD FUNDS. --

15 A. All money received by the board from fees provided  
16 for in Chapter 61, Article 10 NMSA 1978 shall be deposited in an  
17 account in a federally insured financial institution qualified  
18 to do business in New Mexico. Money in the account shall be  
19 withdrawn on the order of the board or its designee and shall be  
20 used only to carry out the board's duties pursuant to that  
21 article.

22 B. In accordance with the provisions of the Audit Act,  
23 the state auditor may examine the accounts and books of the  
24 board, including its receipts, disbursements, contracts, leases  
25 and other records relating to the performance of its duties

Underscored material = new  
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1 pursuant to Chapter 61, Article 10 NMSA 1978. In addition, the  
2 governor may call for any additional, special audits by the  
3 state auditor whenever deemed necessary for the protection and  
4 oversight of board funds.

5 C. Money of the board is not public money or state  
6 funds within the meaning of any law of the state relating to  
7 investment, deposit, security or expenditure of public money."

8 Section 72. Section 61-10-22 NMSA 1978 (being Laws 1979,  
9 Chapter 36, Section 2, as amended) is amended to read:

10 "61-10-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The  
11 board of osteopathic medical examiners is terminated on July 1,  
12 [1997] 2003 pursuant to the Sunset Act. The board shall  
13 continue to operate according to the provisions of Chapter 61,  
14 Article 10 NMSA 1978 until July 1, [1998] 2004. Effective July  
15 1, [1998--Article 10--of] 2004, Chapter 61, Article 10 NMSA 1978  
16 is repealed. "

17 Section 73. Section 61-11-1 NMSA 1978 (being Laws 1969,  
18 Chapter 29, Section 1) is amended to read:

19 "61-11-1. SHORT TITLE.--[This act] Chapter 61, Article 11  
20 NMSA 1978 may be cited as the "Pharmacy Act". "

21 Section 74. Section 61-11-4 NMSA 1978 (being Laws 1969,  
22 Chapter 29, Section 3, as amended) is amended to read:

23 "61-11-4. BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--  
24 VACANCIES--REMOVAL.--

25 A. There is created the "board of pharmacy". The

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1 board consists of nine members, each of whom shall be a citizen  
2 of the United States and a resident of New Mexico.

3 B. Five members shall be pharmacists appointed by the  
4 governor for staggered terms of five years each from lists  
5 submitted to the governor by the New Mexico pharmaceutical  
6 association, which lists contain the names of two pharmacists  
7 residing in each of the five pharmacy districts. One of the  
8 pharmacist members shall be appointed for a term ending July 1,  
9 1970, and one pharmacist member shall be appointed for a term  
10 ending on July 1 of each of the following four years.

11 Thereafter, appointments of pharmacist members shall be made for  
12 five years or less each and made in such a manner that the term  
13 of one pharmacist member expires on July 1 of each year. [~~Not~~  
14 ~~more than~~] One pharmacist member shall come from [a] each  
15 pharmacy district. Each pharmacist member of the board shall  
16 have been actively engaged in the pharmaceutical profession in  
17 this state for at least three years immediately prior to his  
18 appointment and shall have had a minimum of eight years of  
19 practical experience as a pharmacist. A vacancy shall be filled  
20 by appointment by the governor for the unexpired term from lists  
21 submitted by the New Mexico pharmaceutical association to the  
22 governor. Pharmacist members shall reside in the [~~district~~]  
23 districts from which they are appointed.

24 C. Three members of the board shall be appointed by  
25 the governor to represent the public. The public members of the

Underscored material = new  
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1 board shall not have been licensed as pharmacists or have any  
2 significant financial interest, whether direct or indirect, in  
3 the [~~occupation~~] profession regulated. A vacancy in [~~the~~] a  
4 public [~~members' terms~~] member's term shall be filled by  
5 appointment by the governor for the unexpired term. [~~Initial~~]  
6 Appointments of public members shall be made for staggered terms  
7 of five years or less each and made in such a manner that not  
8 more than two [~~board~~] public members' terms shall expire on July  
9 1 of each year.

10 D. One member of the board shall be a hospital  
11 pharmacist selected at large from a list submitted to the  
12 governor by the New Mexico society of hospital pharmacists. On  
13 July 1, 1985, the governor shall appoint a hospital pharmacist  
14 member to the board for a term expiring July 1, 1990, and  
15 successors to the hospital pharmacist member shall be appointed  
16 by the governor to terms of five years. A vacancy in the  
17 hospital pharmacist member term shall be filled by appointment  
18 by the governor for the unexpired term from a list submitted to  
19 the governor by the New Mexico society of hospital pharmacists.

20 E. There are created five pharmacy districts as  
21 follows:

22 (1) northeast district, which shall be composed  
23 of the counties of Colfax, Guadalupe, Harding, Los Alamos, Mora,  
24 Quay, Rio Arriba, Sandoval, San Miguel, Santa Fe, Taos, Torrance  
25 and Union;

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1                   (2) northwest district, which shall be composed  
2 of the counties of McKinley, San Juan, Valencia and Cibola;

3                   (3) central district, which shall be composed of  
4 the county of Bernalillo;

5                   (4) southeast district, which shall be composed  
6 of the counties of Chaves, Curry, De Baca, Eddy, Lea and  
7 Roosevelt; and

8                   (5) southwest district, which shall be composed  
9 of the counties of Catron, Dona Ana, Grant, Hidalgo, Lincoln,  
10 Luna, Otero, Sierra and Socorro.

11                   F. No board member shall serve more than two full  
12 terms, consecutive or otherwise.

13                   G. Any board member failing to attend three  
14 consecutive regular meetings is automatically removed as a  
15 member of the board.

16                   H. The governor may remove any member of the board for  
17 neglect of any duty required by law, for incompetency or for  
18 unprofessional conduct and shall remove any board member who  
19 violates any provision of the Pharmacy Act.

20                   I. If a vacancy occurs on the board for any reason,  
21 the secretary of the board shall immediately notify the  
22 governor, the board members and any generally recognized  
23 association or organization of pharmacists of the reason for its  
24 occurrence and the action taken by the board, so as to expedite  
25 the appointment of a new board member. "



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1           Section 75. Section 61-11-5 NMSA 1978 (being Laws 1969,  
2 Chapter 29, Section 4) is amended to read:

3           "61-11-5. BOARD MEETINGS-- QUORUM - OFFICERS-- BONDS--  
4 EXPENSES. --

5           A. The board shall annually elect a chairman, vice  
6 chairman and secretary-treasurer from its membership.

7           B. The board shall meet at least once every three  
8 months. Special meetings may be called by the chairman and  
9 shall be called upon the written request of two or more members  
10 of the board. Notification of special meetings shall be made by  
11 certified mail unless the notice is waived by the entire board  
12 and noted in the minutes. Notice of all regular meetings shall  
13 be made by regular mail at least ten days prior to the meeting,  
14 and copies of the minutes of all meetings shall be mailed to  
15 each board member within forty-five days after any meeting.

16           C. A majority of the board constitutes a quorum

17           D. The executive officer and any member or employee of  
18 the board who handles money or who certifies the receipt or  
19 disbursement of money received by the board shall, within thirty  
20 days after appointment, execute a bond in a sum set by the  
21 board, conditioned on the faithful performance of the duties of  
22 the office and an accounting for all funds coming into his  
23 hands. The bonds shall be signed by a surety company authorized  
24 to do business in this state and be filed with and approved by  
25 the board.

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1           E. Members of the board shall ~~[be reimbursed as~~  
2 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
3 ~~other compensation, perquisite or allowance]~~ serve without  
4 compensation other than reasonable reimbursement for mileage and  
5 per diem as determined by the board and paid from board funds."

6           Section 76. Section 61-11-6 NMSA 1978 (being Laws 1969,  
7 Chapter 29, Section 5, as amended) is amended to read:

8           "61-11-6. POWERS AND DUTIES OF BOARD. --The board ~~[shall]~~:

9           A. may adopt, regularly review and revise rules and  
10 regulations necessary to carry out the provisions of the  
11 Pharmacy Act after hearings open to the public;

12           B. shall provide for at least two examinations a year  
13 of applicants for registration as pharmacists;

14           C. shall provide for the registration and the annual  
15 renewal of licenses for pharmacists;

16           D. shall require and establish criteria for continuing  
17 education as a condition of renewal of annual licensure;

18           E. shall provide for the registration of pharmacist  
19 interns, their certification, annual renewal of certification,  
20 training, supervision and discipline;

21           F. shall provide for the licensing of retail  
22 pharmacies, nonresident pharmacies, wholesale drug distributors,  
23 drug manufacturers, hospital pharmacies and the drug rooms of  
24 hospitals, nursing home drug facilities, industrial and public  
25 health clinics and all places where dangerous drugs are

Underscored material = new  
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1 dispensed or administered and provide for the inspection of  
2 their facilities and activities;

3 G. shall enforce the provisions of all laws of the  
4 state pertaining to the practice of pharmacy and the  
5 manufacture, production, sale or distribution of drugs,  
6 cosmetics or poisons and their standards of strength and purity;

7 H. shall conduct hearings upon charges relating to the  
8 discipline of a registrant or licensee or the denial, suspension  
9 or revocation of a certificate of registration or a license in  
10 accordance with the Uniform Licensing Act;

11 ~~[I. provide for the institution of proceedings~~  
12 ~~concerning minor violations of the Pharmacy Act whenever the~~  
13 ~~board believes that the public interest will be adequately~~  
14 ~~served by a suitable written notice or warning, or by a~~  
15 ~~suspension of registration or licensure for a period not to~~  
16 ~~exceed thirty days;~~

17 J.] I. may cause the prosecution of any person  
18 violating the Pharmacy Act, the New Mexico Drug, Device and  
19 Cosmetic Act or the Controlled Substances Act;

20 [K.] J. shall keep a record of all proceedings of the  
21 board;

22 ~~[L. make an annual report to the governor;~~

23 M.] K. may appoint and employ, in the board's  
24 discretion, a qualified person who is not a member of the board  
25 to serve as executive officer to the board and define his duties

Underscored material = new  
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1 and responsibilities, except that the power to grant, deny,  
2 revoke or suspend any license or registration authorized by the  
3 Pharmacy Act shall not be delegated by the board;

4 [N.] L. may appoint and employ inspectors necessary  
5 to enforce the provisions of all acts under the administration  
6 of the board, which inspectors shall be pharmacists and have all  
7 the powers and duties of peace officers. Notwithstanding any  
8 other provisions of the Pharmacy Act, inspectors are state  
9 employees and are not exempt from the Personnel Act or those  
10 provisions of law relating to state employees specified in  
11 Subsections B and C of Section 77 of this act;

12 [Ø.] M. may provide for qualified employees necessary  
13 to carry out the provisions of the Pharmacy Act, which  
14 employees, unless otherwise provided in that act, serve at the  
15 pleasure of the board and are exempt from the provisions of the  
16 Personnel Act. The board may provide for health insurance or  
17 other benefits for its employees;

18 [~~P. have the authority to~~] N. may employ a competent  
19 attorney to give advice and counsel in regard to any matter  
20 connected with the duties of the board, to represent the board  
21 in any legal proceedings and to aid in the enforcement of the  
22 laws in relation to the pharmacy profession and to fix the  
23 compensation to be paid to the attorney; provided, however, that  
24 the attorney shall be compensated from the funds of the board,  
25 including those provided for in Section 61-11-19 NMSA 1978. The

Underscored material = new  
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1 board may request the attorney general to provide the legal  
2 services the board deems necessary for the administration of the  
3 Pharmacy Act;

4 [Q.] O. may adopt, regularly review and revise rules  
5 and regulations regarding the use of supportive personnel,  
6 including pharmacists' supervision, duties and responsibilities  
7 in relation to supportive personnel and requirements for  
8 training of supportive personnel, including on-the-job training;

9 [~~and~~

10 ~~R.] P. may adopt rules and regulations that define  
11 requirements for patient counseling in each practice setting;~~

12 and

13 Q. may enter into contracts. "

14 Section 77. A new section of the Pharmacy Act is enacted to  
15 read:

16 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

17 A. Except as otherwise provided in Section 61-11-6  
18 NMSA 1978, the board is specifically exempted from the  
19 provisions of the Procurement Code, the Art in Public Places  
20 Act, the Information and Communication Management Act and  
21 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
22 through 15-3-34 NMSA 1978.

23 B. The board is also specifically exempted from the  
24 provisions of the Deferred Compensation Act, the Group Benefits  
25 Act, the Public Employee Bargaining Act, the Per Diem and

Underscored material = new  
[bracketed material] = delete

1 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
2 provided, however, that an employee of the regulation and  
3 licensing department who subsequently becomes employed by the  
4 board without a break in service may, by agreement of the board,  
5 continue to participate in and be covered by those acts until  
6 separation from employment with the board. Where required under  
7 those acts, the board shall make contributions for the  
8 participating employee.

9 C. The board is also specifically exempted from the  
10 provisions of the Public Employees Retirement Act and Retiree  
11 Health Care Act; provided, however, that an employee of the  
12 regulation and licensing department who subsequently becomes  
13 employed by the board without a break in service may, by  
14 agreement of the board, continue to participate in the public  
15 employee retirement system under the terms and conditions of the  
16 Public Employees Retirement Act and the retiree health care  
17 system under the terms and conditions of the Retiree Health Care  
18 Act until separation from employment with the board. The board  
19 shall make contributions as required by those acts for the  
20 participating employee.

21 D. The board is also specifically exempted from the  
22 provisions of the Personnel Act; provided, however, that an  
23 employee in the classified service in the regulation and  
24 licensing department who subsequently becomes employed by the  
25 board without a break in service may, by agreement of the board,

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1 remain in the classified service and be covered by the Personnel  
2 Act until separation from employment with the board. For all  
3 other employees, the board may adopt its own employment  
4 policies. "

5 Section 78. A new section of the Pharmacy Act is enacted to  
6 read:

7 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
8 an organization and its individual members and employees, is  
9 specifically subject to and covered by the provisions of the  
10 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
11 of Public Records Act, the Public Records Act, the Open Meetings  
12 Act, the Governmental Conduct Act, the Financial Disclosure Act  
13 and any other state law applicable to the board unless otherwise  
14 specifically exempted in the Pharmacy Act. "

15 Section 79. Section 61-11-19 NMSA 1978 (being Laws 1969,  
16 Chapter 29, Section 18, as amended) is repealed and a new  
17 Section 61-11-19 NMSA 1978 is enacted to read:

18 "61-11-19. [NEW MATERIAL] BOARD FUNDS. --

19 A. All money received by the board from fees provided  
20 for in the Pharmacy Act shall be deposited in an account in a  
21 federally insured financial institution qualified to do business  
22 in New Mexico. Money in the account shall be withdrawn on the  
23 order of the board or its designee and shall be used only to  
24 carry out the board's duties pursuant to that act.

25 B. In accordance with the provisions of the Audit Act,

Underscored material = new  
[bracketed material] = delete

1 the state auditor may examine the accounts and books of the  
2 board, including its receipts, disbursements, contracts, leases  
3 and other records relating to the performance of its duties  
4 pursuant to the Pharmacy Act. In addition, the governor may  
5 call for any additional, special audits by the state auditor  
6 whenever deemed necessary for the protection and oversight of  
7 board funds.

8 C. Money of the board is not public money or state  
9 funds within the meaning of any law of the state relating to  
10 investment, deposit, security or expenditure of public money.

11 D. All amounts paid to the board shall be used only  
12 for the purpose of meeting necessary expenses incurred in the  
13 enforcement of the purposes of the Pharmacy Act and any other  
14 acts administered by the board, the duties imposed by those acts  
15 and the promotion of pharmacy education and standards in the  
16 state.

17 E. All funds that have accumulated to the credit of  
18 the pharmacy fund shall be continued for use by the board in  
19 administration of the Pharmacy Act. "

20 Section 80. Section 61-11-29 NMSA 1978 (being Laws 1979,  
21 Chapter 266, Section 2, as amended) is amended to read:

22 "61-11-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL. --The  
23 board of pharmacy is terminated on July 1, [1997] 2003 pursuant  
24 to the Sunset Act. The board shall continue to operate  
25 according to the provisions of Chapter 61, Article 11 NMSA 1978



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1 until July 1, [~~1998~~] 2004. Effective July 1, [~~1998 Article 11~~  
2 ~~of~~] 2004, Chapter 61, Article 11 NMSA 1978 is repealed."

3 Section 81. Section 61-12A-1 NMSA 1978 (being Laws 1996,  
4 Chapter 55, Section 1) is amended to read:

5 "61-12A-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 12A  
6 NMSA 1978 may be cited as the "Occupational Therapy Act"."

7 Section 82. Section 61-12A-8 NMSA 1978 (being Laws 1996,  
8 Chapter 55, Section 8) is amended to read:

9 "61-12A-8. BOARD CREATED. --

10 A. The "board of examiners for occupational therapy"  
11 is created.

12 B. The board shall consist of five members appointed  
13 by the governor who have been residents of the state for two  
14 years preceding the appointment.

15 C. Three members shall be licensed under the  
16 provisions of the Occupational Therapy Act; have a minimum of  
17 five years' professional experience, with two years' experience  
18 in New Mexico; and have not had their licenses suspended or  
19 revoked by this or any other state. One of the professional  
20 members may be a certified occupational therapy assistant; one  
21 of the professional members may be a retired registered  
22 occupational therapist.

23 D. Two members shall represent the public. The two  
24 public members shall have no direct interest in the profession  
25 of occupational therapy. The public members shall not:

Underscored material = new  
[bracketed material] = delete

- 1                   (1) have been convicted of a felony;
- 2                   (2) be habitually intemperate or be addicted to
- 3 the use of habit-forming drugs or be addicted to any vice to
- 4 such a degree as to render him unfit to fulfill his board duties
- 5 and responsibilities; or
- 6                   (3) be guilty of any violation of the Controlled
- 7 Substances Act.

8                   E. Appointments shall be made for staggered terms of

9 three years with no more than two terms ending at any one time.

10 No board member shall serve more than two consecutive terms.

11 Vacancies shall be filled for the unexpired term by appointment

12 by the governor prior to the next scheduled board meeting.

13                   F. No individual member of the board is liable in a

14 civil or criminal action for any act performed in good faith in

15 the execution of his duties as a member of the board.

16                   G. Members of the board shall ~~[be reimbursed for per~~

17 ~~diem and travel expenses as provided in the Per Diem and Mileage~~

18 ~~Act and shall receive no other compensation, perquisite or~~

19 ~~allowance]~~ serve without compensation other than reasonable

20 reimbursement for mileage and per diem as determined by the

21 board and paid from board funds.

22                   H. A simple majority of the board members currently

23 serving shall constitute a quorum of the board for the conduct

24 of business.

25                   I. The board shall meet at least four times a year and

Underscored material = new  
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1 at such other times as it deems necessary. Additional meetings  
2 may be convened at the call of the president of the board or on  
3 the written request of any two board members to the president.  
4 Meetings of the board shall be conducted in accordance with the  
5 provisions of the Open Meetings Act.

6 J. Any member failing to attend three consecutive  
7 meetings, unless excused as provided by board policy, shall  
8 automatically be recommended for removal as a member of the  
9 board.

10 K. At the beginning of each [~~fi~~scal] year, the board  
11 shall elect a president, vice president and [~~a~~] secretary-  
12 treasurer. "

13 Section 83. Section 61-12A-9 NMSA 1978 (being Laws 1996,  
14 Chapter 55, Section 9) is amended to read:

15 "61-12A-9. BOARD--POWERS AND DUTIES. --

16 A. The board shall:

17 (1) adopt, file, amend or repeal rules and  
18 regulations in accordance with the Uniform Licensing Act to  
19 carry out the provisions of the Occupational Therapy Act;

20 (2) use funds for the purpose of meeting the  
21 necessary expenses incurred in carrying out the provisions of  
22 the Occupational Therapy Act;

23 (3) adopt a code of ethics;

24 (4) enforce the provisions of the Occupational  
25 Therapy Act to protect the public by conducting hearings on

Underscored material = new  
[bracketed material] = delete

1 charges relating to the discipline of licensees, including the  
2 denial, suspension or revocation of a license;

3 (5) establish and collect fees;

4 (6) provide for examination for and issuance,  
5 renewal and reinstatement of licenses;

6 (7) establish, impose and collect fines for  
7 violations of the Occupational Therapy Act; and

8 (8) appoint a registrar to keep records and  
9 minutes necessary to carry out the functions of the board [~~and~~

10 ~~(9) obtain the legal assistance of the attorney~~  
11 ~~general~~].

12 B. The board may:

13 (1) hire or contract with an attorney to give  
14 advice and counsel in regard to any matter connected with the  
15 duties of the board, to represent the board in any legal  
16 proceedings and to aid in the enforcement of the Occupational  
17 Therapy Act. The board shall set the compensation of the  
18 attorney to be paid from the funds of the board. In the  
19 alternative, the board may seek the legal advice and assistance  
20 of the attorney general;

21 (2) issue investigative subpoenas for the purpose  
22 of investigating complaints against licensees prior to the  
23 issuance of a notice of contemplated action;

24 (3) hire or contract with an investigator to  
25 investigate complaints that have been filed with the board. The

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1 board shall set the compensation of the investigator to be paid  
2 from the funds of the board;

3 (4) inspect establishments; [and]

4 (5) designate hearing officers;

5 (6) employ staff it deems necessary to assist it  
6 in carrying out its duties pursuant to the Occupational Therapy  
7 Act and provide for health insurance or other benefits for them.  
8 Except as otherwise provided in that act, employees serve at the  
9 pleasure of the board and are exempt from the provisions of the  
10 Personnel Act; and

11 (7) enter into contracts."

12 Section 84. Section 61-12A-10 NMSA 1978 (being Laws 1996,  
13 Chapter 55, Section 10) is amended to read:

14 "61-12A-10. BOARD--ADMINISTRATIVE PROCEDURES. -- [A. ~~The~~  
15 ~~board may employ and discharge such employees as it deems~~  
16 ~~necessary and shall determine their duties and set their~~  
17 ~~compensation.~~

18 B.] The board shall appoint a registrar who is either  
19 the board member elected as the secretary-treasurer or such  
20 other person as the board may designate who is an employee of  
21 the board or the state. The registrar of the board may receive  
22 reimbursement for necessary expenses incurred in carrying out  
23 his duties and, if he is an employee, such compensation as the  
24 board may set. The registrar shall keep a written record in  
25 which shall be registered the name, license number, date of

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1 license issuance, current address, record of annual license fee  
2 payments, minutes and any other data as the board deems  
3 necessary regarding licensees. "

4 Section 85. A new section of the Occupational Therapy Act  
5 is enacted to read:

6 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

7 A. The board is specifically exempted from the  
8 provisions of the Procurement Code, the Art in Public Places  
9 Act, the Information and Communication Management Act and  
10 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
11 through 15-3-34 NMSA 1978.

12 B. The board is also specifically exempted from the  
13 provisions of the Deferred Compensation Act, the Group Benefits  
14 Act, the Public Employee Bargaining Act, the Per Diem and  
15 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
16 provided, however, that an employee of the regulation and  
17 licensing department who subsequently becomes employed by the  
18 board without a break in service may, by agreement of the board,  
19 continue to participate in and be covered by those acts until  
20 separation from employment with the board. Where required under  
21 those acts, the board shall make contributions for the  
22 participating employee.

23 C. The board is also specifically exempted from the  
24 provisions of the Public Employees Retirement Act and the  
25 Retiree Health Care Act; provided, however, that an employee of

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1 the regulation and licensing department who subsequently becomes  
2 employed by the board without a break in service may, by  
3 agreement of the board, continue to participate in the public  
4 employee retirement system under the terms and conditions of the  
5 Public Employees Retirement Act and the retiree health care  
6 system under the terms and conditions of the Retiree Health Care  
7 Act until separation from employment with the board. The board  
8 shall make contributions as required by those acts for the  
9 participating employee.

10 D. The board is also specifically exempted from the  
11 provisions of the Personnel Act; provided, however, that an  
12 employee in the classified service in the regulation and  
13 licensing department who subsequently becomes employed by the  
14 board without a break in service may, by agreement of the board,  
15 remain in the classified service and be covered by the Personnel  
16 Act until separation from employment with the board. For all  
17 other employees, the board may adopt its own employment  
18 policies. "

19 Section 86. A new section of the Occupational Therapy Act  
20 is enacted to read:

21 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
22 an organization and its individual members and employees, is  
23 specifically subject to and covered by the provisions of the  
24 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
25 of Public Records Act, the Public Records Act, the Open Meetings

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1 Act, the Governmental Conduct Act, the Financial Disclosure Act  
2 and any other state law applicable to the board unless otherwise  
3 specifically exempted in the Occupational Therapy Act. "

4 Section 87. Section 61-12A-20 NMSA 1978 (being Laws 1996,  
5 Chapter 55, Section 20) is repealed and a new Section 61-12A-20  
6 NMSA 1978 is enacted to read:

7 "61-12A-20. [NEW MATERIAL] BOARD FUNDS. --

8 A. All money received by the board from fees provided  
9 for in the Occupational Therapy Act shall be deposited in an  
10 account in a federally insured financial institution qualified  
11 to do business in New Mexico. Money in the account shall be  
12 withdrawn on the order of the board or its designee and shall be  
13 used only to carry out the board's duties pursuant to that act.

14 B. In accordance with the provisions of the Audit Act,  
15 the state auditor may examine the accounts and books of the  
16 board, including its receipts, disbursements, contracts, leases  
17 and other records relating to the performance of its duties  
18 pursuant to the Occupational Therapy Act. In addition, the  
19 governor may call for any additional, special audits by the  
20 state auditor whenever deemed necessary for the protection and  
21 oversight of board funds.

22 C. Money of the board is not public money or state  
23 funds within the meaning of any law of the state relating to  
24 investment, deposit, security or expenditure of public money. "

25 Section 88. Section 61-12A-24 NMSA 1978 (being Laws 1996,



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1 Chapter 55, Section 24) is amended to read:

2 "61-12A-24. TERMINATION OF AGENCY LIFE-- DELAYED  
3 REPEAL.--The board of examiners for occupational therapy is  
4 terminated on July 1, [1997] 2001 pursuant to the provisions of  
5 the Sunset Act. The board shall continue to operate according  
6 to the provisions of the Occupational Therapy Act until July 1,  
7 [1998] 2002. Effective July 1, [1998] 2002, the Occupational  
8 Therapy Act is repealed."

9 Section 89. Section 61-12B-1 NMSA 1978 (being Laws 1984,  
10 Chapter 103, Section 1) is amended to read:

11 "61-12B-1. SHORT TITLE.--[This act] Chapter 61, Article 12B  
12 NMSA 1978 may be cited as the "Respiratory Care Act". "

13 Section 90. Section 61-12B-3 NMSA 1978 (being Laws 1984,  
14 Chapter 103, Section 3, as amended) is amended to read:

15 "61-12B-3. DEFINITIONS.--As used in the Respiratory Care  
16 Act:

17 A. "board" means the [advisory] board of respiratory  
18 care practitioners;

19 ~~[B. "department" means the regulation and licensing~~  
20 ~~department or that division of the department designated to~~  
21 ~~administer the provisions of the Respiratory Care Act;~~

22 ~~C.]~~ B. "respiratory care" means a health care  
23 profession, under medical direction, employed in the therapy,  
24 management, rehabilitation, diagnostic evaluation and care of  
25 patients with deficiencies and abnormalities which affect the

Underscored material = new  
[bracketed material] = delete

1 cardiopulmonary system and associated aspects of other system  
2 functions, and the terms "respiratory therapy" and "inhalation  
3 therapy" where such terms mean respiratory care;

4 [D-] C. "practice of respiratory care" includes [~~but~~  
5 ~~is not limited to~~]:

6 (1) direct and indirect cardiopulmonary care  
7 services that are of comfort, safe, aseptic, preventative and  
8 restorative to the patient;

9 (2) cardiopulmonary care services, including [~~but~~  
10 ~~not limited to~~] the administration of pharmacological,  
11 diagnostic and therapeutic agents related to cardiopulmonary  
12 care necessary to implement treatment, disease prevention,  
13 cardiopulmonary rehabilitation or a diagnostic regimen,  
14 including paramedical therapy and baromedical therapy;

15 (3) specific diagnostic and testing techniques  
16 employed in the medical management of patients to assist in  
17 diagnosis, monitoring, treatment and research of cardiopulmonary  
18 abnormalities, including [~~but not limited to~~] pulmonary function  
19 testing, hemodynamic and physiologic monitoring of cardiac  
20 function and collection of arterial and venous blood for  
21 analysis;

22 (4) observation, assessment and monitoring of  
23 signs and symptoms, general behavior, general physical response  
24 to cardiopulmonary care treatment and diagnostic testing,  
25 including determination of whether such signs, symptoms,

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1 reactions, behavior or general response exhibit abnormal  
2 characteristics;

3 (5) implementation based on observed  
4 abnormalities, appropriate reporting, referral, respiratory care  
5 protocols or changes in treatment, pursuant to a prescription by  
6 a physician authorized to practice medicine or the initiation of  
7 emergency procedures or as otherwise permitted in the  
8 Respiratory Care Act;

9 (6) establishing and maintaining the natural  
10 airways, insertion and maintenance of artificial airways,  
11 bronchopulmonary hygiene and cardiopulmonary resuscitation,  
12 along with cardiac and ventilatory life support diagnosis; and

13 (7) the practice of respiratory care performed in  
14 any clinic, hospital, skilled nursing facility, private dwelling  
15 or other place deemed appropriate or necessary by the board;

16 [~~E.-~~] D. "expanded practice" means the practice of  
17 respiratory care by a respiratory care practitioner who has  
18 completed a recognized program of study to function beyond the  
19 scope of practice of respiratory care;

20 [~~F.-~~] E. "respiratory care practitioner" means a person  
21 who is licensed to practice respiratory care in New Mexico. The  
22 respiratory care practitioner may transcribe and implement a  
23 physician's written and verbal orders pertaining to the practice  
24 of respiratory care and "respiratory care protocols", meaning a  
25 predetermined, written medical care plan, which can include

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1 standing orders; and

2 [G-] F. "respiratory therapy training program" means a  
3 program accredited or recognized by the American medical  
4 association's committee on allied health education and  
5 accreditation in collaboration with the joint review committee  
6 for respiratory therapy education [and

7 ~~H. "superintendent" means the superintendent of~~  
8 ~~regulation and licensing]. "~~

9 Section 91. Section 61-12B-5 NMSA 1978 (being Laws 1984,  
10 Chapter 103, Section 5, as amended) is amended to read:

11 "61-12B-5. [ADVISORY] BOARD CREATED. --

12 A. The [~~superintendent~~] governor shall appoint [~~an~~  
13 ~~"advisory~~] the "board of respiratory care practitioners"  
14 consisting of five members as follows:

15 (1) one physician licensed in New Mexico who is  
16 knowledgeable in respiratory care;

17 (2) two respiratory care practitioners; and

18 (3) two public members who are residents of New  
19 Mexico. The public members shall not have been licensed as  
20 respiratory care practitioners nor shall they have any financial  
21 interest, direct or indirect, in the occupation regulated.

22 B. Each member shall serve no more than two three-year  
23 terms.

24 C. The members of the board shall [~~receive per diem~~  
25 ~~and mileage as provided for nonsalaried public officers in the~~

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1 ~~Per Diem and Mileage Act and shall receive no other~~  
2 ~~compensation, perquisite or allowance in connection with the~~  
3 ~~discharge of their duties as board members] serve without~~  
4 ~~compensation other than reasonable reimbursement for mileage and~~  
5 ~~per diem as determined by the board and paid from board funds.~~

6 D. Three members, including at least one public  
7 member, constitute a quorum.

8 ~~[D.-]~~ E. Any member failing, after proper notice, to  
9 attend any three consecutive meetings of the board without a  
10 reasonable excuse shall be automatically removed from the  
11 board. "

12 Section 92. Section 61-12B-6 NMSA 1978 (being Laws 1984,  
13 Chapter 103, Section 6, as amended) is amended to read:

14 "61-12B-6. ~~[DEPARTMENT]~~ BOARD-- DUTIES. --

15 A. The ~~[department, in consultation with the]~~ board  
16 shall:

17 (1) evaluate the qualifications of applicants and  
18 review any required examination results of applicants and may  
19 recognize the entry level examination written by the national  
20 board for respiratory care, ~~[inc.]~~ incorporated, or any  
21 successor board;

22 (2) collect and review data and statistics with  
23 respect to respiratory care, treatment, services or facilities  
24 for the purpose of granting, suspending or revoking respiratory  
25 care licenses;

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1 (3) issue licenses and temporary permits to  
2 applicants who meet the requirements of the Respiratory Care  
3 Act;

4 (4) administer, coordinate and enforce the  
5 provisions of the Respiratory Care Act and investigate persons  
6 engaging in practices that may violate the provisions of that  
7 act; and

8 (5) adopt rules and regulations to allow the  
9 interstate transport of patients.

10 B. The ~~[department, in consultation with the]~~ board  
11 may:

12 (1) conduct any required examinations of  
13 respiratory care practitioner applicants; ~~[and]~~

14 (2) deny, suspend or revoke temporary permits or  
15 licenses to practice respiratory care as provided in the  
16 Respiratory Care Act in accordance with the provisions of the  
17 Uniform Licensing Act;

18 (3) employ staff it deems necessary to assist it  
19 in carrying out its duties pursuant to the Respiratory Care Act  
20 and may provide for health insurance or other benefits for them.  
21 Except as otherwise provided in that act, employees serve at the  
22 pleasure of the board and are exempt from the provisions of the  
23 Personnel Act; and

24 (4) enter into contracts."

25 Section 93. A new section of the Respiratory Care Act is

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1 enacted to read:

2 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
3 the attorney general shall provide such legal services to the  
4 board necessary for the administration of the Respiratory Care  
5 Act; provided, however, that the board may, in its discretion,  
6 employ or contract for the services of other attorneys to assist  
7 it in the administration of that act."

8 Section 94. A new section of the Respiratory Care Act is  
9 enacted to read:

10 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

11 A. The board is specifically exempted from the  
12 provisions of the Procurement Code, the Art in Public Places  
13 Act, the Information and Communication Management Act and  
14 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
15 through 15-3-34 NMSA 1978.

16 B. The board is also specifically exempted from the  
17 provisions of the Deferred Compensation Act, the Group Benefits  
18 Act, the Public Employee Bargaining Act, the Per Diem and  
19 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
20 provided, however, that an employee of the regulation and  
21 licensing department who subsequently becomes employed by the  
22 board without a break in service may, by agreement of the board,  
23 continue to participate in and be covered by those acts until  
24 separation from employment with the board. Where required under  
25 those acts, the board shall make contributions for the

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1 participating employee.

2 C. The board is also specifically exempted from the  
3 provisions of the Public Employees Retirement Act and the  
4 Retiree Health Care Act; provided, however, that an employee of  
5 the regulation and licensing department who subsequently becomes  
6 employed by the board without a break in service may, by  
7 agreement of the board, continue to participate in the public  
8 employee retirement system under the terms and conditions of the  
9 Public Employees Retirement Act and the retiree health care  
10 system under the terms and conditions of the Retiree Health Care  
11 Act until separation from employment with the board. The board  
12 shall make contributions as required by those acts for the  
13 participating employee.

14 D. The board is also specifically exempted from the  
15 provisions of the Personnel Act; provided, however, that an  
16 employee in the classified service in the regulation and  
17 licensing department who subsequently becomes employed by the  
18 board without a break in service may, by agreement of the board,  
19 remain in the classified service and be covered by the Personnel  
20 Act until separation from employment with the board. For all  
21 other employees, the board may adopt its own employment  
22 policies. "

23 Section 95. A new section of the Respiratory Care Act is  
24 enacted to read:

25 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The board, as



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1 an organization and its individual members and employees, is  
2 specifically subject to and covered by the provisions of the  
3 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
4 of Public Records Act, the Public Records Act, the Open Meetings  
5 Act, the Governmental Conduct Act, the Financial Disclosure Act  
6 and any other state law applicable to the board unless otherwise  
7 specifically exempted in the Respiratory Care Act. "

8 Section 96. Section 61-12B-7 NMSA 1978 (being Laws 1984,  
9 Chapter 103, Section 7, as amended) is amended to read:

10 "61-12B-7. LICENSING BY TRAINING AND EXAMINATION. --

11 A. Any person desiring to become licensed as a  
12 respiratory care practitioner shall make application to the  
13 [~~department~~] board on a written form and in such manner as the  
14 [~~department~~] board prescribes, pay all required application fees  
15 and certify and furnish evidence to the [~~department~~] board that  
16 the applicant:

17 (1) has successfully completed a training program  
18 as defined in the Respiratory Care Act;

19 (2) has passed an entry level examination, as  
20 specified by rules and regulations of the [~~department~~] board,  
21 for respiratory care practitioners administered by the national  
22 board of respiratory care, incorporated, or any successor board;

23 (3) is of good moral character; and

24 (4) has successfully completed any other training  
25 or education programs and passed any other examinations as

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1 required by rules and regulations of the ~~[department]~~ board.

2 B. The ~~[department, in consultation with the]~~ board  
3 shall develop rules and regulations that describe the scope and  
4 qualifications for expanded practice roles of respiratory care  
5 practitioners. "

6 Section 97. Section 61-12B-8 NMSA 1978 (being Laws 1984,  
7 Chapter 103, Section 8, as amended) is amended to read:

8 "61-12B-8. LICENSING WITHOUT TRAINING AND EXAMINATION. -- The  
9 ~~[department]~~ board shall waive the education and examination  
10 requirements for applicants who present proof of current  
11 licensure in a state ~~[which]~~ that has standards at least equal  
12 to those for licensure in New Mexico as required by the  
13 Respiratory Care Act. "

14 Section 98. Section 61-12B-9 NMSA 1978 (being Laws 1984,  
15 Chapter 103, Section 9, as amended) is amended to read:

16 "61-12B-9. OTHER LICENSING PROVISIONS. --

17 A. The ~~[department, in consultation with the]~~ board  
18 shall adopt rules and regulations for mandatory continuing  
19 education requirements that shall be completed as a condition  
20 for renewal of any license issued pursuant to provisions of the  
21 Respiratory Care Act.

22 B. The ~~[department, in consultation with the]~~ board  
23 may adopt rules and regulations for issuance of temporary  
24 permits for students and graduates of approved training programs  
25 to practice limited respiratory care under the direct

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1 supervision of a licensed respiratory care practitioner or  
2 physician. Rules and regulations shall be adopted defining, for  
3 the purposes of the Respiratory Care Act, the terms "students"  
4 and "direct supervision".

5 C. The license issued by the [~~department~~] board shall  
6 describe the licensed person as a "respiratory care practitioner  
7 licensed by the [~~New Mexico regulation and licensing department~~]  
8 board of respiratory care practitioners" and shall be displayed  
9 in the licensee's place of business.

10 D. Unless licensed as a respiratory care practitioner  
11 pursuant to provisions of the Respiratory Care Act, no person  
12 shall use the title "respiratory care practitioner", the  
13 abbreviation "R. C. P. " or any other title or abbreviation to  
14 indicate that the person is a licensed respiratory care  
15 practitioner.

16 E. A copy of the valid license or temporary permit  
17 issued pursuant to the Respiratory Care Act shall be displayed  
18 at the respiratory care practitioner's place of employment.

19 F. Licenses, including initial licenses, shall be  
20 issued for a period of two years. "

21 Section 99. Section 61-12B-11 NMSA 1978 (being Laws 1984,  
22 Chapter 103, Section 11, as amended) is amended to read:

23 "61-12B-11. FEES. --

24 A. The [~~superintendent, in consultation with the~~]  
25 board shall establish a schedule of reasonable fees for

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1 licenses, temporary permits and renewal of licenses for  
2 respiratory care practitioners.

3 B. The initial application fee shall be set in an  
4 amount not to exceed one hundred fifty dollars (\$150).

5 C. A biennial license renewal fee shall be established  
6 in an amount not to exceed one hundred fifty dollars (\$150)."

7 Section 100. Section 61-12B-12 NMSA 1978 (being Laws 1984,  
8 Chapter 103, Section 12, as amended) is amended to read:

9 "61-12B-12. DENIAL, SUSPENSION, REVOCATION AND  
10 REINSTATEMENT OF LICENSES. --

11 A. The [~~superintendent~~] board may refuse to issue or  
12 may suspend or revoke any license issued pursuant to provisions  
13 of the Respiratory Care Act in accordance with the procedures  
14 set forth in the Uniform Licensing Act for any of the following  
15 causes:

16 (1) fraud in the procurement of any license  
17 [~~under that~~] issued pursuant to provisions of the Respiratory  
18 Care Act;

19 (2) imposition of any disciplinary action upon a  
20 person by an agency of another state [~~which~~] that regulates  
21 respiratory care, but not to exceed the period or extent of such  
22 action;

23 (3) conviction of a crime [~~which~~] that  
24 substantially relates to the qualifications, functions or duties  
25 of a respiratory care practitioner. The record of conviction or

Underscored material = new  
[bracketed material] = delete

1 a certified copy thereof shall be conclusive evidence of the  
2 conviction;

3 (4) impersonating or acting as a proxy for an  
4 applicant in any examination given [~~under that~~] pursuant to  
5 provisions of the Respiratory Care Act;

6 (5) habitual or excessive use of intoxicants or  
7 drugs;

8 (6) gross negligence in practice as a respiratory  
9 care practitioner;

10 (7) violating any of the provisions of the  
11 Respiratory Care Act or any rules or regulations duly adopted  
12 [~~under~~] pursuant to that act or aiding or abetting any person to  
13 violate the provisions of or any rules or regulations adopted  
14 [~~under~~] pursuant to that act;

15 (8) engaging in unprofessional conduct; or

16 (9) committing any fraudulent, dishonest or  
17 corrupt act [~~which~~] that is substantially related to the  
18 qualifications, functions or duties of a respiratory care  
19 practitioner.

20 B. One year from the date of revocation of a license  
21 [~~under~~] pursuant to provisions of the Respiratory Care Act,  
22 application may be made to the [~~superintendent~~] board for  
23 reinstatement, restoration or modification of probation. The  
24 [~~superintendent, in consultation with the~~] board shall have the  
25 discretion to accept or reject an application and may require an

Underscored material = new  
[bracketed material] = delete

1 examination for such reinstatement, restoration or modification  
2 of probation when it is deemed appropriate.

3 C. The [~~department, in consultation with the~~] board  
4 shall [~~write~~] promulgate rules and regulations to establish  
5 guidelines for the reinstatement or restoration of a license  
6 suspended or revoked due to the abuse of intoxicants or drugs."

7 Section 101. Section 61-12B-13 NMSA 1978 (being Laws 1984,  
8 Chapter 103, Section 13, as amended) is repealed and a new  
9 Section 61-12B-13 NMSA 1978 is enacted to read:

10 "61-12B-13. [NEW MATERIAL] BOARD FUNDS. --

11 A. All money received by the board from fees provided  
12 for in the Respiratory Care Act shall be deposited in an account  
13 in a federally insured financial institution qualified to do  
14 business in New Mexico. Money in the account shall be withdrawn  
15 on the order of the board or its designee and shall be used only  
16 to carry out the board's duties pursuant to that act.

17 B. In accordance with the provisions of the Audit Act,  
18 the state auditor may examine the accounts and books of the  
19 board, including its receipts, disbursements, contracts, leases  
20 and other records relating to the performance of its duties  
21 pursuant to the Respiratory Care Act. In addition, the governor  
22 may call for any additional, special audits by the state auditor  
23 whenever deemed necessary for the protection and oversight of  
24 board funds.

25 C. Money of the board is not public money or state

Underscored material = new  
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1 funds within the meaning of any law of the state relating to  
2 investment, deposit, security or expenditure of public money."

3 Section 102. Section 61-12B-14 NMSA 1978 (being Laws 1984,  
4 Chapter 103, Section 14, as amended) is amended to read:

5 "61-12B-14. [DEPARTMENT] BOARD--RULES AND REGULATIONS.--The  
6 [~~department, in consultation with the~~] board shall make rules  
7 and regulations necessary to implement the provisions of the  
8 Respiratory Care Act in accordance with the provisions of the  
9 Uni form Licensing Act. "

10 Section 103. Section 61-12B-15 NMSA 1978 (being Laws 1984,  
11 Chapter 103, Section 15) is amended to read:

12 "61-12B-15. ENFORCEMENT.--

13 A. Violation of any provision of the Respiratory Care  
14 Act is a misdemeanor.

15 B. The [~~department~~] board may bring civil action in  
16 any district court to enforce any of the provisions of the  
17 Respiratory Care Act. "

18 Section 104. Section 61-12B-16 NMSA 1978 (being Laws 1984,  
19 Chapter 103, Section 17, as amended) is amended to read:

20 "61-12B-16. TERMINATION OF BOARD--DELAYED REPEAL.--The  
21 board is terminated on July 1, [~~1997~~] 2001 pursuant to the  
22 Sunset Act. The board shall continue to operate until July 1,  
23 [~~1998~~] 2002. Effective July 1, [~~1998~~] 2002, the Respiratory  
24 Care Act is repealed. "

25 Section 105. Section 61-12C-3 NMSA 1978 (being Laws 1991,

Underscored material = new  
[bracketed material] = delete

1 Chapter 147, Section 3, as amended) is amended to read:

2 "61-12C-3. DEFINITIONS. -- As used in the Massage Therapy  
3 Practice Act:

4 A. "approved massage therapy school" means a facility  
5 registered with the board that meets established standards of  
6 training and curriculum;

7 B. "board" means the board of massage therapy;

8 [~~C. "department" means the regulation and licensing  
9 department;~~

10 ~~D.]~~ C. "massage therapist" means a person who uses the  
11 title of massage therapist, is licensed pursuant to the Massage  
12 Therapy Practice Act and administers massage therapy for  
13 compensation;

14 [~~E.]~~ D. "massage therapy" means the treatment of soft  
15 tissues for therapeutic purposes as defined in Section 61-12C-4  
16 NMSA 1978; and

17 [~~F.]~~ E. "jurisprudence" means the statutes and rules  
18 of the state pertaining to the practice of massage therapy. "

19 Section 106. Section 61-12C-7 NMSA 1978 (being Laws 1991,  
20 Chapter 147, Section 7, as amended) is amended to read:

21 "61-12C-7. BOARD CREATED--MEMBERSHIP. --

22 A. There is created the "board of massage therapy".

23 [~~The board shall be administratively attached to the  
24 department.]~~

25 B. The board shall consist of five members who are New



Underscored material = new  
[bracketed material] = delete

1 Mexico residents. Members of the board shall be appointed by  
2 the governor. Three members of the board shall be massage  
3 therapists, each with at least five years of massage therapy  
4 practice in New Mexico. Two members of the board shall be  
5 public members. The initial three professional members  
6 appointed shall meet the requirements for licensure and be  
7 licensed by the deadline specified for licensure in the Massage  
8 Therapy Practice Act. The public members shall not have been  
9 licensed or have any financial interest, direct or indirect, in  
10 the [~~profession~~] occupation regulated.

11 C. Each member of the board shall hold office until  
12 the expiration of the term for which appointed or until a  
13 successor has been appointed and qualified.

14 D. No board member shall serve more than two  
15 consecutive terms.

16 E. The board shall elect annually a chairman and such  
17 other officers as it deems necessary. The board shall meet as  
18 often as necessary for the conduct of business, but no less than  
19 twice a year. Meetings shall be called by the chairman or upon  
20 the written request of three or more members of the board.  
21 Three members, at least one of whom is a public member, shall  
22 constitute a quorum.

23 F. Any board member may be recommended for removal as  
24 a member of the board for failing to attend, after proper  
25 notice, three consecutive board meetings.

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1           G. ~~Members of the board shall [be reimbursed as~~  
2 ~~provided for nonsalaried public officers in the Per Diem and~~  
3 ~~Mileage Act and shall receive no other compensation, perquisite~~  
4 ~~or allowance]~~ serve without compensation other than reasonable  
5 reimbursement for mileage and per diem as determined by the  
6 board and paid from board funds."

7           Section 107. Section 61-12C-8 NMSA 1978 (being Laws 1991,  
8 Chapter 147, Section 8, as amended) is amended to read:

9           "61-12C-8. BOARD DUTIES. --The board shall have the power  
10 to:

11           A. adopt and file, in accordance with the State Rules  
12 Act, rules and regulations necessary to carry out the provisions  
13 of the Massage Therapy Practice Act, in accordance with the  
14 provisions of the Uniform Licensing Act;

15           B. provide for the evaluation of the qualifications of  
16 applicants for licensure or registration under the Massage  
17 Therapy Practice Act;

18           C. provide for the issuance of licenses or  
19 registrations to applicants who meet the requirements of the  
20 Massage Therapy Practice Act;

21           D. provide for the inspection, when required, of the  
22 business premises of any licensee during regular business hours;

23           E. establish minimum training and educational  
24 standards for licensure;

25           F. establish a process for approval of training

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1 programs and massage therapy schools;

2 G. provide for the investigation of persons engaging  
3 in practices that may violate the provisions of the Massage  
4 Therapy Practice Act;

5 H. revoke, suspend or deny a license or registration  
6 in accordance with the provisions of the Uniform Licensing Act;

7 I. adopt an annual budget;

8 J. adopt a code of ethics; [and]

9 K. provide for the investigation of complaints against  
10 licensees. The board may issue investigation subpoenas prior to  
11 the issuance of a notice of contemplated action as set forth in  
12 Section 61-1-4 NMSA 1978;

13 L. employ staff it deems necessary to assist it in  
14 carrying out its duties pursuant to the Massage Therapy Practice  
15 Act and may provide for health insurance or other benefits for  
16 them. Except as otherwise provided in that act, employees serve  
17 at the pleasure of the board and are exempt from the provisions  
18 of the Personnel Act; and

19 M. enter into contracts."

20 Section 108. A new section of the Massage Therapy Practice  
21 Act is enacted to read:

22 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
23 the attorney general shall provide such legal services to the  
24 board necessary for the administration of the Massage Therapy  
25 Practice Act; provided, however, that the board may, in its

Underscored material = new  
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1 discretion, employ or contract for the services of other  
2 attorneys to assist it in the administration of that act."

3 Section 109. A new section of the Massage Therapy Practice  
4 Act is enacted to read:

5 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

6 A. The board is specifically exempted from the  
7 provisions of the Procurement Code, the Art in Public Places  
8 Act, the Information and Communication Management Act and  
9 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
10 through 15-3-34 NMSA 1978.

11 B. The board is also specifically exempted from the  
12 provisions of the Deferred Compensation Act, the Group Benefits  
13 Act, the Public Employee Bargaining Act, the Per Diem and  
14 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
15 provided, however, that an employee of the regulation and  
16 licensing department who subsequently becomes employed by the  
17 board without a break in service may, by agreement of the board,  
18 continue to participate in and be covered by those acts until  
19 separation from employment with the board. Where required under  
20 those acts, the board shall make contributions for the  
21 participating employee.

22 C. The board is also specifically exempted from the  
23 provisions of the Public Employees Retirement Act and the  
24 Retiree Health Care Act; provided, however, that an employee of  
25 the regulation and licensing department who subsequently becomes

Underscored material = new  
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1 employed by the board without a break in service may, by  
2 agreement of the board, continue to participate in the public  
3 employee retirement system under the terms and conditions of the  
4 Public Employees Retirement Act and the retiree health care  
5 system under the terms and conditions of the Retiree Health Care  
6 Act until separation from employment with the board. The board  
7 shall make contributions as required by those acts for the  
8 participating employee.

9 D. The board is also specifically exempted from the  
10 provisions of the Personnel Act; provided, however, that an  
11 employee in the classified service in the regulation and  
12 licensing department who subsequently becomes employed by the  
13 board without a break in service may, by agreement of the board,  
14 remain in the classified service and be covered by the Personnel  
15 Act until separation from employment with the board. For all  
16 other employees, the board may adopt its own employment  
17 policies. "

18 Section 110. A new section of the Massage Therapy Practice  
19 Act is enacted to read:

20 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
21 an organization and its individual members and employees, is  
22 specifically subject to and covered by the provisions of the  
23 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
24 of Public Records Act, the Public Records Act, the Open Meetings  
25 Act, the Governmental Conduct Act, the Financial Disclosure Act

Underscored material = new  
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1 and any other state law applicable to the board unless otherwise  
2 specifically exempted in the Massage Therapy Practice Act. "

3 Section 111. Section 61-12C-23 NMSA 1978 (being Laws 1991,  
4 Chapter 147, Section 23) is repealed and a new Section 61-12C-23  
5 NMSA 1978 is enacted to read:

6 "61-12C-23. [NEW MATERIAL] BOARD FUNDS. --

7 A. All money received by the board from fees provided  
8 for in the Massage Therapy Practice Act shall be deposited in an  
9 account in a federally insured financial institution qualified  
10 to do business in New Mexico. Money in the account shall be  
11 withdrawn on the order of the board or its designee and shall be  
12 used only to carry out the board's duties pursuant to that act.

13 B. In accordance with the provisions of the Audit Act,  
14 the state auditor may examine the accounts and books of the  
15 board, including its receipts, disbursements, contracts, leases  
16 and other records relating to the performance of its duties  
17 pursuant to the Massage Therapy Practice Act. In addition, the  
18 governor may call for any additional, special audits by the  
19 state auditor whenever deemed necessary for the protection and  
20 oversight of board funds.

21 C. Money of the board is not public money or state  
22 funds within the meaning of any law of the state relating to  
23 investment, deposit, security or expenditure of public money. "

24 Section 112. Section 61-13-1 NMSA 1978 (being Laws 1970,  
25 Chapter 61, Section 1) is amended to read:

Underscored material = new  
[bracketed material] = delete

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

4 Section 113. Section 61-13-6 NMSA 1978 (being Laws 1970,  
5 Chapter 61, Section 5, as amended) is amended to read:

6 "61-13-6. DUTIES OF THE BOARD. -- [~~It is the duty of~~] The  
7 board [~~to~~]:

8 A. [~~formulate~~] may, adopt and regularly revise such  
9 rules and regulations not inconsistent with law as may be  
10 necessary to adopt and enforce standards for licensing nursing  
11 home administrators and to carry into effect the provisions of  
12 the Nursing Home Administrators Act;

13 B. may approve for licensure applicants for:

- 14 (1) initial licensure;  
15 (2) annual renewal of current, active licenses;  
16 (3) reciprocity;  
17 (4) reinstatement of revoked or suspended  
18 licenses; and

19 (5) reactivation of inactive or expired licenses;

20 C. may cause the prosecution or enjoinder of all  
21 persons violating the Nursing Home Administrators Act and deny,  
22 suspend or revoke licenses in accordance with the provisions of  
23 the Uniform Licensing Act;

24 [~~D. submit a written annual report to the governor and~~  
25 ~~the legislature detailing the actions of the board and including~~

Underscored material = new  
[bracketed material] = delete

1 ~~an accounting of all money received and expended by the board;~~

2           ~~E.-] D.~~ may employ such administrative personnel [as  
3 ~~may be necessary]~~ for the efficient operation of the Nursing  
4 Home Administrators Act and provide for health insurance or  
5 other benefits for them. Except as otherwise provided in the  
6 Nursing Home Administrators Act, employees serve at the pleasure  
7 of the board and are exempt from the provisions of the Personnel  
8 Act;

9           ~~[F.-] E.~~ shall maintain a register of licensees and a  
10 record of all applicants for licensure received by the board;  
11 and

12           F. may enter into contracts as necessary. "

13           Section 114. Section 61-13-7 NMSA 1978 (being Laws 1970,  
14 Chapter 61, Section 6) is amended to read:

15           "61-13-7. COMPENSATION OF BOARD MEMBERS. -- Members of the  
16 board shall ~~[receive per diem and mileage as provided in the Per~~  
17 ~~Diem and Mileage Act but shall receive no other compensation,~~  
18 ~~perquisite or allowance]~~ serve without compensation other than  
19 reasonable reimbursement for mileage and per diem as determined  
20 by the board and paid from board funds. "

21           Section 115. A new section of the Nursing Home  
22 Administrators Act is enacted to read:

23           "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
24 the attorney general shall provide such legal services to the  
25 board necessary for the administration of the Nursing Home



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1 Administrators Act; provided, however, that the board the may,  
2 in its discretion, employ or contract for the services of other  
3 attorneys to assist it in the administration of that act."

4 Section 116. A new section of the Nursing Home  
5 Administrators Act is enacted to read:

6 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

7 A. The board is specifically exempted from the  
8 provisions of the Procurement Code, the Art in Public Places  
9 Act, the Information and Communication Management Act and  
10 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
11 through 15-3-34 NMSA 1978.

12 B. The board is also specifically exempted from the  
13 provisions of the Deferred Compensation Act, the Group Benefits  
14 Act, the Public Employee Bargaining Act, the Per Diem and  
15 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
16 provided however, that an employee of the regulation and  
17 licensing department who subsequently becomes employed by the  
18 board without a break in service may, by agreement of the board,  
19 continue to participate in and be covered by those acts until  
20 separation from employment with the board. Where required under  
21 those acts, the board shall make contributions for the  
22 participating employee.

23 C. The board is also specifically exempted from the  
24 provisions of the Public Employees Retirement Act and the  
25 Retiree Health Care Act; provided, however, that an employee of

Underscored material = new  
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1 the regulation and licensing department who subsequently becomes  
2 employed by the board without a break in service may, by  
3 agreement of the board, continue to participate in the public  
4 employee retirement system under the terms and conditions of the  
5 Public Employees Retirement Act and the retiree health care  
6 system under the terms and conditions of the Retiree Health Care  
7 Act until separation from employment with the board. The board  
8 shall make contributions as required by those acts for the  
9 participating employee.

10 D. The board is also specifically exempted from the  
11 provisions of the Personnel Act; provided, however, that an  
12 employee in the classified service in the regulation and  
13 licensing department who subsequently becomes employed by the  
14 board without a break in service may, by agreement of the board,  
15 remain in the classified service and be covered by the Personnel  
16 Act until separation from employment with the board. For all  
17 other employees, the board may adopt its own employment  
18 policies. "

19 Section 117. A new section of the Nursing Home  
20 Administrators Act is enacted to read:

21 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
22 an organization and its individual members and employees, is  
23 specifically subject to and covered by the provisions of the  
24 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
25 of Public Records Act, the Public Records Act, the Open Meetings

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1 Act, the Governmental Conduct Act, the Financial Disclosure Act  
2 and any other state law applicable to the board unless otherwise  
3 specifically exempted in the Nursing Home Administrators Act. "

4 Section 118. Section 61-13-12 NMSA 1978 (being Laws 1970,  
5 Chapter 61, Section 11, as amended) is amended to read:

6 "61-13-12. LICENSE AND RENEWAL FEES-- BOARD [EXPENDITURES]  
7 FUNDS. --

8 A. The board shall require by appropriate rule or  
9 regulation that applicants for licensure as nursing home  
10 administrators pay a license fee in an amount set by the board  
11 not to exceed two hundred fifty dollars (\$250) and an annual  
12 renewal fee in an amount set by the board not to exceed two  
13 hundred dollars (\$200).

14 ~~[B. The board shall deposit all fees received by the~~  
15 ~~board in a special fund maintained by the state treasurer for~~  
16 ~~use in defraying the expenses of administration of the Nursing~~  
17 ~~Home Administrators Act. All unexpended balance remaining in~~  
18 ~~the fund at the end of each fiscal year shall remain to the~~  
19 ~~credit of the board.]~~

20 B. All money received by the board from fees provided  
21 for in the Nursing Home Administrators Act shall be deposited in  
22 an account in a federally insured financial institution  
23 qualified to do business in New Mexico. Money in the account  
24 shall be withdrawn on the order of the board or its designee and  
25 shall be used only to carry out the board's duties pursuant to

Underscored material = new  
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1 that act.

2 C. In accordance with the provisions of the Audit Act,  
3 the state auditor may examine the accounts and books of the  
4 board, including its receipts, disbursements, contracts, leases  
5 and other records relating to the performance of its duties  
6 pursuant to the Nursing Home Administrators Act. In addition,  
7 the governor may call for any additional, special audits by the  
8 state auditor whenever deemed necessary for the protection and  
9 oversight of board funds.

10 D. Money of the board is not public money or state  
11 funds within the meaning of any law of the state relating to  
12 investment, deposit, security or expenditure of public money.

13 [~~E.~~] E. The board may obtain and administer programs  
14 of grants-in-aid or financial assistance from any governmental  
15 agency or private source in the furtherance of programs  
16 consistent with the Nursing Home Administrators Act. "

17 Section 119. Section 61-13-17 NMSA 1978 (being Laws 1978,  
18 Chapter 206, Section 1, as amended) is amended to read:

19 "61-13-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The  
20 board of nursing home administrators is terminated on July 1,  
21 [1997] 2003 pursuant to the Sunset Act. The board shall  
22 continue to operate according to the provisions of Chapter 61,  
23 Article 13 NMSA 1978 until July 1, [1998] 2004. Effective July  
24 1, [~~1998 Article 13 of~~] 2004, Chapter 61, Article 13 NMSA 1978  
25 is repealed. "

Underscored material = new  
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1           Section 120. Section 61-14A-1 NMSA 1978 (being Laws 1993,  
2 Chapter 158, Section 9) is amended to read:

3           "61-14A-1. SHORT TITLE. -- [~~Sections 61-14A-1 through~~  
4 ~~61-14A-21~~] Chapter 61, Article 14A NMSA 1978 may be cited as the  
5 "Acupuncture and Oriental Medicine Practice Act". "

6           Section 121. Section 61-14A-3 NMSA 1978 (being Laws 1993,  
7 Chapter 158, Section 11) is amended to read:

8           "61-14A-3. DEFINITIONS. -- As used in the Acupuncture and  
9 Oriental Medicine Practice Act:

10           A. "acupuncture" means the use of needles inserted  
11 into the human body and the use of other modalities and  
12 procedures at specific locations on the body for the prevention,  
13 cure or correction of any disease, illness, injury, pain or  
14 other condition by controlling and regulating the flow and  
15 balance of energy and functioning of the person to restore and  
16 maintain health;

17           B. "board" means the board of acupuncture and oriental  
18 medicine;

19           ~~[C. "department" means the regulation and licensing~~  
20 ~~department;~~

21           ~~D.]~~ C. "doctor of oriental medicine" means a physician  
22 licensed to practice acupuncture and oriental medicine and  
23 includes the terms "oriental medical physician", "doctor of  
24 acupuncture", "acupuncture physician", "acupuncture  
25 practitioner" and "acupuncturist";

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1           ~~[E.]~~ D. "moxibustion" means the use of heat on or  
2 above specific locations or on acupuncture needles at specific  
3 locations on the body for the prevention, cure or correction of  
4 any disease, illness, injury, pain or other condition;

5           ~~[F.]~~ E. "oriental medicine" means the distinct system  
6 of primary health care that uses all allied techniques of  
7 oriental medicine, both traditional and modern, to diagnose,  
8 treat and prescribe, as defined in Subsection ~~[G]~~ F of this  
9 section, for the prevention, cure or correction of any disease,  
10 illness, injury, pain or other physical or mental condition by  
11 controlling and regulating the flow and balance of energy and  
12 functioning of the person to restore and maintain health; and

13           ~~[G.]~~ F. "techniques of oriental medicine" means the  
14 diagnostic and treatment techniques utilized in oriental  
15 medicine that include ~~[but are not limited to]~~ diagnostic  
16 procedures; acupuncture; moxibustion; manual therapy, also known  
17 as tui na; breathing and exercise techniques; dietary,  
18 nutritional and lifestyle counseling; and the prescription or  
19 administration of any herbal medicine, homeopathic medicine,  
20 vitamin, mineral, enzyme or glandular or nutritional  
21 supplement. "

22           Section 122. Section 61-14A-7 NMSA 1978 (being Laws 1993,  
23 Chapter 158, Section 15) is amended to read:

24           "61-14A-7. BOARD CREATED-- APPOINTMENT-- OFFICERS--  
25 COMPENSATION.--

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1           A. There is created the "board of acupuncture and  
2 oriental medicine".

3           ~~[B. The board shall be administratively attached to~~  
4 ~~the department.~~

5           ~~C.]~~ B. The board shall consist of seven members  
6 appointed by the governor for terms of three years each. Four  
7 members of the board shall be doctors of oriental medicine who  
8 have been licensed to practice acupuncture and oriental medicine  
9 in New Mexico for at least five years and have practiced in New  
10 Mexico for at least two years preceding the date of their  
11 appointment. Three members shall be appointed to represent the  
12 public and shall not have practiced acupuncture and oriental  
13 medicine in this or any other jurisdiction or have any financial  
14 interest in the profession regulated. No more than two board  
15 members shall be:

16                   (1) owners of institutes offering educational  
17 programs in acupuncture and oriental medicine;

18                   (2) faculty members at institutes offering  
19 educational programs in acupuncture and oriental medicine;

20                   (3) private tutors offering educational programs  
21 in acupuncture and oriental medicine; or

22                   (4) officers in a professional association of  
23 acupuncture and oriental medicine.

24           ~~[D.]~~ C. Members of the board shall be appointed by the  
25 governor for staggered terms of three years that shall be made

Underscored material = new  
[bracketed material] = delete

1 in such a manner that the terms of board members will expire on  
2 July 1. When a board member's term has expired, he shall serve  
3 until his successor has been appointed and qualified. Vacancies  
4 from an unexpired term shall be filled for the remainder of the  
5 term in the same manner as the original appointment.

6 [E-] D. No board member shall serve more than two  
7 consecutive full terms, and any member failing to attend, after  
8 he has received proper notice, three consecutive meetings shall  
9 be recommended for removal as a board member unless excused for  
10 reasons set forth by rule.

11 [F-] E. The board shall elect annually from its  
12 membership a chairman and other officers as necessary to carry  
13 out its duties.

14 [G-] F. The board shall meet at least once each year  
15 and at other times deemed necessary. Other meetings may be  
16 called by the chairman, a majority of board members or the  
17 governor. A simple majority of the board members serving  
18 constitutes a quorum of the board.

19 [H-] G. Members of the board shall [~~be reimbursed as~~  
20 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
21 ~~other compensation, perquisite or allowance] serve without  
22 compensation other than reasonable reimbursement for mileage and  
23 per diem as determined by the board and paid from board funds."~~

24 Section 123. Section 61-14A-8 NMSA 1978 (being Laws 1993,  
25 Chapter 158, Section 16) is amended to read:

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[bracketed material] = delete

1 "61-14A-8. BOARD--POWERS.--In addition to any other  
2 authority provided by law, the board shall have the power to:

3 A. enforce the provisions of the Acupuncture and  
4 Oriental Medicine Practice Act;

5 B. adopt, publish and file, in accordance with the  
6 Uniform Licensing Act and the State Rules Act, all rules and  
7 regulations necessary for the implementation and enforcement of  
8 the provisions of the Acupuncture and Oriental Medicine Practice  
9 Act;

10 C. adopt a code of ethics;

11 D. adopt and use a seal;

12 E. inspect institutes, tutorships and the offices of  
13 licensees;

14 F. adopt rules implementing continuing education  
15 requirements for the purpose of protecting the health and well-  
16 being of the citizens of this state and maintaining and  
17 continuing informed professional knowledge and awareness;

18 G. employ agents or attorneys;

19 H. issue investigative subpoenas for the purpose of  
20 investigating complaints against licensees prior to the issuance  
21 of a notice of contemplated action;

22 I. administer oaths and take testimony on any matters  
23 within the board's jurisdiction;

24 J. conduct hearings upon charges relating to the  
25 discipline of licensees, including the denial, suspension or

Underscored material = new  
[bracketed material] = delete

1 revocation of a license in accordance with the Uniform Licensing  
2 Act; [~~and~~]

3 K. grant, deny, renew, suspend or revoke licenses to  
4 practice acupuncture and oriental medicine in accordance with  
5 the provisions of the Uniform Licensing Act for any cause stated  
6 in the Acupuncture and Oriental Medicine Practice Act or the  
7 rules and regulations of the board;

8 L. employ staff it deems necessary to assist it in  
9 carrying out its duties pursuant to the Acupuncture and Oriental  
10 Medicine Practice Act and may provide for health insurance or  
11 other benefits for them. Except as otherwise provided in that  
12 act, employees serve at the pleasure of the board and are exempt  
13 from the provisions of the Personnel Act; and

14 M enter into contracts. "

15 Section 124. A new section of the Acupuncture and Oriental  
16 Medicine Practice Act is enacted to read:

17 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
18 the attorney general shall provide such legal services to the  
19 board necessary for the administration of the Acupuncture and  
20 Oriental Medicine Practice Act; provided, however, that the  
21 board may, in its discretion, employ or contract for the  
22 services of other attorneys to assist it in the administration  
23 of that act. "

24 Section 125. A new section of the Acupuncture and Oriental  
25 Medicine Practice Act is enacted to read:

1           " [NEW MATERIAL]   EXEMPTION FROM CERTAIN ACTS. --

2           A.   The board is specifically exempted from the  
3 provisions of the Procurement Code, the Art in Public Places  
4 Act, the Information and Communication Management Act and  
5 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
6 through 15-3-34 NMSA 1978.

7           B.   The board is also specifically exempted from the  
8 provisions of the Deferred Compensation Act, the Group Benefits  
9 Act, the Public Employee Bargaining Act, the Per Diem and  
10 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
11 provided, however, that an employee of the regulation and  
12 licensing department who subsequently becomes employed by the  
13 board without a break in service may, by agreement of the board,  
14 continue to participate in and be covered by those acts until  
15 separation from employment with the board.   Where required under  
16 those acts, the board shall make contributions for the  
17 participating employee.

18           C.   The board is also specifically exempted from the  
19 provisions of the Public Employees Retirement Act and the  
20 Retiree Health Care Act; provided, however, that an employee of  
21 the regulation and licensing department who subsequently becomes  
22 employed by the board without a break in service may, by  
23 agreement of the board, continue to participate in the public  
24 employee retirement system under the terms and conditions of the  
25 Public Employees Retirement Act and the retiree health care

Underscored material = new  
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[bracketed material] = delete

1 system under the terms and conditions of the Retiree Health Care  
2 Act until separation from employment with the board. The board  
3 shall make contributions as required by those acts for the  
4 participating employee.

5 D. The board is also specifically exempted from the  
6 provisions of the Personnel Act; provided, however, that an  
7 employee in the classified service in the regulation and  
8 licensing department who subsequently becomes employed by the  
9 board without a break in service may, by agreement of the board,  
10 remain in the classified service and be covered by the Personnel  
11 Act until separation from the employment with the board. For  
12 all other employees, the board may adopt its own employment  
13 policies. "

14 Section 126. A new section of the Acupuncture and Oriental  
15 Medicine Practice Act is enacted to read:

16 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
17 an organization and its individual members and employees, is  
18 specifically subject to and covered by the provisions of the  
19 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
20 of Public Records Act, the Public Records Act, the Open Meetings  
21 Act, the Governmental Conduct Act, the Financial Disclosure Act  
22 and any other state law applicable to the board unless otherwise  
23 specifically exempted in the Acupuncture and Oriental Medicine  
24 Practice Act. "

25 Section 127. Section 61-14A-18 NMSA 1978 (being Laws 1993,

Underscored material = new  
[bracketed material] = delete

1 Chapter 158, Section 26) is repealed and a new Section 61-14A-18  
2 NMSA 1978 is enacted to read:

3 "61-14A-18. [NEW MATERIAL] BOARD FUNDS. --

4 A. All money received by the board from fees provided  
5 for in the Acupuncture and Oriental Medicine Practice Act shall  
6 be deposited in an account in a federally insured financial  
7 institution qualified to do business in New Mexico. Money in  
8 the account shall be withdrawn on the order of the board or its  
9 designee and shall be used only to carry out the board's duties  
10 pursuant to that act.

11 B. In accordance with the provisions of the Audit Act,  
12 the state auditor may examine the accounts and books of the  
13 board, including its receipts, disbursements, contracts, leases  
14 and other records relating to the performance of its duties  
15 pursuant to the Acupuncture and Oriental Medicine Practice Act.  
16 In addition, the governor may call for any additional, special  
17 audits by the state auditor whenever deemed necessary for the  
18 protection and oversight of board funds.

19 C. Money of the board is not public money or state  
20 funds within the meaning of any law of the state relating to  
21 investment, deposit, security or expenditure of public money."

22 Section 128. Section 61-14B-1 NMSA 1978 (being Laws 1996,  
23 Chapter 57, Section 1) is amended to read:

24 "61-14B-1. SHORT TITLE. -- ~~[This act]~~ Chapter 61, Article 14B  
25 NMSA 1978 may be cited as the "Speech Language Pathology,

Underscored material = new  
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1     Audiology and Hearing Aid Dispensing Practices Act". "

2             Section 129.   Section 61-14B-2 NMSA 1978 (being Laws 1996,  
3     Chapter 57, Section 2) is amended to read:

4             "61-14B-2.   DEFINITIONS. --As used in the Speech Language  
5     Pathology, Audiology and Hearing Aid Dispensing Practices Act:

6             A.   "auditory trainer" means a custom-fitted FM  
7     amplifying instrument other than a hearing aid designed to  
8     enhance signal-to-noise ratios;

9             B.   "audiologist" means a person who engages in the  
10    practice of audiology, who may or may not dispense hearing aids  
11    and who meets the qualifications set forth in the Speech  
12    Language Pathology, Audiology and Hearing Aid Dispensing  
13    Practices Act;

14            C.   "board" means the speech language pathology,  
15    audiology and hearing aid dispensing practices board;

16            D.   "clinical fellow" means a person who has completed  
17    all academic course work and practicum requirements for a  
18    master's degree or the equivalent in speech language pathology  
19    or audiology or both and engages in the practice of speech  
20    language pathology or audiology as set forth in the provisions  
21    of the Speech Language Pathology, Audiology and Hearing Aid  
22    Dispensing Practices Act;

23            E.   "clinical fellowship year" or "CFY" means the time  
24    following the completion of all academic course work and  
25    practicum requirements for a master's degree in speech language

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[bracketed material] = delete

1 pathology or audiology or both and during which [~~the~~] a clinical  
2 fellow is working towards a certificate of clinical competence  
3 from a nationally recognized speech language or hearing  
4 association or the equivalent;

5 F. "CFY supervisor" means a person licensed pursuant  
6 to the provisions of the Speech Language Pathology, Audiology  
7 and Hearing Aid Dispensing Practices Act who oversees the work  
8 of a clinical fellow and is so designated in the CFY plan that  
9 is approved by the board;

10 [~~G.~~] "~~department~~" ~~means the regulation and licensing~~  
11 ~~department;~~

12 H.] G. "dispensing audiologist" means an audiologist  
13 who practices the dispensing or fitting of hearing aids and  
14 maintains or occupies a permanent physical business location in  
15 New Mexico where records can be examined and process can be  
16 served;

17 [~~I.~~] H. "hearing aid" means any wearable instrument or  
18 device designed or offered for the purpose of aiding or  
19 compensating for impaired human hearing and any parts,  
20 attachments or accessories, including earmolds but excluding  
21 batteries and cords;

22 [~~J.~~] I. "hearing aid dispenser" means any person other  
23 than a dispensing audiologist or an otolaryngologist who is  
24 licensed to sell, fit and service hearing aids under the Speech  
25 Language Pathology, Audiology and Hearing Aid Dispensing

Underscored material = new  
[bracketed material] = delete

1 Practices Act and maintains or occupies a permanent physical  
2 business location in New Mexico where records can be examined  
3 and process can be served;

4 [K-] J. "nondispensing audiologist" means a person who  
5 engages in the practice of audiology and who meets the  
6 qualifications set forth in the Speech Language Pathology,  
7 Audiology and Hearing Aid Dispensing Practices Act;

8 [L-] K. "otolaryngologist" means a licensed physician  
9 who has completed a recognized residency in otolaryngology and  
10 is certified by the American board of otolaryngology;

11 [M-] L. "paraprofessional" means a person who provides  
12 adjunct speech pathology or audiology services under the direct  
13 supervision of a licensed speech language pathologist or  
14 audiologist;

15 [N-] M. "practice of audiology" means the application  
16 of principles, methods and procedures of measurement, testing,  
17 appraisal, prognostication, aural rehabilitation, aural  
18 habilitation, consultation, hearing aid selection and fitting,  
19 counseling, instruction and research related to hearing and  
20 disorders of hearing for the purpose of nonmedical diagnosis,  
21 prevention, identification, amelioration or the modification of  
22 communicative disorders involving speech, language, auditory  
23 function or other aberrant behavior related to hearing  
24 disorders;

25 [O-] N. "practice of speech language pathology" means



1 the rendering or offering to render to individuals, groups,  
2 organizations or the public any service in speech or language  
3 pathology involving the nonmedical application of principles,  
4 methods and procedures for the measurement, testing, diagnosis,  
5 prognostication, counseling and instruction related to the  
6 development and disorders of speech, fluency, voice, verbal and  
7 written language, auditory comprehension, cognition, dysphagia,  
8 oral pharyngeal or laryngeal sensorimotor competencies and  
9 treatment of persons requiring use of an augmentative  
10 communication device for the purpose of nonmedical diagnosing,  
11 preventing, treating and ameliorating such disorders and  
12 conditions in individuals and groups of individuals;

13 [P.-] 0. "speech language pathologist" means a person  
14 who engages in the practice of speech language pathology and who  
15 meets the qualifications set forth in the Speech Language  
16 Pathology, Audiology and Hearing Aid Dispensing Practices Act;

17 [Q.-] P. "sponsor" means an individual who is employed  
18 full time in the same physical location in New Mexico where the  
19 trainee is being trained and is:

20 (1) a dispensing audiologist licensed under the  
21 provisions of the Speech Language Pathology, Audiology and  
22 Hearing Aid Dispensing Practices Act; or

23 (2) a hearing aid dispenser licensed under the  
24 provisions of the Speech Language Pathology, Audiology and  
25 Hearing Aid Dispensing Practices Act and who has been actively

Underscored material = new  
[bracketed material] = delete

1 engaged in dispensing or fitting hearing aids during three of  
2 the past five years; and

3 [R.] Q. "trainee" means a person working toward full  
4 licensure as a hearing aid ~~[dealer or fitter]~~ dispenser under  
5 the direct supervision of a sponsor."

6 Section 130. Section 61-14B-10 NMSA 1978 (being Laws 1996,  
7 Chapter 57, Section 10) is amended to read:

8 "61-14B-10. TERMS--REIMBURSEMENT--MEETINGS.--

9 A. Members of the board shall be appointed by the  
10 governor for staggered terms of three years. Each member shall  
11 hold office until ~~[successors are]~~ his successor is appointed  
12 and qualified. Vacancies shall be filled for the unexpired term  
13 in the same manner as original appointments.

14 B. A majority of the board members serving  
15 constitutes a quorum of the board. The board shall meet at  
16 least once a year and at such other times as it deems necessary.

17 C. The board shall elect a chairman and other officers  
18 as deemed necessary to administer its duties.

19 D. No board member shall serve more than two full  
20 consecutive terms, and any member failing to attend three  
21 meetings after proper notice shall automatically be recommended  
22 for removal as a board member unless excused for reasons set  
23 forth in board regulations.

24 E. Members of the board shall ~~[be reimbursed as~~  
25 ~~provided in the Per Diem and Mileage Act and shall receive no~~

Underscored material = new  
[bracketed material] = delete

1 ~~other compensation, perquisite or allowance]~~ serve without  
2 compensation other than reasonable reimbursement for mileage and  
3 per diem as determined by the board and paid from board funds.

4 F. No member of the board shall be liable in a civil  
5 action for any act performed in good faith in the performance of  
6 his duties."

7 Section 131. Section 61-14B-11 NMSA 1978 (being Laws 1996,  
8 Chapter 57, Section 11) is amended to read:

9 "61-14B-11. BOARD POWERS AND DUTIES. --The board [~~shall~~]:

10 A. may adopt rules and regulations and establish  
11 policy necessary to carry out the provisions of the Speech  
12 Language Pathology, Audiology and Hearing Aid Dispensing  
13 Practices Act in accordance with the Uniform Licensing Act;

14 B. may adopt rules implementing continuing education  
15 requirements;

16 C. shall adopt a code of ethics;

17 D. shall conduct hearings upon charges relating to the  
18 discipline of licensees, including the denial, suspension or  
19 revocation of a license in accordance with the Uniform Licensing  
20 Act;

21 E. shall investigate complaints against licensees by  
22 issuing investigative subpoenas prior to the issuance of a  
23 notice of contemplated action;

24 F. may hire staff [~~as may be necessary~~] to carry out  
25 the provisions of the Speech Language Pathology, Audiology and

Underscored material = new  
[bracketed material] = delete

1 Hearing Aid Dispensing Practices Act and provide for health  
2 insurance or other benefits for them. Except as otherwise  
3 provided in the Speech Language Pathology, Audiology and Hearing  
4 Aid Dispensing Practices Act, employees serve at the pleasure of  
5 the board and are exempt from the provisions of the Personnel  
6 Act;

7 G. may establish fees for licensure;

8 H. shall provide for the licensing and renewal of  
9 licenses of applicants; [~~and~~]

10 I. may adopt rules that provide for licensure by  
11 reciprocity, including temporary permits for speech language  
12 pathologists, audiologists or hearing aid dispensers; and

13 J. may enter into contracts. "

14 Section 132. A new section of the Speech Language  
15 Pathology, Audiology and Hearing Aid Dispensing Practices Act is  
16 enacted to read:

17 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
18 the attorney general shall provide such legal services to the  
19 board necessary for the administration of the Speech Language  
20 Pathology, Audiology and Hearing Aid Dispensing Practices Act;  
21 provided, however, that the board may, in its discretion, employ  
22 or contract for the services of other attorneys to assist it in  
23 the administration of that act."

24 Section 133. A new section of the Speech Language  
25 Pathology, Audiology and Hearing Aid Dispensing Practices Act is

Underscored material = new  
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1 enacted to read:

2 " [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

3 A. The board is specifically exempted from the  
4 provisions of the Procurement Code, the Art in Public Places  
5 Act, the Information and Communication Management Act and  
6 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
7 through 15-3-34 NMSA 1978.

8 B. The board is also specifically exempted from the  
9 provisions of the Deferred Compensation Act, the Group Benefits  
10 Act, the Public Employee Bargaining Act, the Per Diem and  
11 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
12 provided, however, that an employee of the regulation and  
13 licensing department who subsequently becomes employed by the  
14 board without a break in service may, by agreement of the board,  
15 continue to participate in and be covered by those acts until  
16 separation from employment with the board. Where required under  
17 those acts, the board shall make contributions for the  
18 participating employee.

19 C. The board is also specifically exempted from the  
20 provisions of the Public Employees Retirement Act and the  
21 Retiree Health Care Act; provided, however, that an employee of  
22 the regulation and licensing department who subsequently becomes  
23 employed by the board without a break in service may, by  
24 agreement of the board, continue to participate in the public  
25 employee retirement system under the terms and conditions of the

Underscored material = new  
[bracketed material] = delete

1 Public Employees Retirement Act and the retiree health care  
2 system under the terms and conditions of the Retiree Health Care  
3 Act until separation from the employment with the board. The  
4 board shall make contributions as required by those acts for the  
5 participating employee.

6 D. The board is also specifically exempted from the  
7 provisions of the Personnel Act; provided, however, that an  
8 employee in the classified service in the regulation and  
9 licensing department who subsequently becomes employed by the  
10 board without a break in service may, by agreement of the board,  
11 remain in the classified service and be covered by the Personnel  
12 Act until separation from employment with the board. For all  
13 other employees, the board may adopt its own employment  
14 policies. "

15 Section 134. A new section of the Speech Language  
16 Pathology, Audiology and Hearing Aid Dispensing Practices Act is  
17 enacted to read:

18 " [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
19 an organization and its individual members and employees, is  
20 specifically subject to and covered by the provisions of the  
21 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
22 of Public Records Act, the Public Records Act, the Open Meetings  
23 Act, the Governmental Conduct Act, the Financial Disclosure Act  
24 and any other state law applicable to the board unless otherwise  
25 specifically exempted in the Speech Language Pathology,

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[bracketed material] = delete

1 Audiology and Hearing Aid Dispensing Practices Act. "

2 Section 135. Section 61-14B-24 NMSA 1978 (being Laws 1996,  
3 Chapter 57, Section 24) is repealed and a new Section 61-14B-24  
4 NMSA 1978 is enacted to read:

5 "61-14B-24. [NEW MATERIAL] BOARD FUNDS. --

6 A. All money received by the board from fees provided  
7 for in the Speech Language Pathology, Audiology and Hearing Aid  
8 Dispensing Practices Act shall be deposited in an account in a  
9 federally insured financial institution qualified to do business  
10 in New Mexico. Money in the account shall be withdrawn on the  
11 order of the board or its designee and shall be used only to  
12 carry out the board's duties pursuant to that act.

13 B. In accordance with the provisions of the Audit Act,  
14 the state auditor may examine the accounts and books of the  
15 board, including its receipts, disbursements, contracts, leases  
16 and other records relating to the performance of its duties  
17 pursuant to the Speech Language Pathology, Audiology and Hearing  
18 Aid Dispensing Practices Act. In addition, the governor may  
19 call for any additional, special audits by the state auditor  
20 whenever deemed necessary for the protection and oversight of  
21 board funds.

22 C. Money of the board is not public money or state  
23 funds within the meaning of any law of the state relating to  
24 investment, deposit, security or expenditure of public money. "

25 Section 136. Section 61-14B-25 NMSA 1978 (being Laws 1996,

Underscored material = new  
[bracketed material] = delete

1 Chapter 57, Section 25) is amended to read:

2 "61-14B-25. TERMINATION OF AGENCY LIFE-- DELAYED  
3 REPEAL.--The speech language pathology, audiology and hearing  
4 aid dispensing practices board is terminated on July 1, [1997]  
5 2001 pursuant to the Sunset Act. The board shall continue to  
6 operate according to the provisions of the Speech Language  
7 Pathology, Audiology and Hearing Aid Dispensing Practices Act  
8 until July 1, [1998] 2002. Effective July 1, [1998] 2002, the  
9 Speech Language Pathology, Audiology and Hearing Aid Dispensing  
10 Practices Act is repealed."

11 Section 137. Section 61-14D-1 NMSA 1978 (being Laws 1993,  
12 Chapter 325, Section 1) is amended to read:

13 "61-14D-1. SHORT TITLE.-- [~~Sections 1 through 19 of this~~  
14 ~~act~~] Chapter 61, Article 14D NMSA 1978 may be cited as the  
15 "Athletic Trainer Practice Act". "

16 Section 138. Section 61-14D-3 NMSA 1978 (being Laws 1993,  
17 Chapter 325, Section 3) is amended to read:

18 "61-14D-3. DEFINITIONS.--As used in the Athletic Trainer  
19 Practice Act:

20 A. "athlete" means a person trained to participate in  
21 exercise requiring physical agility and stamina;

22 B. "athletic trainer" means a person who, with the  
23 advice and consent of a licensed physician, practices the  
24 treatment, prevention, care and rehabilitation of injuries  
25 incurred by athletes;



Underscored material = new  
[bracketed material] = delete

1 C. "board" means the athletic trainer practice board;

2 [~~D. "department" means the regulation and licensing~~  
3 ~~department;~~

4 E.] D. "district" means an area having the same  
5 boundaries as a congressional district in the state; and

6 [~~F.]~~ E. "licensed physician" means a chiropractor,  
7 osteopath or physician licensed pursuant to [~~Articles 4, 6 or 10~~  
8 ~~of]~~ Chapter 61, Article 4, 6 or 10 NMSA 1978. "

9 Section 139. Section 61-14D-7 NMSA 1978 (being Laws 1993,  
10 Chapter 325, Section 7) is amended to read:

11 "61-14D-7. BOARD CREATED. --

12 A. There is created the "athletic trainer practice  
13 board".

14 [~~B. The board shall be administratively attached to~~  
15 ~~the department.~~

16 ~~C.]~~ B. The board shall consist of five members  
17 appointed by the governor for staggered terms of three years  
18 each, except that the initial board shall be appointed so that  
19 the term of one member expires June 30, 1994, the terms of two  
20 members expire June 30, 1995 and the terms of two members expire  
21 June 30, 1996. Three of the members shall be athletic trainers  
22 licensed [~~under]~~ pursuant to the provisions of the Athletic  
23 Trainer Practice Act with at least three years experience in the  
24 [~~profession]~~ occupation in [~~the state of]~~ New Mexico. One  
25 member shall be from each district and at least one member shall

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[bracketed material] = delete

1 be employed by a high school. Two members shall represent the  
2 public and have no financial interest, direct or indirect, in  
3 the occupation regulated. One public member shall be from any  
4 area north of interstate 40 in the state and one public member  
5 shall be from any area south of interstate 40 in the state.  
6 Board members shall serve until their successors have been  
7 appointed and qualified.

8 [D.] C. Members of the board shall ~~[be reimbursed as~~  
9 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
10 ~~other compensation, perquisite or allowance]~~ serve without  
11 compensation other than reasonable reimbursement for mileage and  
12 per diem as determined by the board and paid from board funds.

13 [E.] D. A simple majority of the board members  
14 currently serving shall constitute a quorum of the board.

15 [F.] E. The board shall meet at least once a year and  
16 at such other times as it deems necessary.

17 [G.] F. No board member shall serve more than two  
18 consecutive terms. Any member failing to attend three meetings,  
19 after proper notice, shall automatically be recommended to be  
20 removed as a board member, unless excused for reasons set forth  
21 in board regulations.

22 [H.] G. The board shall elect a chairman and other  
23 officers as deemed necessary to administer its duties. "

24 Section 140. Section 61-14D-8 NMSA 1978 (being Laws 1993,  
25 Chapter 325, Section 8) is amended to read:

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[bracketed material] = delete

1           "61-14D-8. [DEPARTMENT] BOARD DUTIES. --The [~~department, in~~  
2 ~~consultation with the~~] board shall:

3           A. evaluate the qualifications of applicants and  
4 review any required examination results of applicants;

5           B. issue licenses and provisional permits to  
6 applicants who meet the requirements of the Athletic Trainer  
7 Practice Act;

8           C. administer, coordinate and enforce the provisions  
9 of the Athletic Trainer Practice Act and investigate persons  
10 engaging in practices [~~which~~] that may violate the provisions of  
11 that act;

12           D. conduct any required examinations of applicants;  
13 and

14 [~~E. hire staff as may be necessary to carry out the~~  
15 ~~actions of the board; and~~

16 ~~F.] E. maintain board records, including financial~~  
17 records. "

18           Section 141. Section 61-14D-9 NMSA 1978 (being Laws 1993,  
19 Chapter 325, Section 9) is amended to read:

20           "61-14D-9. BOARD [~~DUTIES~~] POWERS. --In addition to any other  
21 authority provided by law, the board shall have the authority  
22 to:

23           A. adopt and file, in accordance with the State Rules  
24 Act, rules and regulations necessary to carry out the provisions  
25 of the Athletic Trainer Practice Act, in accordance with the

Underscored material = new  
[bracketed material] = delete

1 provisions of the Uniform Licensing Act, including the  
2 procedures for an appeal of an examination failure;

3 B. establish fees;

4 C. approve administration of exams;

5 D. adopt rules implementing continuing education  
6 requirements;

7 E. conduct hearings upon charges relating to the  
8 discipline of licensees, including the denial, suspension or  
9 revocation of a license; [~~and~~]

10 F. adopt a code of ethics;

11 G. enter into contracts; and

12 H. hire staff to carry out the actions of the board  
13 and provide for health insurance or other benefits for them.

14 Except as otherwise provided in the Athletic Trainer Practice  
15 Act, employees serve at the pleasure of the board and are exempt  
16 from the provisions of the Personnel Act."

17 Section 142. A new section of the Athletic Trainer Practice  
18 Act is enacted to read:

19 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
20 the attorney general shall provide such legal services to the  
21 board necessary for the administration of the Athletic Trainer  
22 Practice Act; provided, however, that the board may, in its  
23 discretion, employ or contract for the services of other  
24 attorneys to assist it in the administration of that act."

25 Section 143. A new section of the Athletic Trainer Practice

Underscored material = new  
[bracketed material] = delete

1 Act is enacted to read:

2 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

3 A. The board is specifically exempted from the  
4 provisions of the Procurement Code, the Art in Public Places  
5 Act, the Information and Communication Management Act and  
6 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
7 through 15-3-34 NMSA 1978.

8 B. The board is also specifically exempted from the  
9 provisions of the Deferred Compensation Act, the Group Benefits  
10 Act, the Public Employee Bargaining Act, the Per Diem and  
11 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
12 provided, however, that an employee of the regulation and  
13 licensing department who subsequently becomes employed by the  
14 board without a break in service may, by agreement of the board,  
15 continue to participate in and be covered by those acts until  
16 separation from employment with the board. Where required under  
17 those acts, the board shall make contributions for the  
18 participating employee.

19 C. The board is also specifically exempted from the  
20 provisions of the Public Employees Retirement Act and the  
21 Retiree Health Care Act; provided, however, that an employee of  
22 the regulation and licensing department who subsequently becomes  
23 employed by the board without a break in service may, by  
24 agreement of the board, continue to participate in the public  
25 employee retirement system under the terms and conditions of the

Underscored material = new  
[bracketed material] = delete

1 Public Employees Retirement Act and the retiree health care  
2 system under the terms and conditions of the Retiree Health Care  
3 Act until separation from employment with the board. The board  
4 shall make contributions as required by those acts for the  
5 participating employee.

6 D. The board is also specifically exempted from the  
7 provisions of the Personnel Act; provided, however, that an  
8 employee in the classified service in the regulation and  
9 licensing department who subsequently becomes employed by the  
10 board without a break in service may, by agreement of the board,  
11 remain in the classified service and be covered by the Personnel  
12 Act until separation from employment with the board. For all  
13 other employees, the board may adopt its own employment  
14 policies. "

15 Section 144. A new section of the Athletic Trainer Practice  
16 Act is enacted to read:

17 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
18 an organization and its individual members and employees, is  
19 specifically subject to and covered by the provisions of the  
20 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
21 of Public Records Act, the Public Records Act, the Open Meetings  
22 Act, the Governmental Conduct Act, the Financial Disclosure Act  
23 and any other state law applicable to the board unless otherwise  
24 specifically exempted in the Athletic Trainer Practice Act. "

25 Section 145. Section 61-14D-18 NMSA 1978 (being Laws 1993,

Underscored material = new  
[bracketed material] = delete

1 Chapter 325, Section 18) is repealed and a new Section 61-14D-18  
2 NMSA 1978 is enacted to read:

3 "61-14D-18. [NEW MATERIAL] BOARD FUNDS. --

4 A. All money received by the board from fees provided  
5 for in the Athletic Trainer Practice Act shall be deposited in  
6 an account in a federally insured financial institution  
7 qualified to do business in New Mexico. Money in the account  
8 shall be withdrawn on the order of the board or its designee and  
9 shall be used only to carry out the board's duties pursuant to  
10 that act.

11 B. In accordance with the provisions of the Audit Act,  
12 the state auditor may examine the accounts and books of the  
13 board, including its receipts, disbursements, contracts, leases  
14 and other records relating to the performance of its duties  
15 pursuant to the Athletic Trainer Practice Act. In addition, the  
16 governor may call for any additional, special audits by the  
17 state auditor whenever deemed necessary for the protection and  
18 oversight of board funds.

19 C. Money of the board is not public money or state  
20 funds within the meaning of any law of the state relating to  
21 investment, deposit, security or expenditure of public money."

22 Section 146. Section 61-17A-1 NMSA 1978 (being Laws 1993,  
23 Chapter 171, Section 1) is amended to read:

24 "61-17A-1. SHORT TITLE. -- ~~[Sections 1 through 24 of this~~  
25 ~~act]~~ Chapter 61, Article 17A NMSA 1978 may be cited as the

Underscored material = new  
[bracketed material] = delete

1 "Barbers and Cosmetologists Act". "

2 Section 147. Section 61-17A-6 NMSA 1978 (being Laws 1993,  
3 Chapter 171, Section 6) is amended to read:

4 "61-17A-6. BOARD CREATED--MEMBERSHIP.--

5 A. The "board of barbers and cosmetologists" is  
6 created. [~~The board shall be administratively attached to the~~  
7 ~~regulation and licensing department.~~] The board shall consist  
8 of nine members appointed by the governor. Members shall serve  
9 three-year terms; provided that at the time of initial  
10 appointment, the governor shall appoint members to abbreviated  
11 terms to allow staggering of subsequent appointments. Vacancies  
12 shall be filled in the manner of the original appointment.

13 B. Of the nine members of the board, five shall be  
14 licensed pursuant to the Barbers and Cosmetologists Act and  
15 shall have at least five years' practical experience in their  
16 respective occupations. Of those five, two members shall be  
17 licensed barbers, two members shall be licensed cosmetologists  
18 and one member shall represent school owners. The remaining  
19 four members shall be public members. Neither the public  
20 members nor their spouses shall have ever been licensed or  
21 certified pursuant to the provisions of the Barbers and  
22 Cosmetologists Act or similar prior legislation or have a  
23 financial interest in a school or establishment.

24 C. Members of the board shall [~~be reimbursed pursuant~~  
25 ~~to the Per Diem and Mileage Act and shall receive no other~~



Underscored material = new  
[bracketed material] = delete

1 ~~compensation, perquisite or allowance]~~ serve without  
2 compensation other than reasonable reimbursement for mileage and  
3 per diem as determined by the board and paid from board funds.

4 D. The board shall elect from among its members a  
5 chairman and such other officers as it deems necessary. The  
6 board shall meet at the call of the chairman, not less than four  
7 times each year. A majority of members currently serving shall  
8 constitute a quorum for the conduct of business.

9 E. No board member shall serve more than two full  
10 consecutive terms and any member who fails to attend, after  
11 proper notice, three meetings shall automatically be recommended  
12 for removal unless excused for reasons set forth by board  
13 regulation. "

14 Section 148. Section 61-17A-7 NMSA 1978 (being Laws 1993,  
15 Chapter 171, Section 7) is amended to read:

16 "61-17A-7. BOARD POWERS AND DUTIES. --

17 A. The board shall:

18 (1) adopt and file, in accordance with the State  
19 Rules Act, rules and regulations necessary to carry out the  
20 provisions of the Barbers and Cosmetologists Act;

21 (2) establish fees;

22 (3) provide for the examination, licensure and  
23 license renewal of applicants for licensure;

24 (4) establish standards for and provide for the  
25 examination, certification and renewal of certification of

Underscored material = new  
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1 manicurists-pedicurists, estheticians and electrologists;

2 (5) adopt a seal;

3 (6) furnish copies of rules and regulations and  
4 sanitary requirements adopted by the board to each owner or  
5 manager of an establishment or school;

6 (7) keep a record of its proceedings and a  
7 register of applicants for certification or licensure;

8 (8) provide for the licensure of barbers and  
9 cosmetologists, the certification of [~~manicurist-pedicurists~~]  
10 manicurists-pedicurists, estheticians and electrologists and the  
11 licensure of instructors, schools and establishments;

12 (9) establish administrative penalties and fines;

13 (10) create and establish standards for special  
14 licenses; and

15 (11) hire an executive director and such other  
16 staff as is necessary to carry out the provisions of the Barbers  
17 and Cosmetologists Act and may provide for health insurance or  
18 other benefits for them. Except as otherwise provided in the  
19 Barbers and Cosmetologists Act, employees serve at the pleasure  
20 of the board and are exempt from the provisions of the Personnel  
21 Act.

22 B. The board may establish continuing education  
23 requirements as requirements for licensure.

24 C. Any member of the board, its employees or agents  
25 may enter and inspect any school or establishment at any time

Underscored material = new  
[bracketed material] = delete

1 during regular business hours for the purpose of determining  
2 compliance with the Barbers and Cosmetologists Act.

3 D. The board may enter into contracts."

4 Section 149. A new section of the Barbers and  
5 Cosmetologists Act is enacted to read:

6 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
7 the attorney general shall provide such legal services to the  
8 board necessary for the administration of the Barbers and  
9 Cosmetologists Act; provided, however, that the board may, in  
10 its discretion, employ or contract for the services of other  
11 attorneys to assist it in the administration of that act."

12 Section 150. A new section of the Barbers and  
13 Cosmetologists Act is enacted to read:

14 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

15 A. The board is specifically exempted from the  
16 provisions of the Procurement Code, the Art in Public Places  
17 Act, the Information and Communication Management Act and  
18 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
19 through 15-3-34 NMSA 1978.

20 B. The board is also specifically exempted from the  
21 provisions of the Deferred Compensation Act, the Group Benefits  
22 Act, the Public Employee Bargaining Act, the Per Diem and  
23 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
24 provided, however, that an employee of the regulation and  
25 licensing department who subsequently becomes employed by the

Underscored material = new  
[bracketed material] = delete

1 board without a break in service may, by agreement of the board,  
2 continue to participate in and be covered by those acts until  
3 separation from employment with the board. Where required under  
4 those acts, the board shall make contributions for the  
5 participating employee.

6 C. The board is also specifically exempted from the  
7 provisions of the Public Employees Retirement Act and the  
8 Retiree Health Care Act; provided, however, that an employee of  
9 the regulation and licensing department who subsequently becomes  
10 employed by the board without a break in service may, by  
11 agreement of the board, continue to participate in the public  
12 employee retirement system under the terms and conditions of the  
13 Public Employees Retirement Act and the retiree health care  
14 system under the terms and conditions of the Retiree Health Care  
15 Act until separation from employment with the board. The board  
16 shall make contributions as required by those acts for the  
17 participating employee.

18 D. The board is also specifically exempted from the  
19 provisions of the Personnel Act, provided, however, that an  
20 employee in the classified service in the regulation and  
21 licensing department who subsequently becomes employed by the  
22 board without a break in service may, by agreement of the board,  
23 remain in the classified service and be covered by the Personnel  
24 Act until separation from employment with the board. For all  
25 other employees, the board may adopt its own employment

Underscored material = new  
[bracketed material] = delete

1 policies. "

2 Section 151. A new section of the Barbers and  
3 Cosmetologists Act is enacted to read:

4 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
5 an organization and its individual members and employees, is  
6 specifically subject to and covered by the provisions of the  
7 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
8 of Public Records Act, the Public Records Act, the Open Meetings  
9 Act, the Governmental Conduct Act, the Financial Disclosure Act  
10 and any other state law applicable to the board unless otherwise  
11 specifically exempted in the Barbers and Cosmetologists Act. "

12 Section 152. Section 61-17A-13 NMSA 1978 (being Laws 1993,  
13 Chapter 171, Section 13) is amended to read:

14 "61-17A-13. TUITION RECOVERY FUND CREATED-- ADMINISTRATION--  
15 CLAIMS. --

16 A. The "tuition recovery fund" is created [~~in the~~  
17 ~~state treasury~~] as a board account. All money received by the  
18 board for the tuition recovery fund shall be deposited in an  
19 account in a federally insured financial institution qualified  
20 to do business in New Mexico. Money in the account shall be  
21 separate from other board accounts established pursuant to the  
22 provisions of Section 61-17A-14 NMSA 1978. Money in the fund  
23 [~~is appropriated to~~] shall be used by the board for the purpose  
24 of paying claims against the tuition recovery fund, including  
25 refunds to lending institutions. Money [~~appropriated to~~]

Underscored material = new  
[bracketed material] = delete

1 deposited in the fund or accruing to it shall not be transferred  
2 to another fund or encumbered or disbursed in any manner except  
3 for the purposes set forth in the Barbers and Cosmetologists Act  
4 [~~provided that money in the fund shall be invested by the state~~  
5 ~~treasurer in the manner of other state funds. The fund shall~~  
6 ~~not revert at the end of the fiscal year~~]. Disbursements from  
7 the fund shall be made only upon warrant drawn by the [~~secretary~~  
8 ~~of finance and administration~~] chairman of the board or his  
9 designated agent upon vouchers signed by the executive director  
10 of the board.

11 B. The board shall administer the tuition recovery  
12 fund. Money in the fund shall be used to indemnify students  
13 damaged as a result of a barber school or cosmetology school  
14 ceasing operation or terminating a program prior to students  
15 having completed the programs for which they have contracted.

16 C. Claims against the fund shall be filed with the  
17 board on forms approved by the board. Claims shall be filed  
18 within twelve months of a licensed school ceasing operation.  
19 The board shall by regulation provide for consideration and  
20 administration of claims made against the fund. The board is  
21 authorized to sue for replenishment of the fund when depletion  
22 of the fund is a direct result of a barber school or cosmetology  
23 school ceasing operation.

24 D. The board shall dedicate a portion of the annual  
25 licensure fee assessed every barber school and cosmetology

Underscored material = new  
[bracketed material] = delete

1 school to the tuition recovery fund. When the balance in the  
2 fund reaches an amount set by the board, the board shall  
3 discontinue dedication of a portion of the fee.

4 E. In accordance with the provisions of the Audit Act,  
5 the state auditor may examine the accounts and books of the  
6 board regarding the tuition recovery fund, including its  
7 receipts, disbursements, contracts, leases and other records  
8 relating to the performance of its duties pursuant to this  
9 section. In addition, the governor may call for any additional,  
10 special audits by the state auditor whenever deemed necessary  
11 for the protection and oversight of the tuition recovery fund.

12 F. Money in the tuition recovery fund is not public  
13 money or state funds within the meaning of any law of the state  
14 relating to investment, deposit, security or expenditure of  
15 public money. "

16 Section 153. Section 61-17A-14 NMSA 1978 (being Laws 1993,  
17 Chapter 171, Section 14) is repealed and a new Section 61-17A-14  
18 NMSA 1978 is enacted to read:

19 "61-17A-14. [NEW MATERIAL] BOARD FUNDS. --

20 A. All money received by the board from fees provided  
21 for in the Barbers and Cosmetologists Act shall be deposited in  
22 an account in a federally insured financial institution  
23 qualified to do business in New Mexico. Money in the account  
24 shall be withdrawn on the order of the board or its designee and  
25 shall be used only to carry out the board's duties pursuant to

Underscored material = new  
[bracketed material] = delete

1 that act.

2 B. In accordance with the provisions of the Audit Act,  
3 the state auditor may examine the accounts and books of the  
4 board, including its receipts, disbursements, contracts, leases  
5 and other records relating to the performance of its duties  
6 pursuant to the Barbers and Cosmetologists Act. In addition,  
7 the governor may call for any additional, special audits by the  
8 state auditor whenever deemed necessary for the protection and  
9 oversight of board funds.

10 C. Money of the board is not public money or state  
11 funds within the meaning of any law of the state relating to  
12 investment, deposit, security or expenditure of public money."

13 Section 154. Section 61-24B-1 NMSA 1978 (being Laws 1985,  
14 Chapter 151, Section 1) is amended to read:

15 "61-24B-1. SHORT TITLE. -- ~~[This act]~~ Chapter 61, Article 24B  
16 NMSA 1978 may be cited as the "Landscape Architects Act". "

17 Section 155. Section 61-24B-6 NMSA 1978 (being Laws 1985,  
18 Chapter 151, Section 6, as amended) is amended to read:

19 "61-24B-6. ~~BOARD CREATED--MEMBERS--QUALIFICATIONS--TERMS--~~  
20 ~~VACANCIES--REMOVAL.--~~

21 A. There is created a "board of landscape architects".  
22 The board shall consist of five members, three of whom shall be  
23 registered landscape architects having ten years' or more  
24 experience in the profession [~~provided, however, that the~~  
25 ~~initial two landscape architects approved shall be registered~~



Underscored material = new  
[bracketed material] = delete

1 ~~within six months of the effective date of the Landscape~~  
2 ~~Architects Act]~~ and two of whom shall represent the public and  
3 shall not have been licensed as landscape architects or have any  
4 significant financial interest, direct or indirect, in the  
5 [~~occupation~~] profession regulated.

6 B. [~~Upon enactment of the Landscape Architects Act]~~  
7 Appointments shall be made by the governor. The members of the  
8 board shall be appointed for staggered terms of three years and  
9 appointments shall be made in such a manner that the terms of  
10 board members expire on June 30. The landscape architect  
11 members of the board shall be appointed from lists submitted to  
12 the governor by the New Mexico chapter of the American society  
13 of landscape architects. A vacancy shall be filled by  
14 appointment by the governor for the unexpired term and shall be  
15 filled by persons having similar qualifications to those of the  
16 member being replaced. Board members shall serve until their  
17 successors have been appointed and qualified.

18 C. The board shall meet within sixty days of the  
19 effective date of the Landscape Architects Act and elect from  
20 its membership a chairman and vice chairman. The board shall  
21 meet at such other times as it deems necessary or advisable or  
22 as deemed necessary and advisable by the chairman, a majority of  
23 its members or the governor, but in no event less than twice a  
24 year. Reasonable notice of all meetings shall be given in the  
25 manner prescribed by the board. A majority of the board shall

Underscored material = new  
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1 constitute a quorum at any meeting or hearing.

2 D. The governor may remove any member from the board  
3 for neglect of any duty required by law, for incompetence, for  
4 improper or unprofessional conduct as defined by board  
5 regulation or for any reason ~~[which]~~ that would justify the  
6 suspension or revocation of his registration to practice  
7 landscape architecture.

8 E. No board member shall serve more than two  
9 consecutive full terms, and any member failing to attend, after  
10 proper notice, three consecutive meetings shall automatically be  
11 removed as a board member, unless excused for reasons set forth  
12 in board regulations.

13 F. Members of the board shall ~~[be reimbursed as~~  
14 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
15 ~~other compensation, perquisite or allowance]~~ serve without  
16 compensation other than reasonable reimbursement for mileage and  
17 per diem as determined by the board and paid from board funds. "

18 Section 156. Section 61-24B-7 NMSA 1978 (being Laws 1985,  
19 Chapter 151, Section 7, as amended) is amended to read:

20 "61-24B-7. BOARD-- POWERS AND DUTIES. --The board ~~[shall]~~:

21 A. may promulgate rules and regulations necessary to  
22 effectuate the provisions of the Landscape Architects Act;

23 B. may employ such persons as necessary to carry out  
24 the provisions of the Landscape Architects Act and provide for  
25 health insurance or other benefits for them. Except as

Underscored material = new  
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1 otherwise provided in that act, employees serve at the pleasure  
2 of the board and are exempt from the provisions of the Personnel  
3 Act;

4 C. shall provide for the examination, registration and  
5 re-registration of all applicants;

6 D. may adopt and use a seal;

7 E. may administer oaths and take testimony on matters  
8 within the board's jurisdiction;

9 F. may grant, deny, renew, suspend or revoke  
10 certificates of registration to practice landscape architecture  
11 in accordance with the provisions of the Uniform Licensing Act  
12 for any cause stated in the Landscape Architects Act;

13 G. shall conduct hearings upon charges relating to  
14 discipline of a registrant or the denial, suspension or  
15 revocation of a certificate of registration; ~~[and]~~

16 H. shall participate with the state board of examiners  
17 for architects and the state board of registration for  
18 professional engineers and land surveyors in creating a joint  
19 standing committee to be known as the "architect-engineer-  
20 landscape architect joint practice committee" to resolve  
21 disputes concerning these professions. The composition of this  
22 committee and its powers and duties shall be in accordance with  
23 identical resolutions adopted by each board; and

24 I. may enter into contracts. "

25 Section 157. A new section of the Landscape Architects Act

Underscored material = new  
[bracketed material] = delete

1 is enacted to read:

2 " [NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
3 the attorney general shall provide such legal services to the  
4 board necessary for the administration of the Landscape  
5 Architects Act; provided, however, that the board may, in its  
6 discretion, employ or contract for the services of other  
7 attorneys to assist it in the administration of that act."

8 Section 158. A new section of the Landscape Architects Act  
9 is enacted to read:

10 " [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

11 A. The board is specifically exempted from the  
12 provisions of the Procurement Code, the Art in Public Places  
13 Act, the Information and Communication Management Act and  
14 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
15 through 15-3-34 NMSA 1978.

16 B. The board is also specifically exempted from the  
17 provisions of the Deferred Compensation Act, the Group Benefits  
18 Act, the Public Employee Bargaining Act, the Per Diem and  
19 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
20 provided, however, that an employee of the regulation and  
21 licensing department who subsequently becomes employed by the  
22 board without a break in service may, by agreement of the board,  
23 continue to participate in and be covered by those acts until  
24 separation from employment with the board. Where required under  
25 those acts, the board shall make contributions for the

Underscored material = new  
[bracketed material] = delete

1 participating employee.

2 C. The board is also specifically exempted from the  
3 provisions of the Public Employees Retirement Act and the  
4 Retiree Health Care Act; provided, however, that an employee of  
5 the regulation and licensing department who subsequently becomes  
6 employed by the board without a break in service may, by  
7 agreement of the board, continue to participate in the public  
8 employee retirement system under the terms and conditions of the  
9 Public Employees Retirement Act and the retiree health care  
10 system under the terms and conditions of the Retiree Health Care  
11 Act until separation from employment with the board. The board  
12 shall make contributions as required by those acts for the  
13 participating employee.

14 D. The board is also specifically exempted from the  
15 provisions of the Personnel Act; provided, however, that an  
16 employee in the classified service in the regulation and  
17 licensing department who subsequently becomes employed by the  
18 board without a break in service may, by agreement of the board,  
19 remain in the classified service and be covered by the Personnel  
20 Act until separation from employment with the board. For all  
21 other employees, the board may adopt its own employment  
22 policies. "

23 Section 159. A new section of the Landscape Architects Act  
24 is enacted to read:

25 " [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The board, as

Underscored material = new  
[bracketed material] = delete

1 an organization and its individual members and employees, is  
2 specifically subject to and covered by the provisions of the  
3 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
4 of Public Records Act, the Public Records Act, the Open Meetings  
5 Act, the Governmental Conduct Act, the Financial Disclosure Act  
6 and any other state law applicable to the board unless otherwise  
7 specifically exempted in the Landscape Architects Act. "

8 Section 160. Section 61-24B-14 NMSA 1978 (being Laws 1985,  
9 Chapter 151, Section 14) is repealed and a new Section 61-24B-14  
10 NMSA 1978 is enacted to read:

11 "61-24B-14. [NEW MATERIAL] BOARD FUNDS. --

12 A. All money received by the board from fees provided  
13 for in the Landscape Architects Act shall be deposited in an  
14 account in a federally insured financial institution qualified  
15 to do business in New Mexico. Money in the account shall be  
16 withdrawn on the order of the board or its designee and shall be  
17 used only to carry out the board's duties pursuant to that act.

18 B. In accordance with the provisions of the Audit Act,  
19 the state auditor may examine the accounts and books of the  
20 board, including its receipts, disbursements, contracts, leases  
21 and other records relating to the performance of its duties  
22 pursuant to the Landscape Architects Act. In addition, the  
23 governor may call for any additional, special audits by the  
24 state auditor whenever deemed necessary for the protection and  
25 oversight of board funds.

Underscored material = new  
[bracketed material] = delete

1 C. Money of the board is not public money or state  
2 funds within the meaning of any law of the state relating to  
3 investment, deposit, security or expenditure of public money."

4 Section 161. Section 61-24B-17 NMSA 1978 (being Laws 1985,  
5 Chapter 151, Section 18, as amended) is amended to read:

6 "61-24B-17. TERMINATION OF AGENCY LIFE-- DELAYED REPEAL. --  
7 The board of landscape architects is terminated on July 1,  
8 [1997] 2003 pursuant to the Sunset Act. The board shall  
9 continue to operate according to the provisions of the Landscape  
10 Architects Act until July 1, [1998] 2004. Effective July 1,  
11 [1998] 2004, the Landscape Architects Act is repealed."

12 Section 162. Section 61-24C-1 NMSA 1978 (being Laws 1989,  
13 Chapter 53, Section 1) is amended to read:

14 "61-24C-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 24C  
15 NMSA 1978 may be cited as the "Interior Designers Act". "

16 Section 163. Section 61-24C-5 NMSA 1978 (being Laws 1989,  
17 Chapter 53, Section 5) is amended to read:

18 "61-24C-5. POWERS AND DUTIES OF THE BOARD. -- The board:

19 A. shall administer, coordinate and enforce the  
20 provisions of the Interior Designers Act. The board may  
21 investigate allegations of violations of the provisions of the  
22 Interior Designers Act;

23 B. shall adopt regulations to carry out the purposes  
24 and policies of the Interior Designers Act, including  
25 regulations relating to professional conduct, standards of

Underscored material = new  
[bracketed material] = delete

1 performance and professional examination and licensure,  
2 reasonable license, application, renewal and late fees and the  
3 establishment of ethical standards of practice for persons  
4 holding a license to practice as an interior designer in New  
5 Mexico;

6 C. may employ an executive director and other  
7 employees and fix their compensation and provide for health  
8 insurance or other benefits for them. Except as otherwise  
9 provided in the Interior Designers Act, employees serve at the  
10 pleasure of the board and are exempt from the provisions of the  
11 Personnel Act;

12 D. may [~~contract with the regulation and licensing~~  
13 ~~department to obtain office space and administrative services~~]  
14 enter into contracts;

15 E. shall require a licensee, as a condition of the  
16 renewal of his license, to undergo continuing education  
17 requirements as set forth in the Interior Designers Act;

18 F. shall maintain an official roster showing the name,  
19 address and license number of each interior designer licensed  
20 pursuant to the Interior Designers Act;

21 G. shall conduct hearings and keep records and minutes  
22 necessary to carry out its functions;

23 H. may adopt a common seal for use by interior  
24 designers; and

25 I. shall do all things reasonable and necessary to



Underscored material = new  
[bracketed material] = delete

1 carry out the purposes of the Interior Designers Act. "

2 Section 164. Section 61-24C-6 NMSA 1978 (being Laws 1989,  
3 Chapter 53, Section 6) is amended to read:

4 "61-24C-6. COMPENSATION AND EXPENSES. --

5 A. Members of the board shall ~~[be reimbursed as~~  
6 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
7 ~~other compensation, perquisite or allowance]~~ serve without  
8 compensation other than reasonable reimbursement for mileage and  
9 per diem as determined by the board and paid from board funds.

10 B. The board shall fix the compensation of its  
11 employees by resolution adopted at a regular meeting of the  
12 board. "

13 Section 165. A new section of the Interior Designers Act is  
14 enacted to read:

15 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
16 the attorney general shall provide such legal services to the  
17 board necessary for the administration of the Interior Designers  
18 Act; provided, however, that the board may, in its discretion,  
19 employ or contract for the services of other attorneys to assist  
20 it in the administration of that act. "

21 Section 166. A new section of the Interior Designers Act is  
22 enacted to read:

23 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

24 A. The board is specifically exempted from the  
25 provisions of the Procurement Code, the Art in Public Places

Underscored material = new  
[bracketed material] = delete

1 Act, the Information and Communication Management Act and  
2 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
3 through 15-3-34 NMSA 1978.

4 B. The board is also specifically exempted from the  
5 provisions of the Deferred Compensation Act, the Group Benefits  
6 Act, the Public Employee Bargaining Act, the Per Diem and  
7 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
8 provided, however, that an employee of the regulation and  
9 licensing department who subsequently becomes employed by the  
10 board without a break in service may, by agreement of the board,  
11 continue to participate in and be covered by those acts until  
12 separation from employment with the board. Where required under  
13 those acts, the board shall make contributions for the  
14 participating employee.

15 C. The board is also specifically exempted from the  
16 provisions of the Public Employees Retirement Act and the  
17 Retiree Health Care Act; provided, however, that an employee of  
18 the regulation and licensing department who subsequently becomes  
19 employed by the board without a break in service may, by  
20 agreement of the board, continue to participate in the public  
21 employee retirement system under the terms and conditions of the  
22 Public Employees Retirement Act and the retiree health care  
23 system under the terms and conditions of the Retiree Health Care  
24 Act until separation from employment with the board. The board  
25 shall make contributions as required by those acts for the

Underscored material = new  
[bracketed material] = delete

1 participating employee.

2 D. The board is also specifically exempted from the  
3 provisions of the Personnel Act; provided, however, that an  
4 employee in the classified service in the regulation and  
5 licensing department who subsequently becomes employed by the  
6 board without a break in service may, by agreement of the board,  
7 remain in the classified service and be covered by the Personnel  
8 Act until separation from employment with the board. For all  
9 other employees, the board may adopt its own employment  
10 policies. "

11 Section 167. A new section of the Interior Designers Act is  
12 enacted to read:

13 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
14 an organization and its individual members and employees, is  
15 specifically subject to and covered by the provisions of the  
16 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
17 of Public Records Act, the Public Records Act, the Open Meetings  
18 Act, the Governmental Conduct Act, the Financial Disclosure Act  
19 and any other state law applicable to the board unless otherwise  
20 specifically exempted in the Interior Designers Act. "

21 Section 168. Section 61-24C-16 NMSA 1978 (being Laws 1989,  
22 Chapter 53, Section 16) is amended to read:

23 "61-24C-16. [~~FUND ESTABLISHED~~] BOARD FUNDS--DISPOSITION--  
24 METHOD OF PAYMENT. --

25 [~~A. There is created the "interior design board fund".~~

Underscored material = new  
[bracketed material] = delete

1           ~~B. All funds received by the board and money collected~~  
2 ~~under the Interior Designers Act shall be deposited with the~~  
3 ~~state treasurer. The state treasurer shall credit the money to~~  
4 ~~the interior design board fund.~~

5           ~~C. Payments out of the interior design board fund~~  
6 ~~shall be on vouchers issued by the secretary treasurer of the~~  
7 ~~board upon warrants drawn by the department of finance and~~  
8 ~~administration in accordance with the budget approved by that~~  
9 ~~department.]~~

10           A. All money received by the board from fees provided  
11 for in the Interior Designers Act shall be deposited in an  
12 account in a federally insured financial institution qualified  
13 to do business in New Mexico. Money in the account shall be  
14 withdrawn on the order of the board or its designee.

15           B. In accordance with the provisions of the Audit Act,  
16 the state auditor may examine the accounts and books of the  
17 board, including its receipts, disbursements, contracts, leases  
18 and other records relating to the performance of its duties  
19 pursuant to the Interior Designers Act. In addition, the  
20 governor may call for any additional, special audits by the  
21 state auditor whenever deemed necessary for the protection and  
22 oversight of board funds.

23           C. Money of the board is not public money or state  
24 funds within the meaning of any law of the state relating to  
25 investment, deposit, security or expenditure of public money.

Underscored material = new  
[bracketed material] = delete

1           D. All amounts paid to the [~~interior design~~] board  
2     [~~fund~~] are subject to the order of the board and are to be used  
3     only for meeting necessary expenses incurred in executing the  
4     provisions and duties of the Interior Designers Act and for  
5     promoting interior design education and standards in the state.  
6     [~~All money unused at the end of any fiscal year shall remain in~~  
7     ~~the interior design board fund for use in accordance with the~~  
8     ~~provisions of that act.~~]"

9           Section 169. Section 61-27A-1 NMSA 1978 (being Laws 1993,  
10    Chapter 212, Section 1) is amended to read:

11           "61-27A-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 27A  
12    NMSA 1978 may be cited as the "Private Investigators and  
13    Polygraphers Act". "

14           Section 170. Section 61-27A-2 NMSA 1978 (being Laws 1993,  
15    Chapter 212, Section 2) is amended to read:

16           "61-27A-2. DEFINITIONS. -- As used in the Private  
17    Investigators and Polygraphers Act:

18           A. "alarm company" means a company that installs  
19    burglar or security alarms in a facility and responds with  
20    guards when the alarm is sounded;

21           B. "armored car company" means a company that  
22    knowingly and willingly transports money and other negotiables  
23    for a fee or other remuneration;

24           C. "board" means the private investigators and  
25    polygraphers board;

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1           ~~[C.]~~ D. "bodyguard" means a person who physically  
2 performs the mission of personal security of another individual;

3           ~~[D.]~~ E. "branch office" means an office physically  
4 located in New Mexico and managed, controlled or directed by a  
5 manager;

6           ~~[E.]~~ F. "client" means an individual or legal entity  
7 having a contract that authorizes services to be provided in  
8 return for financial or other consideration;

9           ~~[F.]~~ G. "conviction" means any final adjudication of  
10 guilty, whether pursuant to a plea of guilty or nolo contendere  
11 or otherwise and whether or not the sentence is deferred or  
12 suspended;

13           ~~[G.] "department" means the regulation and licensing~~  
14 ~~department;]~~

15           H. "licensee" means a person licensed as a:

- 16                   (1) private investigator;  
17                   (2) private patrol operator; or  
18                   (3) polygraph examiner;

19           I. "manager" means an individual who:

- 20                   (1) is a resident of New Mexico;  
21                   (2) has the qualifications required of a  
22 licensee; and  
23                   (3) directs, controls or manages a private  
24 investigator or private patrol operator business for the owner  
25 of the business when the owner:

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1 (a) is a nonresident licensee; or  
2 (b) does not qualify for a license under the  
3 Private Investigators and Polygraphers Act;

4 J. "person" means any individual, firm, company,  
5 association, organization, partnership or corporation;

6 K. "polygraphy" means the employment of an instrument  
7 designed to graphically record simultaneously the physiological  
8 changes in human respiration, cardiovascular activity, galvanic  
9 skin resistance or reflex for the purpose of lie detection and  
10 includes the reading and interpretation of polygraphic records  
11 and results;

12 L. "private investigator" means a person who for any  
13 consideration whatsoever engages in business or accepts  
14 employment to conduct an investigation for the purpose of  
15 obtaining information with reference to:

16 (1) crime or wrongs done or threatened against  
17 the United States or any state or territory of the United  
18 States;

19 (2) the identity, habits, conduct, business,  
20 occupation, honesty, integrity, credibility, knowledge,  
21 trustworthiness, efficiency, loyalty, activity, movement,  
22 whereabouts, affiliation, association, transactions, acts,  
23 reputation or character of any person;

24 (3) the location, disposition or recovery of lost  
25 or stolen property;

1                   (4) the cause or responsibility for fires,  
2 losses, accidents or damage or injury to persons or properties;  
3 or

4                   (5) the securing of evidence to be used before  
5 any court, board, officer or investigating committee;

6                   M "private investigator employee" means an individual  
7 who is working under the license and bond of a private  
8 investigator;

9                   N. "private patrol operator" or "operator of a private  
10 patrol service" means a person who for any consideration  
11 whatsoever agrees to:

12                   (1) furnish or furnishes a uniformed or  
13 nonuniformed watchman, guard, patrolman or other person to  
14 protect property and any persons on or in the property;

15                   (2) prevent the theft, unlawful taking, loss,  
16 embezzlement, misappropriation or concealment of any goods,  
17 wares, merchandise, money, bonds, stocks, notes, documents,  
18 papers or property of any kind; or

19                   (3) perform the service of a security guard,  
20 armored car company or security dog company.

21                   A private patrol operator may not make any investigation  
22 except those that are incidental to the theft, loss,  
23 embezzlement, misappropriation or concealment of any property or  
24 any other item enumerated in the Private Investigators and  
25 Polygraphers Act that he has been hired or engaged to protect,



1 guard or watch;

2 0. "security dog company" means a company that uses  
3 trained dogs with handlers to perform a security mission at a  
4 location; and

5 P. "security guard" means any individual who is an  
6 employee of a private patrol operator and employed to perform  
7 such security missions as watchman, fixed post guard, dog  
8 handler, patrolman or other person to protect property or  
9 prevent thefts. "

10 Section 171. Section 61-27A-4 NMSA 1978 (being Laws 1993,  
11 Chapter 212, Section 4) is amended to read:

12 "61-27A-4. PERSONS EXEMPTED. -- The Private Investigators and  
13 Polygraphers Act does not apply to:

14 A. attorneys;

15 B. a person employed exclusively and regularly by one  
16 employer in connection with the affairs of such employer only  
17 where there exists an employer-employee relationship;

18 C. an officer or employee of the United States or this  
19 state or a political subdivision of the United States or this  
20 state while that officer or employee is engaged in the  
21 performance of his official duties;

22 D. a person engaged exclusively in the business of  
23 obtaining and furnishing information concerning the financial  
24 rating of persons;

25 E. a charitable philanthropic society or association

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1 duly incorporated under the laws of this state that is organized  
2 and maintained for the public good and not for private profit;

3 F. a licensed collection agency or an employee thereof  
4 while acting within the scope of his employment while making an  
5 investigation incidental to the business of the agency,  
6 including an investigation of the location of a debtor or his  
7 property;

8 G. admitted insurers, adjusters, agents and insurance  
9 brokers licensed by the state performing duties in connection  
10 with insurance transactions by them; or

11 H. any institution subject to the jurisdiction of the  
12 director of the financial institutions division of the  
13 regulation and licensing department or the comptroller of  
14 currency of the United States. "

15 Section 172. Section 61-27A-5 NMSA 1978 (being Laws 1993,  
16 Chapter 212, Section 5) is amended to read:

17 "61-27A-5. BOARD CREATED- - ADMINISTRATION OF ACT- - RULES AND  
18 REGULATIONS. - -

19 A. The [~~department~~] "private investigators and  
20 polygraphers board" is created. The board shall enforce and  
21 administer the provisions of the Private Investigators and  
22 Polygraphers Act.

23 B. The [~~department shall appoint an advisory board to~~  
24 ~~assist in the conduct of the examination process for licensure~~  
25 ~~and in any other manner to aid in the administration of that~~

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1 ~~act. The advisory]~~ governor shall appoint members of the board,  
2 which shall consist of two licensed private investigators, one  
3 licensed private patrol operator, one licensed polygraph  
4 examiner and one member [of] who represents the public. The  
5 public member shall not have been licensed or have practiced as  
6 a private investigator, private patrol operator or polygraph  
7 examiner, and shall not have any significant financial interest,  
8 whether direct or indirect, in the fields licensed by the board.  
9 All members serve for staggered terms of three years. Each  
10 member shall hold office until his successor is appointed and  
11 qualified.

12 C. Members of the board shall [be reimbursed as  
13 provided in the Per Diem and Mileage Act] serve without  
14 compensation other than reasonable reimbursement for mileage and  
15 per diem as determined by the board and paid from board funds.

16 [C.] D. The [department] board shall keep a record of  
17 each licensee and each employee of a private investigator or  
18 private patrol operator.

19 [D.] E. The [department] board shall adopt and enforce  
20 rules and regulations necessary to carry out the provisions of  
21 the Private Investigators and Polygraphers Act, including  
22 requirements for continuing education.

23 F. The board may employ staff it deems necessary to  
24 assist it in carrying out its duties pursuant to the Private  
25 Investigators and Polygraphers Act and may provide for health

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1 insurance or other benefits for them. Except as otherwise  
2 provided in that act, employees serve at the pleasure of the  
3 board and are exempt from the provisions of the Personnel Act.

4 G. The board may enter into contracts."

5 Section 173. A new section of the Private Investigators and  
6 Polygraphers Act is enacted to read:

7 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
8 the attorney general shall provide such legal services to the  
9 board necessary for the administration of the Private  
10 Investigators and Polygraphers Act; provided, however, that the  
11 board may, within its discretion, employ or contract for the  
12 services of other attorneys to assist it in the administration  
13 of that act."

14 Section 174. A new section of the Private Investigators and  
15 Polygraphers Act is enacted to read:

16 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

17 A. The board is specifically exempted from the  
18 provisions of the Procurement Code, the Art in Public Places  
19 Act, the Information and Communication Management Act and  
20 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
21 through 15-3-34 NMSA 1978.

22 B. The board is also specifically exempted from the  
23 provisions of the Deferred Compensation Act, the Group Benefits  
24 Act, the Public Employee Bargaining Act, the Per Diem and  
25 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;

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1 provided, however, that an employee of the regulation and  
2 licensing department who subsequently becomes employed by the  
3 board without a break in service may, by agreement of the board,  
4 continue to participate in and be covered by those acts until  
5 separation from employment with the board. Where required under  
6 those acts, the board shall make contributions for the  
7 participating employee.

8 C. The board is also specifically exempted from the  
9 provisions of the Public Employees Retirement Act and the  
10 Retiree Health Care Act; provided, however, that an employee of  
11 the regulation and licensing department who subsequently becomes  
12 employed by the board without a break in service may, by  
13 agreement of the board, continue to participate in the public  
14 employee retirement system under the terms and conditions of the  
15 Public Employees Retirement Act and the retiree health care  
16 system under the terms and conditions of the Retiree Health Care  
17 Act until separation from employment with the board. The board  
18 shall make contributions as required by those acts for the  
19 participating employee.

20 D. The board is also specifically exempted from the  
21 provisions of the Personnel Act; provided, however, that an  
22 employee in the classified service in the regulation and  
23 licensing department who subsequently becomes employed by the  
24 board without a break in service may, by agreement of the board,  
25 remain in the classified service and be covered by the Personnel

Underscored material = new  
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1 Act until separation from employment with the board. For all  
2 other employees, the board may adopt its own employment  
3 policies. "

4 Section 175. A new section of the Private Investigators and  
5 Polygraphers Act is enacted to read:

6 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
7 an organization and its individual members and employees, is  
8 specifically subject to and covered by the provisions of the  
9 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
10 of Public Records Act, the Public Records Act, the Open Meetings  
11 Act, the Governmental Conduct Act, the Financial Disclosure Act  
12 and any other state law applicable to the board unless otherwise  
13 specifically exempted in the Private Investigators and  
14 Polygraphers Act. "

15 Section 176. Section 61-27A-6 NMSA 1978 (being Laws 1993,  
16 Chapter 212, Section 6) is amended to read:

17 "61-27A-6. REQUIREMENTS FOR LICENSURE. --

18 A. The [~~department~~] board shall issue a license for a  
19 private investigator to any person who files a completed  
20 application accompanied by the required fees and who submits  
21 satisfactory evidence that the applicant:

- 22 (1) is at least eighteen years of age;  
23 (2) is of good moral character;  
24 (3) has passed a written examination as  
25 prescribed by the [~~department~~] board;

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1                   (4) has at least three years' experience within  
2 the last five years in investigative work or a level of  
3 experience determined to be sufficient by the [~~department~~]  
4 board; and

5                   (5) has not been convicted of a felony offense or  
6 any other criminal offense involving moral turpitude or the  
7 illegal use or possession of a deadly weapon.

8                   B. The [~~department~~] board shall issue a license for a  
9 private investigator manager to any person who files a completed  
10 application accompanied by the required fees and who submits  
11 satisfactory evidence that the applicant:

12                           (1) is a resident of New Mexico;

13                           (2) is at least eighteen years of age;

14                           (3) has passed a written examination as  
15 prescribed by the [~~department~~] board;

16                   (4) has at least three years' experience within  
17 the last five years in investigative work or a level of  
18 experience determined to be sufficient by the [~~department~~]  
19 board;

20                           (5) is of good moral character; and

21                           (6) has not been convicted of a felony offense or  
22 any other criminal offense involving moral turpitude or the  
23 illegal use or possession of a deadly weapon.

24                   C. The [~~department~~] board shall issue a license for a  
25 private patrol operator to any person who files a completed

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1 application accompanied by the required fees and who submits  
2 satisfactory evidence that the applicant:

- 3 (1) is at least eighteen years of age;
- 4 (2) is of good moral character;
- 5 (3) has passed a written examination as  
6 prescribed by the [~~department~~] board;
- 7 (4) has at least three years' experience within  
8 the last five years in security work or a level of experience  
9 determined to be sufficient by the [~~department~~] board; and
- 10 (5) has not been convicted of a felony offense or  
11 any other criminal offense involving moral turpitude or the  
12 illegal use or possession of a deadly weapon.

13 D. The [~~department~~] board shall issue a license for a  
14 private patrol operator manager to any person who files a  
15 completed application accompanied by the required fees and who  
16 submits satisfactory evidence that the applicant:

- 17 (1) is a resident of New Mexico;
- 18 (2) is at least eighteen years of age;
- 19 (3) has passed a written examination as  
20 prescribed by the [~~department~~] board;
- 21 (4) has at least three years' experience within  
22 the last five years in security work or a level of experience  
23 determined to be sufficient by the [~~department~~] board;
- 24 (5) is of good moral character; and
- 25 (6) has not been convicted of a felony offense or



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1 any other criminal offense involving moral turpitude or the  
2 illegal use or possession of a deadly weapon.

3 E. A manager's license is required when the owner of a  
4 private investigator or private patrol operator business:

5 (1) is a nonresident licensee; or

6 (2) does not qualify for a license under the  
7 Private Investigators and Polygraphers Act.

8 F. The [~~department~~] board shall issue a security guard  
9 pocket card to any person who files a completed application  
10 accompanied by the required fees and who submits satisfactory  
11 evidence that the applicant:

12 (1) is at least eighteen years of age; and

13 (2) is of good moral character.

14 G. The [~~department~~] board shall issue a license for  
15 polygrapher to any person who files a completed application  
16 accompanied by the required fees and who submits satisfactory  
17 evidence that the applicant:

18 (1) is at least eighteen years of age;

19 (2) possesses a high school diploma or its  
20 equivalent;

21 (3) has not been convicted of a felony or  
22 misdemeanor involving moral turpitude; and

23 (4) has graduated from a polygraph examiners  
24 course approved by the [~~department~~] board and:

25 (a) has completed a probationary operational

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1 competency period and passed an examination of ability to  
2 practice polygraphy; or

3 (b) has submitted proof of holding, for a  
4 minimum of two years immediately prior to the date of  
5 application, a current license to practice polygraphy in another  
6 jurisdiction whose standards equal or surpass those of New  
7 Mexico. "

8 Section 177. Section 61-27A-7 NMSA 1978 (being Laws 1993,  
9 Chapter 212, Section 7) is amended to read:

10 "61-27A-7. LICENSE FEES. -- Each applicant for licensure  
11 shall pay a fee set by the [~~department~~] board not to exceed the  
12 following:

13 A. private investigator, initial license or renewal,  
14 two hundred dollars (\$200);

15 B. private investigator manager, initial license or  
16 renewal, one hundred dollars (\$100);

17 C. private investigator employee, initial registration  
18 or renewal, fifty dollars (\$50.00);

19 D. private patrol operator, initial license or  
20 renewal, two hundred dollars (\$200);

21 E. private patrol operator manager, initial license or  
22 renewal, one hundred dollars (\$100);

23 F. private patrol operator employee, initial  
24 registration or renewal, twenty-five dollars (\$25.00);

25 G. branch office, initial license or renewal fee,

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1 seventy-five dollars (\$75.00);

2 H. change in license status, one hundred dollars  
3 (\$100);

4 I. polygraph examiner, initial license or renewal,  
5 three hundred dollars (\$300);

6 J. polygraph applicant examination, fifty dollars  
7 (\$50.00); and

8 K. late fee for failure to renew a license within the  
9 allotted time period, fifty dollars (\$50.00)."

10 Section 178. Section 61-27A-8 NMSA 1978 (being Laws 1993,  
11 Chapter 212, Section 8) is amended to read:

12 "61-27A-8. LICENSE RENEWAL. -- On or before June 30 of each  
13 odd-numbered year, every person licensed or registered under the  
14 Private Investigators and Polygraphers Act shall remit to the  
15 [~~department~~] board, together with the prescribed fee for the  
16 class of license desired, an application for license or  
17 registration renewal on a form that is prescribed and furnished  
18 by the [~~department~~] board. Information required on the renewal  
19 form shall include the licensee's current address, state tax  
20 identification number and proof of compliance with continuing  
21 education requirements promulgated by the [~~department~~] board.  
22 Failure to renew a license by June 30 of each renewal year shall  
23 cause the license to be suspended until a late fee, together  
24 with the unpaid renewal fee, is received by the [~~department~~]  
25 board. Any license that is not renewed within one year from the

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1 date the license expired shall be automatically revoked."

2 Section 179. Section 61-27A-9 NMSA 1978 (being Laws 1993,  
3 Chapter 212, Section 9) is amended to read:

4 "61-27A-9. DISPLAY OF LICENSE--NOTIFICATION OF CHANGES.--

5 A. A license shall at all times be posted in a  
6 conspicuous place in the principal place of business of the  
7 licensee.

8 B. A licensee shall notify the [~~department~~] board  
9 within thirty days after any change in his address, in the name  
10 under which he does business or in the officers or partners of  
11 the business."

12 Section 180. Section 61-27A-10 NMSA 1978 (being Laws 1993,  
13 Chapter 212, Section 10) is amended to read:

14 "61-27A-10. OPERATION OF BUSINESS--MANAGER REQUIRED.--

15 A. Each business providing private investigator or  
16 private patrol operator services in New Mexico shall be operated  
17 under the direction, control, charge or ~~management~~ of a  
18 licensee; provided that the business shall be under the  
19 direction, control, charge or ~~management~~ of a ~~manager~~ if the  
20 owner of the business:

21 (1) is a nonresident licensee; or

22 (2) does not qualify for a license under the  
23 Private Investigators and Polygraphers Act.

24 B. Any nonresident licensee who wishes to engage in a  
25 private investigator or private patrol operator business in New

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1 Mexico shall have a branch office located in New Mexico operated  
2 under the direction, control, charge or management of a manager  
3 licensed under the Private Investigators and Polygraphers Act.

4 C. A licensee shall not conduct a business under a  
5 fictitious name until he has obtained the written authorization  
6 of the ~~[department]~~ board. The ~~[department]~~ board shall not  
7 authorize the use of a fictitious name that is so similar to the  
8 name of a public officer or agency or to the name used by  
9 another licensee that the public may be confused or misled by  
10 it.

11 D. A licensee shall at all times be legally  
12 responsible for the good business conduct of each of his  
13 employees, including his manager.

14 E. Each licensee shall maintain a record containing  
15 information relative to his employees as may be prescribed by  
16 the ~~[department]~~ board, and the records may be subject to  
17 inspection.

18 F. Except as otherwise provided by the Private  
19 Investigators and Polygraphers Act, every employee of a licensee  
20 shall be registered by the licensee with the ~~[department]~~ board  
21 within seven days of employment; provided, however, ~~[that]~~ a  
22 licensee may hire temporary employees for periods of time not to  
23 exceed five days for special celebrations, parades or similar  
24 events without those employees being registered. The provisions  
25 of this subsection shall not be used to circumvent the

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1 registration of long-term employees.

2 G. A person registered under the Private Investigators  
3 and Polygraphers Act shall notify the [~~department~~] board in  
4 writing within thirty days of each change in his employment. If  
5 a person ceases to be employed by a licensee, the person shall  
6 notify the [~~department~~] board in writing within thirty days and  
7 shall surrender his registration card to the [~~department~~] board.

8 H. A manager duly licensed under the Private  
9 Investigators and Polygraphers Act need not register as an  
10 employee.

11 I. Employees of a licensee who are engaged exclusively  
12 in stenographic, typing, filing, clerical or other activities  
13 that do not constitute the work of a private investigator or  
14 private patrol officer are not required to register.

15 J. Each nonresident licensee shall file in writing  
16 with the [~~department~~] board the address of each branch office  
17 and, within ten days after the establishment, closing or  
18 changing of location of a branch office, shall notify the  
19 [~~department~~] board in writing.

20 K. A person shall not act as a manager until he is  
21 licensed under the Private Investigators and Polygraphers Act.  
22 If a manager ceases to be connected with a licensee, the  
23 licensee shall notify the [~~department~~] board in writing within  
24 thirty days from [~~such~~] the cessation. If the licensee fails to  
25 notify the [~~department~~] board within the thirty-day period, his

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1 license shall be subject to suspension or revocation and may be  
2 reinstated only upon the filing of an application for  
3 reinstatement and payment of the reinstatement fee. "

4 Section 181. Section 61-27A-11 NMSA 1978 (being Laws 1993,  
5 Chapter 212, Section 11) is amended to read:

6 "61-27A-11. BOND REQUIRED. --

7 A. A license, except a manager's license and polygraph  
8 examiner's license, shall not be issued under the Private  
9 Investigators and Polygraphers Act unless the applicant files  
10 with the [~~department~~] board:

11 (1) a surety bond executed by a surety company  
12 authorized to do business in this state; or

13 (2) a certificate of deposit in the sum of two  
14 thousand dollars (\$2,000), conditioned for the faithful and  
15 lawful conduct of business by the applicant.

16 The form of bond, its execution and the sufficiency of the  
17 surety shall be verified by the [~~department~~] board.

18 B. A licensee shall maintain the surety bond, and,  
19 upon failure to do so, the license of the licensee shall be  
20 suspended and shall not be reinstated until an application in  
21 the form prescribed by the [~~department~~] board is filed, together  
22 with a proper surety bond. The [~~department~~] board may deny the  
23 application, notwithstanding the applicant's compliance with  
24 this section:

25 (1) for any reason that would justify a refusal

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1 to issue or a suspension or a revocation of a license; or

2 (2) for the performance by the applicant of any  
3 practice while under suspension for failure to keep his bond in  
4 force for which a license under the Private Investigators and  
5 Polygraphers Act is required.

6 C. Bonds executed and filed with the [department]  
7 board pursuant to the Private Investigators and Polygraphers Act  
8 shall remain in force until the surety company has terminated  
9 future liability by thirty-day notice to the [department]  
10 board. "

11 Section 182. Section 61-27A-13 NMSA 1978 (being Laws 1993,  
12 Chapter 212, Section 13) is amended to read:

13 "61-27A-13. DENIAL, SUSPENSION OR REVOCATION OF LICENSE OR  
14 REGISTRATION. --In accordance with procedures contained in the  
15 Uniform Licensing Act, the [department] board may deny, suspend  
16 or revoke any license or registration held or applied for under  
17 the Private Investigators and Polygraphers Act upon grounds that  
18 the licensee, registrant or applicant:

19 A. made a false statement or gave false information in  
20 connection with an application for a license or renewal or  
21 reinstatement of a license;

22 B. violated any provision of the Private Investigators  
23 and Polygraphers Act;

24 C. violated any rule of the [department] board adopted  
25 pursuant to [~~that~~] the Private Investigators and Polygraphers



1 Act;

2 D. has been convicted of a felony or any crime  
3 involving moral turpitude or illegally using, carrying or  
4 possessing a deadly weapon;

5 E. impersonated or permitted or aided and abetted an  
6 employee to impersonate a law enforcement officer or employee of  
7 the United States or of any state or political subdivision of  
8 either;

9 F. committed or permitted any employee to commit any  
10 act while the license was expired that would be cause for the  
11 suspension or revocation of a license or grounds for the denial  
12 of an application for a license;

13 G. willfully failed or refused to render to a client  
14 services or a report as agreed between the parties, for which  
15 compensation has been paid or tendered in accordance with the  
16 agreement of the parties;

17 H. committed assault, battery or kidnapping or used  
18 force or violence on any person without proper justification;

19 I. knowingly violated or advised, encouraged or  
20 assisted the violation of any court order or injunction in the  
21 course of business of the licensee;

22 J. knowingly issued a worthless or otherwise  
23 fraudulent payroll check that is not redeemed within two days of  
24 denial of payment of any bank;

25 K. has been chronically or persistently inebriated or

Underscored material = new  
[bracketed material] = delete

1 addicted to the illegal use of dangerous or narcotic drugs;

2 L. has been adjudged mentally incompetent or insane by  
3 regularly constituted authorities; or

4 M while unlicensed, committed or aided and abetted  
5 the commission of any act for which a license is required under  
6 the Private Investigators and Polygraphers Act. "

7 Section 183. Section 61-27A-14 NMSA 1978 (being Laws 1993,  
8 Chapter 212, Section 14) is amended to read:

9 "61-27A-14. HEARING. --Every person who is denied a license  
10 or employee registration or who has his license or employee  
11 registration suspended or revoked shall be entitled to a hearing  
12 before the [department] board if within twenty days after the  
13 denial, suspension or revocation a request for a hearing is  
14 served on the [department] board. The procedures outlined in  
15 the Uniform Licensing Act shall be followed pertaining to the  
16 hearing insofar as they do not conflict with the provisions of  
17 the Private Investigators and Polygraphers Act. "

18 Section 184. Section 61-27A-15 NMSA 1978 (being Laws 1993,  
19 Chapter 212, Section 15) is amended to read:

20 "61-27A-15. APPEAL--REVIEW OF RECORD. --Any person aggrieved  
21 by the decision of the [department] board as a consequence of  
22 [the] a hearing may appeal the decision to the district court of  
23 the first judicial district. Upon appeal, the review by the  
24 court shall be limited to the record taken at the hearing and no  
25 new evidence may be considered by the court. "

Underscored material = new  
[bracketed material] = delete

1           Section 185. Section 61-27A-18 NMSA 1978 (being Laws 1993,  
2 Chapter 212, Section 18) is repealed and a new Section 61-27A-18  
3 NMSA 1978 is enacted to read:

4           "61-27A-18. [NEW MATERIAL] BOARD FUNDS. --

5           A. All money received by the board from fees provided  
6 for in the Private Investigators and Polygraphers Act shall be  
7 deposited in an account in a federally insured financial  
8 institution qualified to do business in New Mexico. Money in  
9 the account shall be withdrawn on the order of the board or its  
10 designee and shall be used only to carry out the board's duties  
11 pursuant to that act.

12           B. In accordance with the provisions of the Audit Act,  
13 the state auditor may examine the accounts and books of the  
14 board, including its receipts, disbursements, contracts, leases  
15 and other records relating to the performance of its duties  
16 pursuant to the Private Investigators and Polygraphers Act. In  
17 addition, the governor may call for any additional, special  
18 audits by the state auditor whenever deemed necessary for the  
19 protection and oversight of board funds.

20           C. Money of the board is not public money or state  
21 funds within the meaning of any law of the state relating to  
22 investment, deposit, security or expenditure of public money."

23           Section 186. A new section of the Private Investigators and  
24 Polygraphers Act is enacted to read:

25           "[NEW MATERIAL] TERMINATION OF AGENCY LIFE-- DELAYED

Underscored material = new  
[bracketed material] = delete

1 REPEAL. -- The private investigators and polygraphers board is  
2 terminated on July 1, 1999 pursuant to the Sunset Act. The  
3 board shall continue to operate according to the provisions of  
4 the Private Investigators and Polygraphers Act until July 1,  
5 2000. Effective July 1, 2000, the Private Investigators and  
6 Polygraphers Act is repealed. "

7 Section 187. Section 61-28A-1 NMSA 1978 (being Laws 1992,  
8 Chapter 10, Section 1) is amended to read:

9 "61-28A-1. SHORT TITLE. -- [~~Sections 1 through 26, 28 and 29~~  
10 ~~of this act~~] Chapter 61, Article 28A NMSA 1978 may be cited as  
11 the "Public Accountancy Act". "

12 Section 188. Section 61-28A-3 NMSA 1978 (being Laws 1992,  
13 Chapter 10, Section 3) is amended to read:

14 "61-28A-3. DEFINITIONS. -- As used in the Public Accountancy  
15 Act:

16 A. "board" means the New Mexico state board of public  
17 accountancy;

18 B. "certified public accountant" means an individual  
19 who has successfully met the certification requirements for  
20 certified public accountant set forth in the Public Accountancy  
21 Act and who has been granted a certificate by the board;

22 C. "continuing professional education" means courses  
23 in accounting, auditing, tax or other functions of public  
24 accountancy identified and approved by the board and provided to  
25 individuals seeking to maintain a valid permit to practice;

1           D. "firm" means a sole proprietorship, a professional  
2 corporation or a partnership;

3           E. "fund" means the [~~public accountancy fund~~] board  
4 fund;

5           F. "person" means an individual or firm;

6           G. "practice" means the performance of public  
7 accountancy or the offering to perform public accountancy for a  
8 client or potential client by a person holding himself out to  
9 the public as a permit holder or registered firm;

10           H. "practitioner" means a registered firm or an  
11 individual engaged in the practice of public accountancy holding  
12 a valid certificate and permit;

13           I. "public accountancy" means the performance of one  
14 or more kinds of services involving accounting or auditing  
15 skills, including the issuance of reports on financial  
16 statements, the performance of one or more kinds of management,  
17 financial advisory or consulting services, the preparation of  
18 tax returns or the furnishing of advice on tax matters;

19           J. "quality review" means a study, appraisal or review  
20 of one or more aspects of the accounting and auditing work of a  
21 practitioner by a practitioner who is not affiliated with the  
22 person being reviewed;

23           K. "reciprocal jurisdiction" means a state or foreign  
24 country identified by the board by rule as having standards for  
25 authorizing a person to practice public accountancy equivalent

Underscored material = new  
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1 to those prescribed in New Mexico law and by board rule;

2 L. "registered firm" means a firm that has been  
3 granted a registration by the board pursuant to the Public  
4 Accountancy Act;

5 M. "registered public accountant" means an individual  
6 who, prior to December 31, 1990, successfully met the  
7 certification requirements for registered public accountant set  
8 forth in the Public Accountancy Act or in prior law and who has  
9 been granted a certificate by the board;

10 N. "report" means an opinion or other writing that:

11 (1) states or implies assurance as to the  
12 reliability of any financial statements;

13 (2) includes or is accompanied by any statement  
14 or implication that the person issuing it has special knowledge  
15 or competency in accounting or auditing indicated by the use of  
16 names, titles or abbreviations likely to be understood to  
17 identify the author of the report as a practitioner; and

18 (3) includes the following types of reports as  
19 they are defined by board rule:

20 (a) a compilation report;

21 (b) a review report; or

22 (c) an audit report;

23 O. "rule" means any written directive of general  
24 application duly adopted by the board; and

25 P. "state" means any state or insular possession of

Underscored material = new  
[bracketed material] = delete

1 the United States, including the District of Columbia, Puerto  
2 Rico, the United States Virgin Islands and Guam."

3 Section 189. Section 61-28A-7 NMSA 1978 (being Laws 1992,  
4 Chapter 10, Section 7) is amended to read:

5 "61-28A-7. BOARD-- OFFICERS-- MEETINGS-- REIMBURSEMENT. --

6 A. The board shall elect annually from among its  
7 members a chairman and a secretary-treasurer. Surety bond  
8 coverage shall be in accordance with the Surety Bond Act.

9 B. The board shall meet at such times and places as  
10 may be fixed by the board. A majority of the board members then  
11 in office shall constitute a quorum at any meeting duly called.  
12 Meetings of the board shall be open to the public as required by  
13 the Open Meetings Act.

14 C. Each member of the board shall ~~[receive per diem~~  
15 ~~and mileage as provided in the Per Diem and Mileage Act and~~  
16 ~~shall receive no other compensation, perquisite or allowance]~~  
17 serve without compensation other than reasonable reimbursement  
18 for mileage and per diem as determined by the board and paid  
19 from board funds.

20 D. The limit and extent of immunity provided to  
21 members of the board shall be defined by the Tort Claims Act."

22 Section 190. Section 61-28A-8 NMSA 1978 (being Laws 1992,  
23 Chapter 10, Section 8, as amended) is amended to read:

24 "61-28A-8. BOARD-- POWERS AND DUTIES. --

25 A. The board shall retain or arrange for the retention

Underscored material = new  
[bracketed material] = delete

1 of all applications, all documents under oath that are filed  
2 with the board and all records of its proceedings, and it shall  
3 maintain a registry of the names and addresses of all  
4 certificate and permit holders and registered firms.

5 B. The board may employ an executive director [~~as an~~  
6 ~~exempt employee~~] and such other personnel as it deems necessary  
7 for its administration and enforcement of the Public Accountancy  
8 Act and provide for health insurance or other benefits for them.  
9 Except as otherwise provided in the Public Accountancy Act,  
10 employees shall serve at the pleasure of the board and are  
11 exempt from the provisions of the Personnel Act.

12 C. The board may retain its own counsel to advise and  
13 assist it [~~in addition to such~~] or may in its discretion request  
14 the advice and assistance [as is provided by] of the attorney  
15 general.

16 D. The board may sue and be sued in its official name  
17 [~~as an agency of New Mexico~~]. To promote fair and complete  
18 investigations and hearings, the board may issue subpoenas to  
19 compel the attendance of witnesses and the production of  
20 documents, administer oaths, take testimony and receive evidence  
21 concerning all matters within its jurisdiction according to the  
22 provisions of the Uniform Licensing Act and pursuant to rules  
23 adopted by the board.

24 E. The board shall adopt rules governing its  
25 administration and enforcement of the Public Accountancy Act.



Underscored material = new  
[bracketed material] = delete

1 All rulemaking activities shall be carried out pursuant to the  
2 provisions of the Uniform Licensing Act.

3 F. The board may conduct investigations and hearings  
4 upon its own motion or after receiving notice from any person of  
5 an alleged violation of the Public Accountancy Act. All  
6 hearings regarding alleged violations of that act shall be  
7 conducted pursuant to the provisions of the Uniform Licensing  
8 Act. Injunctions and appeals from board orders or decisions  
9 shall be pursued according to the provisions of the Uniform  
10 Licensing Act and the rules of civil procedure in the district  
11 courts.

12 G. The board shall promulgate rules governing the  
13 professional and ethical conduct of practitioners.

14 H. The board shall exercise such powers as are  
15 necessary to carry out the provisions of the Public Accountancy  
16 Act.

17 I. The board shall establish by rule the standards and  
18 means by which a practitioner may use a title, designation or  
19 abbreviation that indicates he is a specialist or has special  
20 expertise in conjunction with the practice of public  
21 accountancy. "

22 Section 191. A new section of the Public Accountancy Act is  
23 enacted to read:

24 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

25 A. The board is specifically exempted from the

Underscored material = new  
[bracketed material] = delete

1 provisions of the Procurement Code, the Art in Public Places  
2 Act, the Information and Communication Management Act and  
3 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
4 through 15-3-34 NMSA 1978.

5 B. The board is also specifically exempted from the  
6 provisions of the Deferred Compensation Act, the Group Benefits  
7 Act, the Public Employee Bargaining Act, the Per Diem and  
8 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
9 provided, however, that an employee of the regulation and  
10 licensing department who subsequently becomes employed by the  
11 board without a break in service may, by agreement of the board,  
12 continue to participate in and be covered by those acts until  
13 separation from employment with the board. Where required under  
14 those acts, the board shall make contributions for the  
15 participating employee.

16 C. The board is also specifically exempted from the  
17 provisions of the Public Employees Retirement Act and the  
18 Retiree Health Care Act; provided, however, that an employee of  
19 the regulation and licensing department who subsequently becomes  
20 employed by the board without a break in service may, by  
21 agreement of the board, continue to participate in the public  
22 employee retirement system under the terms and conditions of the  
23 Public Employees Retirement Act and the retiree health care  
24 system under the terms and conditions of the Retiree Health Care  
25 Act until separation from employment with the board. The board

Underscored material = new  
[bracketed material] = delete

1 shall make contributions as required by those acts for the  
2 participating employee.

3 D. The board is also specifically exempted from the  
4 provisions of the Personnel Act; provided, however, that an  
5 employee in the classified service in the regulation and  
6 licensing department who subsequently becomes employed by the  
7 board without a break in service may, by agreement of the board,  
8 remain in the classified service and be covered by the Personnel  
9 Act until separation from employment with the board. For all  
10 other employees, the board may adopt its own employment  
11 policies. "

12 Section 192. A new section of the Public Accountancy Act is  
13 enacted to read:

14 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
15 an organization and its individual members and employees, is  
16 specifically subject to and covered by the provisions of the  
17 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
18 of Public Records Act, the Public Records Act, the Open Meetings  
19 Act, the Governmental Conduct Act, the Financial Disclosure Act  
20 and any other state law applicable to the board unless otherwise  
21 specifically exempted in the Public Accountancy Act. "

22 Section 193. Section 61-28A-22 NMSA 1978 (being Laws 1992,  
23 Chapter 10, Section 22) is repealed and a new Section 61-28A-22  
24 NMSA 1978 is enacted to read:

25 "61-28A-22. [NEW MATERIAL] BOARD FUNDS. --

Underscored material = new  
[bracketed material] = delete

1           A. All money received by the board from fees provided  
2 for in the Public Accountancy Act shall be deposited in an  
3 account in a federally insured financial institution qualified  
4 to do business in New Mexico. Money in the account shall be  
5 withdrawn on the order of the board or its designee and shall  
6 only be used to carry out the board's duties pursuant to that  
7 act.

8           B. In accordance with the provisions of the Audit Act,  
9 the state auditor may examine the accounts and books of the  
10 board, including its receipts, disbursements, contracts, leases  
11 and other records relating to the performance of its duties  
12 pursuant to the Public Accountancy Act. In addition, the  
13 governor may call for any additional, special audits by the  
14 state auditor whenever deemed necessary for the protection and  
15 oversight of board funds.

16           C. Money of the board is not public money or state  
17 funds within the meaning of any law of the state relating to  
18 investment, deposit, security or expenditure of public money."

19           Section 194. Section 61-29-7 NMSA 1978 (being Laws 1959,  
20 Chapter 226, Section 6, as amended) is amended to read:

21           "61-29-7. REIMBURSEMENT AND EXPENSES. -- Each member of the  
22 commission shall ~~[receive per diem and mileage as provided in~~  
23 ~~the Per Diem and Mileage Act and shall receive no other~~  
24 ~~compensation, perquisite or allowance]~~ serve without  
25 compensation other than reasonable reimbursement for mileage and

Underscored material = new  
[bracketed material] = delete

1 per diem as determined by the commission and paid from  
2 commission funds. The commission may select and appoint an  
3 administrator, who shall serve as executive secretary to the  
4 commission on annual salary, to perform the duties prescribed by  
5 ~~[this act]~~ Chapter 61, Article 29 NMSA 1978 and such additional  
6 duties as the commission may determine. The commission may  
7 employ subordinate officers, stenographers, clerks ~~[an attorney]~~  
8 and such other assistance as may be needed and fix their  
9 compensation to be paid from the ~~[real estate]~~ commission ~~[fund~~  
10 ~~and to]~~. The commission may provide for health insurance or  
11 other benefits for its staff. Except as otherwise provided in  
12 Chapter 61, Article 29 NMSA 1978, employees serve at the  
13 pleasure of the commission and are exempt from the provisions of  
14 the Personnel Act. The commission may enter into contracts.  
15 The commission may purchase such supplies, equipment and records  
16 and ~~to~~ incur such other expenses as may be necessary to carry  
17 out the provisions of ~~[this act]~~ Chapter 61, Article 29 NMSA  
18 1978. "

19 Section 195. A new section of Chapter 61, Article 29 NMSA  
20 1978 is enacted to read:

21 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the  
22 commission, the attorney general shall provide such legal  
23 services to the commission necessary for the administration of  
24 Chapter 61, Article 29 NMSA 1978; provided, however, that the  
25 commission may, in its discretion, employ or contract for the

Underscored material = new  
[bracketed material] = delete

1 services of other attorneys to assist it in the administration  
2 of that article. "

3 Section 196. A new section of Chapter 61, Article 29 NMSA  
4 1978 is enacted to read:

5 " [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

6 A. The commission is specifically exempted from the  
7 provisions of the Procurement Code, the Art in Public Places  
8 Act, the Information and Communication Management Act and  
9 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
10 through 15-3-34 NMSA 1978.

11 B. The commission is also specifically exempted from  
12 the provisions of the Deferred Compensation Act, the Group  
13 Benefits Act, the Public Employee Bargaining Act, the Per Diem  
14 and Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
15 provided, however, that an employee of the regulation and  
16 licensing department who subsequently becomes employed by the  
17 commission without a break in service may, by agreement of the  
18 commission, continue to participate in and be covered by those  
19 acts until separation from employment with the commission.  
20 Where required under those acts, the commission shall make  
21 contributions for the participating employee.

22 C. The commission is also specifically exempted from  
23 the provisions of the Public Employees Retirement Act and the  
24 Retiree Health Care Act; provided, however, that an employee of  
25 the regulation and licensing department who subsequently becomes

Underscored material = new  
[bracketed material] = delete

1 employed by the commission without a break in service may, by  
2 agreement of the commission, continue to participate in the  
3 public employee retirement system under the terms and conditions  
4 of the Public Employees Retirement Act and the retiree health  
5 care system under the terms and conditions of the Retiree Health  
6 Care Act until separation from employment with the commission.  
7 The commission shall make contributions as required by those  
8 acts for the participating employee.

9 D. The commission is also specifically exempted from  
10 the provisions of the Personnel Act; provided, however, that an  
11 employee in the classified service in the regulation and  
12 licensing department who subsequently becomes employed by the  
13 commission without a break in service may, by agreement of the  
14 commission, remain in the classified service and be covered by  
15 the Personnel Act until separation from employment with the  
16 commission. For all other employees, the commission may adopt  
17 its own employment policies. "

18 Section 197. A new section of Chapter 61, Article 29 NMSA  
19 1978 is enacted to read:

20 " [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The  
21 commission, as an organization and its individual members and  
22 employees, is specifically subject to and covered by the  
23 provisions of the Tort Claims Act, the Joint Powers Agreements  
24 Act, the Inspection of Public Records Act, the Public Records  
25 Act, the Open Meetings Act, the Governmental Conduct Act, the

Underscored material = new  
[bracketed material] = delete

1 Financial Disclosure Act and any other state law applicable to  
2 the commission unless otherwise specifically exempted in Chapter  
3 61, Article 29 NMSA 1978. "

4 Section 198. Section 61-29-8 NMSA 1978 (being Laws 1959,  
5 Chapter 226, Section 7, as amended) is amended to read:

6 "61-29-8. LICENSE FEES--DISPOSITION. --

7 A. The following fees shall be charged by the  
8 commission [~~and paid into the real estate commission fund~~]:

9 (1) for each examination, a fee of sixty dollars  
10 (\$60.00);

11 (2) for each broker's license issued, a fee of  
12 one hundred eighty dollars (\$180) and for each renewal thereof,  
13 a fee of one hundred eighty dollars (\$180);

14 (3) for each salesperson's license issued, a fee  
15 of one hundred eighty dollars (\$180) and for each renewal  
16 thereof, a fee of one hundred eighty dollars (\$180);

17 (4) subject to the provisions of Paragraph (11)  
18 of this subsection, for each change of place of business or  
19 change of employer or contractual associate, a fee of twenty  
20 dollars (\$20.00);

21 (5) for each duplicate license, where the license  
22 is lost or destroyed and affidavit is made thereof, a fee of  
23 twenty dollars (\$20.00);

24 (6) for each license history, a fee of twenty-  
25 five dollars (\$25.00);



Underscored material = new  
[bracketed material] = delete

1 (7) for copying of documents by the commission, a  
2 fee set by the commission, not to exceed one dollar (\$1.00) per  
3 copy;

4 (8) for each additional license law and rules and  
5 regulations booklet, a fee set by the commission not to exceed  
6 ten dollars (\$10.00) per booklet;

7 (9) for each additional directory of licensed  
8 real estate brokers and salespersons, a fee set by the  
9 commission not to exceed twenty dollars (\$20.00);

10 (10) for each supplement to the directory of  
11 licensed real estate brokers and salespersons, a fee set by the  
12 commission not to exceed twenty dollars (\$20.00); and

13 (11) when a license must be reissued for a  
14 salesperson because of change of address of the licensed  
15 broker's office, death of the licensed broker when a successor  
16 licensed broker is replacing the decedent and the salesperson  
17 remains in the office or change of name of the office or the  
18 entity of the licensed broker, the licensed broker or successor  
19 licensed broker as the case may be shall pay to the commission  
20 as the affected salesperson's license reissue fee twenty dollars  
21 (\$20.00), but if there are eleven or more affected salespersons  
22 in the licensed broker's office, the total fee paid to effect  
23 reissuance of all of those licenses shall not exceed two hundred  
24 dollars (\$200).

25 B. All fees set by the commission shall be set by rule

Underscored material = new  
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1 or regulation and only after all requirements have been met as  
2 prescribed by Chapter 61, Article 29 NMSA 1978. Any changes or  
3 amendments to the rules and regulations shall be filed in  
4 accordance with the provisions of the State Rules Act.

5 ~~[C. The commission shall deposit all money received by~~  
6 ~~it from fees in accordance with the provisions of Chapter 61,~~  
7 ~~Article 29 NMSA 1978 with the state treasurer, who shall keep~~  
8 ~~that money in a separate fund to be known as the "real estate~~  
9 ~~commission fund", and money so deposited in that fund is~~  
10 ~~appropriated for the purpose of carrying out the provisions of~~  
11 ~~Chapter 61, Article 29 NMSA 1978 or to maintain the real estate~~  
12 ~~recovery fund as required by the Real Estate Recovery Fund Act~~  
13 ~~and shall be paid out of the fund upon the vouchers of the~~  
14 ~~president and secretary of the commission; provided that the~~  
15 ~~total fees and charges collected and paid into the state~~  
16 ~~treasury and any money so deposited shall be expended only for~~  
17 ~~the purposes authorized by Chapter 61, Article 29 NMSA 1978.~~

18 ~~D.]~~ C. The commission shall by regulation provide for  
19 a proportionate refund of the license issuance fee or the  
20 license renewal fee if the license is issued or renewed for a  
21 period of two or three years pursuant to Section 61-29-11 NMSA  
22 1978 and is terminated with more than one year remaining.

23 D. All money received by the commission from fees  
24 provided for in Chapter 61, Article 29 NMSA 1978 shall be  
25 deposited in an account in a federally insured financial

Underscored material = new  
[bracketed material] = delete

1 institution qualified to do business in New Mexico. Money in  
2 the account shall be withdrawn on the order of the commission or  
3 its designee and shall only be used to carry out the  
4 commission's duties pursuant to that article.

5 E. In accordance with the provisions of the Audit Act,  
6 the state auditor may examine the accounts and books of the  
7 commission, including its receipts, disbursements, contracts,  
8 leases and other records relating to the performance of its  
9 duties pursuant to Chapter 61, Article 29 NMSA 1978. In  
10 addition, the governor may call for any additional, special  
11 audits by the state auditor whenever deemed necessary for the  
12 protection and oversight of commission funds.

13 F. Money of the commission is not public money or  
14 state funds within the meaning of any law of the state relating  
15 to investment, deposit, security or expenditure of public  
16 money."

17 Section 199. Section 61-29-20 NMSA 1978 (being Laws 1980,  
18 Chapter 82, Section 1) is amended to read:

19 "61-29-20. SHORT TITLE. -- Sections ~~[1 through 10 of this~~  
20 ~~act]~~ 61-29-20 through 61-29-29 NMSA 1978 may be cited as the  
21 "Real Estate Recovery Fund Act". "

22 Section 200. Section 61-29-21 NMSA 1978 (being Laws 1980,  
23 Chapter 82, Section 2) is amended to read:

24 "61-29-21. FUND CREATED. -- ~~[There is created in the state~~  
25 ~~treasury a fund which shall be]~~ The commission shall create and

Underscored material = new  
[bracketed material] = delete

1 maintain an account known as the "real estate recovery fund" to  
2 be administered by the [~~real-estate~~] commission in accordance  
3 with the provisions of the Real Estate Recovery Fund Act. All  
4 money received by the [~~real-estate~~] commission pursuant to the  
5 Real Estate Recovery Fund Act shall be [~~credited to the real~~  
6 ~~estate recovery fund~~] deposited by the commission in an account  
7 in a federally insured financial institution qualified to do  
8 business in New Mexico. Money in the account shall be separate  
9 from other commission funds. The [~~state treasurer~~] commission  
10 may invest money in the real estate recovery fund in United  
11 States bonds or treasury certificates under such rules and  
12 regulations as may be prescribed by the [~~state board of finance~~]  
13 commission; provided that no investments shall be made [~~which~~]  
14 that will impair the necessary liquidity required to satisfy  
15 judgment payments awarded pursuant to the Real Estate Recovery  
16 Fund Act. All interest earned from such investments shall be  
17 credited to the fund to pay any future judgments only. In  
18 accordance with the provisions of the Audit Act, the state  
19 auditor may examine the accounts and books of the commission,  
20 including its receipts, disbursements, contracts, leases and  
21 other records relating to the performance of its duties pursuant  
22 to the Real Estate Recovery Fund Act. In addition, the governor  
23 may call for any additional, special audits by the state auditor  
24 whenever deemed necessary for the protection and oversight of  
25 the fund. Money in the fund is not public money or state funds

Underscored material = new  
[bracketed material] = delete

1 within the meaning of any law of the state relating to  
2 investment, deposit, security or expenditure of public money."

3 Section 201. Section 61-29-22 NMSA 1978 (being Laws 1980,  
4 Chapter 82, Section 3, as amended) is amended to read:

5 "61-29-22. ADDITIONAL FEES. --

6 A. [~~On and after the effective date of the Real Estate~~  
7 ~~Recovery Fund Act]~~ The commission shall collect an annual fee  
8 not in excess of ten dollars (\$10.00) from each real estate  
9 licensee prior to the issuance of the next license.

10 B. [~~On and after the effective date of the Real Estate~~  
11 ~~Recovery Fund Act]~~ The commission shall collect from each  
12 successful applicant for an original real estate license, in  
13 addition to his original license fee, a fee not in excess of ten  
14 dollars (\$10.00).

15 C. The additional fees provided by this section shall  
16 be [~~credited to~~] deposited in the real estate recovery fund.  
17 The amount of the real estate recovery fund shall be maintained  
18 at two hundred fifty thousand dollars (\$250,000). If the real  
19 estate recovery fund falls below this amount, the commission  
20 shall have authority to adjust the annual amount of additional  
21 fees to be charged licensees or to draw on the real estate  
22 commission [~~fund~~] account established pursuant to Section  
23 61-29-8 NMSA 1978 in order to maintain the fund level as  
24 required in this section."

25 Section 202. Section 61-30-7 NMSA 1978 (being Laws 1990,

Underscored material = new  
[bracketed material] = delete

1 Chapter 75, Section 7, as amended) is amended to read:

2 "61-30-7. BOARD--POWERS--DUTIES.--The board [~~shall~~]:

3 A. may adopt such regulations as are necessary to  
4 implement the provisions of the Real Estate Appraisers Act;

5 B. shall establish educational programs and research  
6 projects related to the appraisal of real estate;

7 C. shall establish the administrative procedures for  
8 processing applications and issuing registrations, licenses and  
9 certificates to persons who qualify to be registered, licensed  
10 and certified real estate appraisers and for conducting  
11 disciplinary proceedings pursuant to the provisions of the Real  
12 Estate Appraisers Act;

13 D. shall receive, review and approve applications for  
14 state registered real estate appraisers, state licensed real  
15 estate appraisers and each category of state certified real  
16 estate appraisers and, for state licensed or certified real  
17 estate appraisers, prepare or supervise the preparation of  
18 examination questions and answers and supervise grading of  
19 examinations and enter into contracts with one or more  
20 educational testing services or organizations for such  
21 examinations;

22 E. shall define the extent and type of educational  
23 experience, appraisal experience and equivalent experience that  
24 will meet the requirements for registration, licensing and  
25 certification under the Real Estate Appraisers Act after

Underscored material = new  
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1 considering generally recognized appraisal practices;

2 F. shall provide for continuing education programs for  
3 the renewal of registrations, licenses and certification that  
4 will meet the requirements provided in the Real Estate  
5 Appraisers Act;

6 G. shall adopt standards to define the education  
7 programs that will meet the requirements of the Real Estate  
8 Appraisers Act and will encourage conducting programs at various  
9 locations throughout the state;

10 H. shall adopt standards for the development and  
11 communication of real estate appraisals provided in the Real  
12 Estate Appraisers Act and adopt regulations explaining and  
13 interpreting the standards after considering generally  
14 recognized appraisal practices;

15 I. shall adopt a code of professional responsibility  
16 for state registered, licensed and certified real estate  
17 appraisers;

18 J. shall comply with annual reporting requirements and  
19 other requirements set forth in the federal real estate  
20 appraisal reform amendments;

21 K. shall maintain a registry of the names and  
22 addresses of the individuals who hold current registrations,  
23 licenses and certificates issued under the Real Estate  
24 Appraisers Act;

25 L. shall establish procedures for disciplinary action

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1 against any applicant or holder of a registration, license or  
2 certificate for violations of the Real Estate Appraisers Act and  
3 any rules and regulations promulgated ~~[under]~~ pursuant to  
4 provisions of that act; [and]

5 M. may perform such other functions and duties as may  
6 be necessary to carry out the provisions of the Real Estate  
7 Appraisers Act;

8 N. may employ staff it deems necessary to assist it in  
9 carrying out its duties pursuant to the Real Estate Appraisers  
10 Act and may provide for health insurance or other benefits for  
11 them. Except as otherwise provided in that act, employees serve  
12 at the pleasure of the board and are exempt from the provisions  
13 of the Personnel Act; and

14 O. may enter into contracts. "

15 Section 203. Section 61-30-9 NMSA 1978 (being Laws 1990,  
16 Chapter 75, Section 9, as amended) is amended to read:

17 "61-30-9. REIMBURSEMENT AND EXPENSES. --The board may  
18 appoint such committees of the board and employ such persons to  
19 assist the board as may be necessary. Each member of the board  
20 or any committee shall ~~[receive per diem and mileage as provided~~  
21 ~~in the Per Diem and Mileage Act and shall receive no other~~  
22 ~~perquisite, compensation or allowance]~~ serve without  
23 compensation other than reasonable reimbursement for mileage and  
24 per diem as determined by the board and paid from board funds.  
25 Compensation for employees and any necessary supplies and



Underscored material = new  
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1 equipment shall be paid from [~~the appraiser fund~~] board funds. "

2 Section 204. A new section of the Real Estate Appraisers  
3 Act is enacted to read:

4 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
5 the attorney general shall provide such legal services to the  
6 board necessary for the administration of the Real Estate  
7 Appraisers Act; provided, however, that the board may, in its  
8 discretion, employ or contract for the services of other  
9 attorneys to assist it in the administration of that act. "

10 Section 205. A new section of the Real Estate Appraisers  
11 Act is enacted to read:

12 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

13 A. The board is specifically exempted from the  
14 provisions of the Procurement Code, the Art in Public Places  
15 Act, the Information and Communication Management Act and  
16 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
17 through 15-3-34 NMSA 1978.

18 B. The board is also specifically exempted from the  
19 provisions of the Deferred Compensation Act, the Group Benefits  
20 Act, the Public Employee Bargaining Act, the Per Diem and  
21 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
22 provided, however, that an employee of the regulation and  
23 licensing department who subsequently becomes employed by the  
24 board without a break in service may, by agreement of the board,  
25 continue to participate in and be covered by those acts until

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1 separation from employment with the board. Where required under  
2 those acts, the board shall make contributions for the  
3 participating employee.

4 C. The board is also specifically exempted from the  
5 provisions of the Public Employees Retirement Act and the  
6 Retiree Health Care Act; provided, however, that an employee of  
7 the regulation and licensing department who subsequently becomes  
8 employed by the board without a break in service may, by  
9 agreement of the board, continue to participate in the public  
10 employee retirement system under the terms and conditions of the  
11 Public Employees Retirement Act and the retiree health care  
12 system under the terms and conditions of the Retiree Health Care  
13 Act until separation from employment with the board. The board  
14 shall make contributions as required by those acts for the  
15 participating employee.

16 D. The board is also specifically exempted from the  
17 provisions of the Personnel Act; provided, however, that an  
18 employee in the classified service in the regulation and  
19 licensing department who subsequently becomes employed by the  
20 board without a break in service may, by agreement of the board,  
21 remain in the classified service and be covered by the Personnel  
22 Act until separation from employment with the board. For all  
23 other employees, the board may adopt its own employment  
24 policies. "

25 Section 206. A new section of the Real Estate Appraisers

Underscored material = new  
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1 Act is enacted to read:

2 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
3 an organization and its individual members and employees, is  
4 specifically subject to and covered by the provisions of the  
5 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
6 of Public Records Act, the Public Records Act, the Open Meetings  
7 Act, the Governmental Conduct Act, the Financial Disclosure Act  
8 and any other state law applicable to the board unless otherwise  
9 specifically exempted in the Real Estate Appraisers Act."

10 Section 207. Section 61-30-18 NMSA 1978 (being Laws 1990,  
11 Chapter 75, Section 18, as amended) is repealed and a new  
12 Section 61-30-18 NMSA 1978 is enacted to read:

13 "61-30-18. [NEW MATERIAL] BOARD FUNDS. --

14 A. All money received by the board from fees provided  
15 for in the Real Estate Appraisers Act shall be deposited in an  
16 account in a federally insured financial institution qualified  
17 to do business in New Mexico. Money in the account shall be  
18 withdrawn on the order of the board or its designee and shall be  
19 used only to carry out the board's duties pursuant to that act.

20 B. In accordance with the provisions of the Audit Act,  
21 the state auditor may examine the accounts and books of the  
22 board, including its receipts, disbursements, contracts, leases  
23 and other records relating to the performance of its duties  
24 pursuant to the Real Estate Appraisers Act. In addition, the  
25 governor may call for any additional, special audits by the

1 state auditor whenever deemed necessary for the protection and  
2 oversight of board funds.

3 C. Money of the board is not public money or state  
4 funds within the meaning of any law of the state relating to  
5 investment, deposit, security or expenditure of public money."

6 Section 208. Section 61-31-1 NMSA 1978 (being Laws 1989,  
7 Chapter 51, Section 1) is amended to read:

8 "61-31-1. SHORT TITLE. -- [~~Sections 1 through 24 of this act]~~  
9 Chapter 61, Article 31 NMSA 1978 may be cited as the "Social  
10 Work Practice Act". "

11 Section 209. Section 61-31-3 NMSA 1978 (being Laws 1989,  
12 Chapter 51, Section 3) is amended to read:

13 "61-31-3. DEFINITIONS. -- As used in the Social Work Practice  
14 Act:

15 A. "advisory committee" means an evaluation advisory  
16 committee;

17 B. "appropriate supervision" means supervision by an  
18 independent social worker or a master social worker with two  
19 years of supervised social work practice experience or other  
20 supervision which is deemed by the board to be equivalent to  
21 supervision by a master social worker;

22 C. "baccalaureate social worker" means a person who  
23 uses the title of social worker and has a bachelor's degree in  
24 social work from a program accredited by the council on social  
25 work education;

Underscored material = new  
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1 D. "board" means the board of social work examiners;  
2 [~~E.~~] ~~"department" means the regulation and licensing~~  
3 ~~department;~~

4 [~~F.~~] E. "executive agency" means any agency within the  
5 executive branch of government;

6 [~~G.~~] F. "independent social worker" means a person who  
7 uses the title of social worker and has a master's degree in  
8 social work from a graduate school of social work accredited by  
9 the council on social work education and who has had two years  
10 of postgraduate social work practice under appropriate  
11 supervision;

12 [~~H.~~] G. "master social worker" means a person who uses  
13 the title of social worker and has a master's degree in social  
14 work from a graduate school of social work accredited by the  
15 council on social work education; and

16 [~~I.~~] H. "professional code of ethics" means a code of  
17 ethics and rules adopted by the board, designed to protect the  
18 public and to regulate the professional conduct of social  
19 workers. "

20 Section 210. Section 61-31-7 NMSA 1978 (being Laws 1989,  
21 Chapter 51, Section 7, as amended) is amended to read:

22 "61-31-7. BOARD CREATED. --

23 A. There is created the "board of social work  
24 examiners".

25 [~~B.~~] ~~The board shall be administratively attached to~~

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1 ~~the department.~~

2           ~~C.]~~ B. The board shall consist of seven members who  
3 are representative of the geographic and ethnic groups within  
4 New Mexico, who are United States citizens and who have been New  
5 Mexico residents for at least five years prior to their  
6 appointment. Of the seven members:

7           (1) four members shall have been engaged in  
8 social work practice for at least five years; at least two of  
9 the four shall hold a master's degree in social work; and at  
10 least two shall hold a bachelor's degree in social work from  
11 schools of social work that are accredited by the council on  
12 social work education. At least one of these members shall be  
13 engaged primarily in clinical social work practice; one member  
14 shall be engaged primarily in education; one member shall be  
15 engaged primarily in administration or research in social work  
16 practice; and at least one member shall be engaged primarily in  
17 community organization, planning and development. These members  
18 shall not hold office in any professional organization of social  
19 workers during their tenure on the board; and

20           (2) three members shall represent the public.  
21 The public members shall not have been licensed or have  
22 practiced as social workers. Public members shall not have any  
23 significant financial interest, whether direct or indirect, in  
24 social work practice.

25           ~~D.]~~ C. Members of the board shall be appointed by the

Underscored material = new  
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1 governor for staggered terms of three years except that, in  
2 making the initial appointments, three members shall be  
3 appointed for terms ending June 30, 1990; three members for  
4 terms ending June 30, 1991; and four members for terms ending  
5 June 30, 1992. Each member shall hold office until his  
6 successor is appointed and qualified. Vacancies shall be filled  
7 for the unexpired term in the same manner as original  
8 appointments.

9 [E.] D. Except for the representatives of the public  
10 on the board, the governor shall appoint board members from a  
11 list of nominees submitted by social work organizations and  
12 individual social work professionals.

13 [F.] E. Members of the board shall [~~be reimbursed as~~  
14 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
15 ~~other compensation, perquisite or allowance] serve without  
16 compensation other than reasonable reimbursement for mileage and  
17 per diem as determined by the board and paid from board funds.~~

18 [G.] F. The board shall elect a chairman and other  
19 officers as deemed necessary to administer its duties.

20 [H.] G. A simple majority of the board members  
21 [~~currently serving~~] shall constitute a quorum of the board.

22 [I.] H. The board shall meet at least once a year and  
23 at such other times as it deems necessary. Other meetings may  
24 be called by the chairman upon the written request of a quorum  
25 of the board.

Underscored material = new  
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1           ~~[J-]~~ I. The governor may remove any member from the  
2 board for the neglect of any duty required by law, for  
3 incompetence, for improper or unprofessional conduct as defined  
4 by board regulation or for any reason that would justify the  
5 suspension or revocation of his license to practice social work.

6           ~~[K-]~~ J. No board member shall serve more than two  
7 consecutive terms, and any member failing to attend, after  
8 proper notice, three executive meetings shall automatically be  
9 removed as a board member, unless excused for reasons set forth  
10 in board regulations.

11           ~~[L-]~~ K. In the event of a vacancy for any reason, the  
12 board secretary shall immediately notify the governor and the  
13 board of the vacancy and the reason for its occurrence to  
14 expedite the appointment of a new board member within a  
15 six-month period. "

16           Section 211. Section 61-31-8 NMSA 1978 (being Laws 1989,  
17 Chapter 51, Section 8) is amended to read:

18           "61-31-8. BOARD'S AUTHORITY. -- In addition to any other  
19 authority provided by law, the board shall have the authority  
20 to:

21           A. adopt and file, in accordance with the State Rules  
22 Act, rules and regulations necessary to carry out the provisions  
23 of the Social Work Practice Act, in accordance with the  
24 provisions of the Uniform Licensing Act, including the  
25 procedures for an appeal of an examination failure;



Underscored material = new  
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1           B. select, prepare and administer, at least annually,  
2 written examinations for licensure, which shall include a  
3 testing of the knowledge of New Mexico cultures;

4           C. adopt a professional code of ethics;

5           D. appoint advisory committees pursuant to Section [19  
6 ~~of the Social Work Practice Act~~] 61-31-19 NMSA 1978;

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

11           F. require and establish criteria for continuing  
12 education;

13           G. issue subpoenas, statements of charges, statements  
14 of intent to deny licenses and orders and delegate in writing to  
15 a designee the authority to issue subpoenas, statements of  
16 charges and statements of intent to deny licenses and establish  
17 procedures for receiving, investigating and conducting hearings  
18 on complaints;

19           H. approve appropriate supervision for those persons  
20 seeking licensure as [an] independent social [worker] workers;

21           I. issue provisional licenses and licenses based on  
22 credentials to persons meeting the requirements set forth in the  
23 Social Work Practice Act;

24           J. determine qualifications for licensure;

25           K. set fees for licenses as authorized by the Social

Underscored material = new  
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1 Work Practice Act and authorize all disbursements necessary to  
2 carry out the provisions of the Social Work Practice Act;

3 ~~[L. approve the selection of primary staff assigned to~~  
4 ~~the board;]~~

5 L. employ staff it deems necessary to assist it in  
6 carrying out its duties pursuant to the Social Work Practice Act  
7 and may provide for health insurance or other benefits for them.  
8 Except as otherwise provided in that act, employees serve at the  
9 pleasure of the board and are exempt from the provisions of the  
10 Personnel Act;

11 M ~~[contract with the department for the provisions of~~  
12 ~~space and administrative support]~~ enter into contracts; and

13 N. keep a record of all proceedings and ~~[shall]~~ make  
14 an annual report to the governor. "

15 Section 212. A new section of the Social Work Practice Act  
16 is enacted to read:

17 "[NEW MATERIAL] LEGAL SERVICES. -- Upon request of the board,  
18 the attorney general shall provide such legal services to the  
19 board necessary for the administration of the Social Work  
20 Practice Act; provided, however, that the board may, in its  
21 discretion, employ or contract for the services of other  
22 attorneys to assist it in the administration of that act."

23 Section 213. A new section of the Social Work Practice Act  
24 is enacted to read:

25 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

Underscored material = new  
[bracketed material] = delete

1           A. The board is specifically exempted from the  
2 provisions of the Procurement Code, the Art in Public Places  
3 Act, the Information and Communication Management Act and  
4 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
5 through 15-3-34 NMSA 1978.

6           B. The board is also specifically exempted from the  
7 provisions of the Deferred Compensation Act, the Group Benefits  
8 Act, the Public Employee Bargaining Act, the Per Diem and  
9 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
10 provided, however, that an employee of the regulation and  
11 licensing department who subsequently becomes employed by the  
12 board without a break in service may, by agreement of the board,  
13 continue to participate in and be covered by those acts until  
14 separation from employment with the board. Where required under  
15 those acts, the board shall make contributions for the  
16 participating employee.

17           C. The board is also specifically exempted from the  
18 provisions of the Public Employees Retirement Act and the  
19 Retiree Health Care Act; provided, however, that an employee of  
20 the regulation and licensing department who subsequently becomes  
21 employed by the board without a break in service may, by  
22 agreement of the board, continue to participate in the public  
23 employee retirement system under the terms and conditions of the  
24 Public Employees Retirement Act and the retiree health care  
25 system under the terms and conditions of the Retiree Health Care

Underscored material = new  
[bracketed material] = delete

1 Act until separation from employment with the board. The board  
2 shall make contributions as required by those acts for the  
3 participating employee.

4 D. The board is also specifically exempted from the  
5 provisions of the Personnel Act; provided, however, that an  
6 employee in the classified service in the regulation and  
7 licensing department who subsequently becomes employed by the  
8 board without a break in service may, by agreement of the board,  
9 remain in the classified service and be covered by the Personnel  
10 Act until separation from employment with the board. For all  
11 other employees, the board may adopt its own employment  
12 policies. "

13 Section 214. A new section of the Social Work Practice Act  
14 is enacted to read:

15 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
16 an organization and its individual members and employees, is  
17 specifically subject to and covered by the provisions of the  
18 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
19 of Public Records Act, the Public Records Act, the Open Meetings  
20 Act, the Governmental Conduct Act, the Financial Disclosure Act  
21 and any other state law applicable to the board unless otherwise  
22 specifically exempted in the Social Work Practice Act. "

23 Section 215. Section 61-31-16 NMSA 1978 (being Laws 1989,  
24 Chapter 51, Section 16) is repealed and a new Section 61-31-16  
25 NMSA 1978 is enacted to read:

. 113196. 1GJms

Underscored material = new  
[bracketed material] = delete

1 "61-31-16. [NEW MATERIAL] BOARD FUNDS. --

2 A. All money received by the board from fees provided  
3 for in the Social Work Practice Act shall be deposited in an  
4 account in a federally insured financial institution qualified  
5 to do business in New Mexico. Money in the account shall be  
6 withdrawn on the order of the board or its designee and shall  
7 only be used to carry out the board's duties pursuant to that  
8 act.

9 B. In accordance with the provisions of the Audit Act,  
10 the state auditor may examine the accounts and books of the  
11 board, including its receipts, disbursements, contracts, leases  
12 and other records relating to the performance of its duties  
13 pursuant to the Social Work Practice Act. In addition, the  
14 governor may call for any additional, special audits by the  
15 state auditor whenever deemed necessary for the protection and  
16 oversight of board funds.

17 C. Money of the board is not public money or state  
18 funds within the meaning of any law of the state relating to  
19 investment, deposit, security or expenditure of public money."

20 Section 216. 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 REPEAL. --The  
23 board of social work examiners is terminated on July 1, [1997]  
24 2001 pursuant to the Sunset Act. The board shall continue to  
25 operate according to the provisions of the Social Work Practice

. 113196. 1GJms

Underscored material = new  
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1 Act until July 1, [~~1998~~] 2002. Effective July 1, [~~1998~~] 2002,  
2 the Social Work Practice Act is repealed. "

3 Section 217. Section 61-32-1 NMSA 1978 (being Laws 1993,  
4 Chapter 204, Section 1) is amended to read:

5 "61-32-1. SHORT TITLE. -- [~~This act~~] Chapter 61, Article 32  
6 NMSA 1978 may be cited as the "Thanatopractice Act". "

7 Section 218. Section 61-32-3 NMSA 1978 (being Laws 1993,  
8 Chapter 204, Section 3, as amended) is amended to read:

9 "61-32-3. DEFINITIONS. -- As used in the Thanatopractice Act:

10 A. "assistant funeral service practitioner" means a  
11 person licensed to engage in practice as an assistant funeral  
12 service practitioner as provided in the Thanatopractice Act;

13 B. "associate funeral service practitioner" means a  
14 person licensed to engage in practice as an associate funeral  
15 service practitioner as provided in the Thanatopractice Act;

16 C. "board" means the board of thanatopractice;

17 D. "cremains" means cremated remains;

18 E. "cremation" means the reduction of a dead human  
19 body by direct flame to a residue, which may include bone  
20 fragments;

21 F. "crematory" means every place or premises that is  
22 devoted to or used for cremation and pulverization of the  
23 cremains;

24 G. "crematory authority" means the individual who is  
25 ultimately responsible for the operation of a crematory;

Underscored material = new  
[bracketed material] = delete

1            [~~H.~~ "~~department~~" ~~means the regulation and licensing~~  
2 ~~department~~;

3            [~~I.~~] H. "direct disposer" means a person licensed to  
4 engage solely in providing direct disposition as provided in the  
5 Thanatopractice Act;

6            [~~J.~~] I. "direct disposition" means only the  
7 disposition of a dead human body as quickly as possible, without  
8 a funeral, graveside service, committal service or memorial  
9 service, whether public or private, and without embalming of the  
10 body unless embalming is required by the place of disposition;

11            [~~K.~~] J. "direct supervision" means the supervisor is  
12 physically present with and in control of the person being  
13 supervised;

14            [~~L.~~] K. "disposition" means the final disposal of a  
15 dead human body, whether it be by earth interment, above-ground  
16 interment or entombment, cremation, burial at sea or delivery to  
17 a medical school, when the medical school assumes complete  
18 responsibility for the disposal of the body following medical  
19 study, or release of custody of the body to the family or  
20 personal representative or other legal representative;

21            [~~M.~~] L. "embalming" means the disinfection,  
22 preservation and restoration, when possible, of a dead human  
23 body by a [~~licensed~~] funeral service practitioner, [~~a licensed~~]  
24 an associate funeral service practitioner, a [~~licensed~~]  
25 assistant funeral service practitioner or a [~~licensed~~] funeral

Underscored material = new  
[bracketed material] = delete

1 service intern under the supervision of a [~~licensed~~] funeral  
2 service practitioner;

3 [N.] M. "establishment" means every office, premises  
4 or place of business where the practice of funeral service or  
5 direct disposition is conducted or advertised as being conducted  
6 and includes commercial establishments that provide for the  
7 practice of funeral service or direct disposition services  
8 exclusively to licensed funeral or direct disposition  
9 establishments or a school of medicine;

10 [O.] N. "funeral" means a period following death in  
11 which there is an organized, purposeful, time-limited,  
12 group-centered ceremony or rite, whether religious or not, with  
13 the body of the deceased present;

14 [P.] O. "funeral merchandise" means that personal  
15 property offered for sale in connection with the transportation,  
16 funeralization or disposition of a dead human body, including  
17 the enclosure into which a dead human body is directly placed,  
18 and excluding mausoleum crypts and interment enclosures preset  
19 in a cemetery and columbarium niches;

20 [Q.] P. "funeral service intern" means a person  
21 licensed pursuant to the Thanatopractice Act who is in training  
22 for the practice of funeral service under the supervision and  
23 instruction of a funeral service practitioner;

24 [R.] Q. "funeral service practitioner" means a person  
25 licensed by the board to engage in the practice of funeral



1 service who may provide shelter, care and custody of human dead;  
2 prepare human dead by embalming or other methods for  
3 disposition; transport human dead, bereaved relatives and  
4 friends; make arrangements, financial or otherwise, to provide  
5 for a funeral or the sale of funeral merchandise; and perform  
6 other funeral directing or embalming practices;

7 [S-] R. "general supervision" means the supervisor is  
8 not necessarily physically present with the person being  
9 supervised, but is available for advice and assistance;

10 [T-] S. "graveside service" means a funeral held at  
11 the graveside only, excluding a committal service that follows a  
12 funeral conducted at another location;

13 [U-] T. "jurisprudence examination" means an  
14 examination prescribed and graded by the board on the statutes,  
15 rules and regulations pertaining to the practice of funeral  
16 service or direct disposition, including the Thanatopractice  
17 Act, the rules of the board, state health regulations governing  
18 human remains and the Vital Statistics Act;

19 [V-] U. "licensee in charge" means a funeral service  
20 practitioner who is ultimately responsible for the conduct of a  
21 funeral or commercial establishment and its employees or a  
22 direct disposer who is ultimately responsible for the conduct of  
23 a direct disposition establishment and its employees;

24 [W-] V. "make arrangements" means advising or  
25 counseling about specific details for a funeral, graveside

Underscored material = new  
[bracketed material] = delete

1 service, committal service, memorial service, disposition or  
2 direct disposition;

3 [X.] W. "memorial service" means a gathering of  
4 persons for recognition of a death without the presence of the  
5 body of the deceased;

6 [Y.] X. "practice of funeral service" means those  
7 activities allowed under the Thanatopractice Act by a funeral  
8 service practitioner, associate funeral service practitioner,  
9 assistant funeral service practitioner or a funeral service  
10 intern;

11 [Z.] Y. "pulverization" means the process that reduces  
12 cremains to a granular substance; and

13 [AA.] Z. "thanatopractice" means those immediate  
14 post-dead activities related to the dead human body, its care  
15 and disposition, whether with or without rites or ceremonies,  
16 but not including disposition of the body by a school of  
17 medicine following medical study. "

18 Section 219. Section 61-32-5 NMSA 1978 (being Laws 1993,  
19 Chapter 204, Section 5) is amended to read:

20 "61-32-5. BOARD CREATED. --

21 A. There is created the "board of thanatopractice".

22 ~~[B. The board is administratively attached to the~~  
23 ~~department.~~

24 ~~C.]~~ B. The board consists of six members. Three  
25 members shall be funeral service practitioners who have been

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1 licensed in the state for at least five years; two members shall  
2 represent the public and shall not have been licensed for the  
3 practice of funeral service or direct disposition in this state  
4 or any other jurisdiction and shall not ever have had any  
5 financial interest, direct or indirect, in any funeral,  
6 commercial or direct disposition establishment or crematory; and  
7 one member shall be a licensed direct disposer or health care  
8 practitioner who has been licensed in the state for at least  
9 five years.

10 [D.] C. Members of the board shall be appointed by the  
11 governor for staggered terms of four years; except that members  
12 of the board appointed and serving under prior law [at the  
13 effective date of the Thanatopractice Act] on June 18, 1993  
14 shall serve out the terms for which they were appointed as  
15 members of the board created by this section. Each member shall  
16 hold office until his successor is duly appointed and qualified  
17 [~~and appointed~~]. Vacancies shall be filled for any unexpired  
18 term in the same manner as original appointments.

19 [E.] D. Members of the board shall [~~be reimbursed as~~  
20 ~~provided in the Per Diem and Mileage Act and shall receive no~~  
21 ~~other compensation, perquisite or allowance~~] serve without  
22 compensation other than reasonable reimbursement for mileage and  
23 per diem as determined by the board and paid from board funds.

24 [F.] E. A simple majority of the board members  
25 currently serving constitutes a quorum.

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1           ~~[G.]~~ F. The board shall hold at least two regular  
2 meetings each year and shall meet at such other times as it  
3 deems necessary.

4           ~~[H.]~~ G. No board member shall serve more than two full  
5 consecutive terms, and any member failing to attend, after  
6 proper notice, three meetings shall automatically be recommended  
7 for removal as a board member unless excused for reasons set  
8 forth in board regulations.

9           ~~[I.]~~ H. The board shall elect a chairman and other  
10 officers as deemed necessary to administer its duties. "

11           Section 220. Section 61-32-6 NMSA 1978 (being Laws 1993,  
12 Chapter 204, Section 6) is amended to read:

13           "61-32-6. BOARD POWERS. --

14           A. In addition to any other authority provided by law,  
15 the board has the power to:

16                   (1) adopt, in accordance with the provisions of  
17 the Uniform Licensing Act, and file, in accordance with the  
18 State Rules Act, rules and regulations necessary to carry out  
19 the provisions of the Thanatopractice Act;

20                   (2) adopt rules implementing continuing education  
21 requirements;

22                   (3) conduct hearings upon charges relating to the  
23 discipline of licensees and take administrative actions,  
24 including license denial, suspension or revocation, or the  
25 issuance of a fine, reprimand or other remedial action;

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1 (4) establish reasonable fees to carry out the  
2 provisions of the Thanatopractice Act;

3 (5) provide for investigations necessary to  
4 determine violations of the Thanatopractice Act;

5 (6) establish committees as the board deems  
6 necessary for carrying out the provisions of the Thanatopractice  
7 Act;

8 (7) apply for injunctive relief to enforce the  
9 provisions of the Thanatopractice Act or to restrain any  
10 violation of that act;

11 (8) take administrative action by issuing orders,  
12 instructions and reprimands, not inconsistent with law, to  
13 ensure implementation of and compliance with the Thanatopractice  
14 Act, and to enforce those orders, instructions and reprimands by  
15 appropriate administrative or court action; [and]

16 (9) impose a fine not to exceed five thousand  
17 dollars (\$5,000), in addition to other administrative or  
18 disciplinary costs [~~and all fines shall be deposited in the~~  
19 ~~thanatopractice fund~~];

20 (10) employ staff it deems necessary to assist it  
21 in carrying out its duties pursuant to the Thanatopractice Act  
22 and provide for health insurance or other benefits for them.  
23 Except as otherwise provided in that act, employees serve at the  
24 pleasure of the board and are exempt from the provisions of the  
25 Personnel Act; and

Underscored material = new  
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1                    (11) enter into contracts.

2                    B. No action or other legal proceedings for damages  
3 shall be instituted against the board, any board member or  
4 employee of the board for any act performed in good faith and in  
5 the intended performance of any power or duty granted under the  
6 Thanatopractice Act or for any neglect or default in the good  
7 faith performance or exercise of any such power or duty. "

8                    Section 221. Section 61-32-8 NMSA 1978 (being Laws 1993,  
9 Chapter 204, Section 8) is amended to read:

10                    "61-32-8. INSPECTION--ACCESS--COUNSEL. --

11                    A. Inspection of establishments and crematories,  
12 including all records, financial or otherwise, is authorized  
13 during regular business hours or through prior arrangement.  
14 Acceptance of a license shall include permission for the board  
15 or its designee to enter the premises without legal process.

16                    B. Upon request of the board, the board shall be  
17 represented by the attorney general. The board may employ  
18 ~~[special counsel]~~ or contract for the services of other  
19 attorneys, whose services shall be paid by the board ~~[upon the~~  
20 ~~approval of the attorney general]~~. "

21                    Section 222. A new section of the Thanatopractice Act is  
22 enacted to read:

23                    "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

24                    A. The board is specifically exempted from the  
25 provisions of the Procurement Code, the Art in Public Places

Underscored material = new  
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1 Act, the Information and Communication Management Act and  
2 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
3 through 15-3-34 NMSA 1978.

4 B. The board is also specifically exempted from the  
5 provisions of the Deferred Compensation Act, the Group Benefits  
6 Act, the Public Employee Bargaining Act, the Per Diem and  
7 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
8 provided, however, that an employee of the regulation and  
9 licensing department who subsequently becomes employed by the  
10 board without a break in service may, by agreement of the board,  
11 continue to participate in and be covered by those acts until  
12 separation from employment with the board. Where required under  
13 those acts, the board shall make contributions for the  
14 participating employee.

15 C. The board is also specifically exempted from the  
16 provisions of the Public Employees Retirement Act and the  
17 Retiree Health Care Act; provided, however, that an employee of  
18 the regulation and licensing department who subsequently becomes  
19 employed by the board without a break in service may, by  
20 agreement of the board, continue to participate in the public  
21 employee retirement system under the terms and conditions of the  
22 Public Employees Retirement Act and the retiree health care  
23 system under the terms and conditions of the Retiree Health Care  
24 Act until separation from employment with the board. The board  
25 shall make contributions as required by those acts for the

Underscored material = new  
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1 participating employee.

2 D. The board is also specifically exempted from the  
3 provisions of the Personnel Act; provided, however, that an  
4 employee in the classified service in the regulation and  
5 licensing department who subsequently becomes employed by the  
6 board without a break in service may, by agreement of the board,  
7 remain in the classified service and be covered by the Personnel  
8 Act until separation from employment with the board. For all  
9 other employees, the board may adopt its own employment  
10 policies."

11 Section 223. A new section of the Thanatopractice Act is  
12 enacted to read:

13 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
14 an organization and its individual members and employees, is  
15 specifically subject to and covered by the provisions of the  
16 Tort Claims Act, the Joint Powers Agreements Act, the Inspection  
17 of Public Records Act, the Public Records Act, the Open Meetings  
18 Act, the Governmental Conduct Act, the Financial Disclosure Act  
19 and any other state law applicable to the board unless otherwise  
20 specifically exempted in the Thanatopractice Act."

21 Section 224. Section 61-32-26 NMSA 1978 (being Laws 1993,  
22 Chapter 204, Section 26) is repealed and a new Section 61-32-26  
23 NMSA 1978 is enacted to read:

24 "61-32-26. [NEW MATERIAL] BOARD FUNDS. --

25 A. All money received by the board from fees provided



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1 for in the Thanatopractice Act shall be deposited in an account  
2 in a federally insured financial institution qualified to do  
3 business in New Mexico. Money in the account shall be withdrawn  
4 on the order of the board or its designee and shall be used only  
5 to carry out the board's duties pursuant to that act.

6 B. In accordance with the provisions of the Audit Act,  
7 the state auditor may examine the accounts and books of the  
8 board, including its receipts, disbursements, contracts, leases  
9 and other records relating to the performance of its duties  
10 pursuant to the Thanatopractice Act. In addition, the governor  
11 may call for any additional, special audits by the state auditor  
12 whenever deemed necessary for the protection and oversight of  
13 board funds.

14 C. Money of the board is not public money or state  
15 funds within the meaning of any law of the state relating to  
16 investment, deposit, security or expenditure of public money."

17 Section 225. [NEW MATERIAL] SHORT TITLE. -- Sections 225  
18 through 244 of this act may be cited as the "Physical Therapy  
19 Act".

20 Section 226. [NEW MATERIAL] LEGISLATIVE PURPOSE. -- The  
21 purpose of the Physical Therapy Act is to protect the public  
22 health, safety and welfare and provide for control, supervision,  
23 licensure and regulation of the practice of physical therapy.  
24 To carry out those purposes, only individuals who meet and  
25 maintain minimum standards of competence and conduct may engage

Underscored material = new  
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1 in the practice of physical therapy. The practice of physical  
2 therapy is declared to affect the public interest and that act  
3 shall be liberally construed so as to accomplish the purpose  
4 stated in that act.

5 Section 227. [NEW MATERIAL] DEFINITIONS. --As used in  
6 the Physical Therapy Act:

7 A. "assistive personnel" means physical therapist  
8 assistants, physical therapy aides and other assistive  
9 personnel;

10 B. "board" means the physical therapy board;

11 C. "other assistive personnel" means trained or  
12 educated personnel other than physical therapist assistants or  
13 physical therapy aides who perform specific designated tasks  
14 related to physical therapy under the supervision of a physical  
15 therapist. At the discretion of the supervising physical  
16 therapist and if not prohibited by any other law, it may be  
17 appropriate for other assistive personnel to be identified by  
18 the title specific to their training or education;

19 D. "person" means an individual or other legal entity;

20 E. "physical therapist" means a person who is licensed  
21 in this state to practice physical therapy;

22 F. "physical therapist assistant" means a person who  
23 performs physical therapy procedures and related tasks pursuant  
24 to a plan of care written by the supervising physical therapist;

25 G. "physical therapy" means the care and services

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1 provided by or under the direction and supervision of a physical  
2 therapist;

3 H. "physical therapy aide" means a person trained  
4 under the direction of a physical therapist who performs  
5 designated and supervised routine physical therapy tasks;

6 I. "practice of physical therapy" means:

7 (1) examining and evaluating patients with  
8 mechanical, physiological and developmental impairments,  
9 functional limitations and disabilities or other health-related  
10 conditions in order to determine a diagnosis, prognosis and  
11 planned therapeutic intervention;

12 (2) alleviating impairments and functional  
13 limitations by designing, implementing and modifying therapeutic  
14 interventions that include therapeutic exercise; functional  
15 training in self-care and community or work reintegration;  
16 manual therapy techniques, including soft tissue and joint  
17 mobilization and manipulation; therapeutic massage; assistive  
18 and adaptive devices and equipment; bronchopulmonary hygiene;  
19 debridement and wound care; physical agents; mechanical and  
20 electrotherapeutic modalities; and patient-related instruction;

21 (3) preventing injury, impairments, functional  
22 limitations and disability, including the promotion and  
23 maintenance of fitness, health and quality of life in all age  
24 populations; and

25 (4) engaging in consultation, testing, education

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1 and research; and

2 J. "restricted license" means a license to which  
3 restrictions or conditions as to scope of practice, place of  
4 practice, supervision of practice, duration of licensed status  
5 or type or condition of patient or client served are imposed by  
6 the board.

7 Section 228. [NEW MATERIAL] BOARD CREATED. --

8 A. The "physical therapy board" is created. The board  
9 shall consist of five members appointed by the governor. Three  
10 members shall be physical therapists who are residents of the  
11 state, who possess unrestricted licenses to practice physical  
12 therapy and who have been practicing in New Mexico for no less  
13 than five years. Two members shall be citizens appointed from  
14 the public at large who are not associated with, or financially  
15 interested in, any health care profession.

16 B. All appointments shall be made for staggered terms  
17 of three years with no more than two terms ending at any one  
18 time. No member shall serve for more than two successive  
19 three-year terms. Vacancies shall be filled for the unexpired  
20 term by appointment by the governor prior to the next scheduled  
21 board meeting.

22 C. The governor may remove any member of the board for  
23 misconduct, incompetence or neglect of duty.

24 D. Members shall serve without compensation other than  
25 reasonable reimbursement for mileage and per diem as determined

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1 by the board and paid from board funds.

2 E. There shall be no liability on the part of and no  
3 action for damages against any board member when the member is  
4 acting within the scope of his duties.

5 Section 229. [NEW MATERIAL] POWERS AND DUTIES. --The board:

6 A. shall examine all applicants for licensure to  
7 practice physical therapy and issue licenses or permits to those  
8 who are duly qualified;

9 B. shall regulate the practice of physical therapy by  
10 interpreting and enforcing the provisions of the Physical  
11 Therapy Act, including taking disciplinary action;

12 C. may adopt, file, amend or repeal rules and  
13 regulations in accordance with the Uniform Licensing Act to  
14 carry out the provisions of the Physical Therapy Act;

15 D. may meet as often as the board deems necessary in  
16 compliance with the Open Meetings Act. A majority of the  
17 members constitutes a quorum for the transaction of business.

18 The board shall keep an official record of all its proceedings;

19 E. may establish requirements for assessing continuing  
20 competency;

21 F. may establish and collect fees for sustaining the  
22 necessary operation and expenses of the board;

23 G. may expend board funds as it deems necessary for  
24 carrying out the purposes and for the administration of the  
25 Physical Therapy Act;

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1           H. may establish, impose and collect fines for  
2 violations of the Physical Therapy Act;

3           I. may elect such officers as it deems necessary for  
4 the operations and obligations of the board. Terms of office  
5 shall be one year;

6           J. shall provide for the timely orientation and  
7 training of new professional and public appointees to the board,  
8 including training in licensing and disciplinary procedures and  
9 orientation to all statutes, rules, policies and procedures of  
10 the board;

11           K. may employ an executive secretary and other  
12 personnel to carry out the administrative work of the board.  
13 The board may provide for health insurance or other benefits for  
14 those persons. Except as otherwise provided in the Physical  
15 Therapy Act, persons employed by the board serve at the pleasure  
16 of the board and are exempt from the provisions of the Personnel  
17 Act;

18           L. may enter into contracts for services determined to  
19 be necessary for adequate administration and enforcement of the  
20 Physical Therapy Act;

21           M shall report final disciplinary action taken  
22 against a physical therapist or physical therapist assistant to  
23 the national disciplinary data base;

24           N. shall publish at least annually final disciplinary  
25 action taken against any physical therapist or physical

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1 therapist assistant; and

2 0. may prescribe the forms of license certificates,  
3 application forms and such other documents as it deems necessary  
4 to carrying out of the provisions of the Physical Therapy Act.

5 Section 230. [NEW MATERIAL] BOARD FUNDS. --

6 A. All money received by the board from fees provided  
7 for in the Physical Therapy Act shall be deposited in an account  
8 in a federally insured financial institution qualified to do  
9 business in New Mexico. Money in the account shall be withdrawn  
10 on the order of the board or its designee and shall be used only  
11 to carry out the board's duties under the Physical Therapy Act.

12 B. Pursuant to the Audit Act, the state auditor or his  
13 legally authorized representatives may examine the accounts and  
14 books of the board, including its receipts, disbursements,  
15 contracts, leases and any other records relating to the  
16 performance of its duties under the Physical Therapy Act. In  
17 addition, the governor may call for additional, special audits  
18 to be conducted by the state auditor or his legally authorized  
19 representatives whenever deemed necessary for the protection and  
20 oversight of board funds.

21 C. Money of the board is not public money or state  
22 funds within the meaning of any law of the state relating to  
23 investment, deposit, security or expenditure of public money.

24 Section 231. [NEW MATERIAL] LEGAL SERVICES. -- Upon request  
25 of the board, the attorney general shall provide such legal

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1 services to the board necessary for the administration of the  
2 Physical Therapy Act. The board may, within its discretion,  
3 employ or contract for the services of licensed attorneys to  
4 assist it in the administration of the Physical Therapy Act.

5 Section 232. [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

6 A. The board is specifically exempted from the  
7 provisions of the Procurement Code, the Art in Public Places  
8 Act, the Information and Communication Management Act and  
9 Sections 6-3-1 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1  
10 through 15-3-34 NMSA 1978.

11 B. The board is also specifically exempted from the  
12 provisions of the Deferred Compensation Act, the Group Benefits  
13 Act, the Public Employee Bargaining Act, the Per Diem and  
14 Mileage Act and Sections 10-7-1 through 10-7-19 NMSA 1978;  
15 provided, however, that an employee of the regulation and  
16 licensing department who subsequently becomes employed by the  
17 board without a break in service may, by agreement of the board,  
18 continue to participate in and be covered by the provisions of  
19 those acts until separation from employment with the board.  
20 Where required under those acts, the board shall make  
21 contributions for participating employees.

22 C. The board is also specifically exempted from the  
23 provisions of the Public Employees Retirement Act and the  
24 Retiree Health Care Act; provided, however, that an employee of  
25 the regulation and licensing department who subsequently becomes



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1 employed by the board without a break in service may, by  
2 agreement of the board, continue to participate in the public  
3 employee retirement system under the terms and conditions of the  
4 Public Employees Retirement Act and the retiree health care  
5 system under the terms and conditions of the Retiree Health Care  
6 Act until separation from employment with the board. The board  
7 shall make contributions as required by those acts for a  
8 participating employee.

9 D. The board is also specifically exempted from the  
10 provisions of the Personnel Act; provided, however, that an  
11 employee in the classified service in the regulation and  
12 licensing department who subsequently becomes employed by the  
13 board without a break in service may, by agreement of the board,  
14 remain in the classified service and be covered by the Personnel  
15 Act until separation from employment with the board. For all  
16 other employees, the board may adopt its own employment  
17 policies.

18 Section 233. [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --  
19 The board, as an organization and its individual members and  
20 employees, is specifically subject to and covered by the  
21 provisions of the Tort Claims Act, the Joint Powers Agreements  
22 Act, the Inspection of Public Records Act, the Public Records  
23 Act, the Open Meetings Act, the Governmental Conduct Act, the  
24 Financial Disclosure Act and any other state law applicable to  
25 the board unless otherwise specifically exempted in the Physical

Underscored material = new  
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1 Therapy Act.

2 Section 234. [NEW MATERIAL] PRACTICE OF PHYSICAL THERAPY--  
3 LICENSE REQUIRED. --

4 A. No person shall practice or hold himself out to be  
5 engaging in the practice of physical therapy or designate  
6 himself as a physical therapist unless he is licensed as a  
7 physical therapist or is exempt from licensure as provided in  
8 the Physical Therapy Act.

9 B. No person shall designate himself or act as a  
10 physical therapist assistant unless he is licensed as a physical  
11 therapist assistant or is exempt from licensure as provided in  
12 the Physical Therapy Act.

13 C. A physical therapist shall refer persons under his  
14 care to the appropriate health care practitioner if the physical  
15 therapist has reasonable cause to believe symptoms or conditions  
16 are present that require services beyond his scope of practice  
17 or when physical therapy is contraindicated.

18 D. Physical therapists or physical therapist  
19 assistants shall adhere to the recognized standards of ethics of  
20 the physical therapy profession.

21 Section 235. [NEW MATERIAL] USE OF TITLES-- RESTRICTIONS. --

22 A. A physical therapist shall use the letters "PT" in  
23 connection with his name or place of business to denote  
24 licensure pursuant to the Physical Therapy Act.

25 B. It is unlawful for a person or his employees,

1 agents or representatives to use in connection with his name or  
2 the name or activity of the business the words "physical  
3 therapy", "physical therapist", "physiotherapy",  
4 "physiotherapist", "registered physical therapist", the letters  
5 "PT", "LPT", "RPT", "MPT", "DPT" or any other words,  
6 abbreviations or insignia indicating or implying directly or  
7 indirectly that physical therapy is provided or supplied,  
8 including the billing of services labeled as physical therapy,  
9 unless the services are provided by or under the direction of a  
10 physical therapist.

11 C. A physical therapist assistant shall use the  
12 letters "PTA" in connection with his name to denote licensure.

13 D. No person shall use the title "physical therapist  
14 assistant" or use the letters "PTA" in connection with his name  
15 or any other words, abbreviations or insignia indicating or  
16 implying directly or indirectly that he is a physical therapist  
17 assistant unless he has graduated from an accredited physical  
18 therapist assistant education program approved by the board and  
19 has met the requirements of the Physical Therapy Act.

20 Section 236. [NEW MATERIAL] LICENSURE- - QUALIFICATIONS. - -

21 A. An applicant for licensure as a physical therapist  
22 shall have the following minimum qualifications:

- 23 (1) be of good moral character;
- 24 (2) be a graduate of an accredited physical  
25 therapy program approved by the board;

1                   (3) have successfully passed the national  
2 physical therapy examination approved by the board; and

3                   (4) have successfully passed the state  
4 jurisprudence examination.

5                   B. An applicant for licensure as a physical therapist  
6 who has been educated outside the United States must meet the  
7 following minimum qualifications:

8                   (1) provide satisfactory evidence that his  
9 education is substantially equivalent to the requirements of  
10 physical therapists educated in accredited educational programs  
11 in the United States, as determined by the board. If the board  
12 determines that a foreign-educated applicant's education is not  
13 substantially equivalent, it may require completion of  
14 additional course work before proceeding with the application  
15 process;

16                   (2) provide evidence that he is a graduate of a  
17 school of training that is recognized by the foreign country's  
18 own ministry of education or similar institution;

19                   (3) provide written proof of authorization to  
20 practice as a physical therapist without limitations in the  
21 legal jurisdiction where the post-secondary institution from  
22 which the applicant has graduated is located;

23                   (4) provide proof of legal authorization to  
24 reside and seek employment in the United States or its  
25 territories;

1                   (5) have his educational credentials evaluated by  
2 a board-approved credential evaluation agency;

3                   (6) pass all approved English proficiency  
4 examinations as may be prescribed by the board if English is not  
5 his primary language; and

6                   (7) participate in an interim supervised clinical  
7 practice period as may be prescribed by the board.

8                   C. The board may issue an interim permit to a  
9 foreign-trained applicant who satisfies the board's  
10 requirements. An interim permit shall be issued for the purpose  
11 of participating in a supervised clinical practice period.

12                   D. If the foreign-educated physical therapist  
13 applicant is a graduate of a college accredited by the  
14 commission on accreditation in physical therapy education, the  
15 requirements of Paragraphs (1), (2), (5) and (7) of Subsection B  
16 of this section are waived.

17                   E. An applicant for licensure as a physical therapist  
18 assistant shall meet the following minimum requirements:

- 19                   (1) be of good moral character;
- 20                   (2) have completed the application process;
- 21                   (3) be a graduate of an accredited physical  
22 therapist assistant program approved by the board;
- 23                   (4) have successfully passed the national  
24 physical therapy examination approved by the board; and
- 25                   (5) have successfully passed the state

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1 jurisprudence examination.

2 F. An applicant for licensure as a physical therapist  
3 or physical therapist assistant shall file a written application  
4 on forms provided by the board. A nonrefundable application fee  
5 and the cost of the examination shall accompany the completed  
6 written application. Fees shall be established by board rule.

7 G. The board shall review applicants for physical  
8 therapy licensure after all application processes are completed.  
9 The national physical therapy examination shall test entry-level  
10 competency related to physical therapy theory, evaluation,  
11 treatment intervention, prevention and consultation.

12 H. The board shall review applicants for physical  
13 therapist assistant licensure after all application processes  
14 are completed. The national examination shall test for  
15 requisite knowledge and skills.

16 I. The board shall require proof of passage of a  
17 jurisprudence examination on state laws, rules and regulations  
18 that pertain to the practice of physical therapy.

19 J. Applicants who fail to pass the examinations shall  
20 be subject to requirements determined by board regulations prior  
21 to being approved by the board for subsequent testing.

22 K. The board or its designee shall issue a license to  
23 a physical therapist or physical therapist assistant who has a  
24 valid unrestricted license from another United States  
25 jurisdiction and who meets all requirements for licensure in New

1 Mexi co.

2 L. Prior to licensure, if prescribed by the board, the  
3 board or its designee may issue a temporary nonrenewable license  
4 to a physical therapist or physical therapist assistant who has  
5 completed the education and experience requirements of the  
6 Physical Therapist Act. The temporary license shall allow the  
7 applicant to practice physical therapy under the supervision of  
8 a licensed physical therapist until a permanent license is  
9 approved that shall include passing the national physical  
10 therapy examination.

11 M The board or its designee may issue a temporary  
12 license to a physical therapist or physical therapist assistant  
13 performing physical therapy while teaching an educational  
14 seminar who has met the requirements established by regulation  
15 of the board.

16 N. A physical therapist or physical therapist  
17 assistant licensed under the provisions of the Physical Therapy  
18 Act shall renew his license as specified in board rules. A  
19 person who fails to renew his license by the date of expiration  
20 shall not practice physical therapy in New Mexico.

21 O. Reinstatement of a lapsed license following a  
22 renewal deadline requires payment of a renewal fee and late  
23 penalty as specified by board rules.

24 P. Reinstatement of a physical therapist or physical  
25 therapist assistant license that has lapsed for more than three

1 years, without evidence of continued practice in another state  
2 pursuant to a valid unrestricted license in that state, requires  
3 reapplication and payment of fees, as specified in board rules.  
4 The board shall promulgate rules establishing the qualifications  
5 for reinstatement of a lapsed license.

6 Q. The board shall establish, by rule, activities to  
7 periodically assess continuing competence to practice physical  
8 therapy. The board may implement remedial actions if necessary  
9 to require continuing competence as a condition of relicensure.

10 Section 237. [NEW MATERIAL] EXEMPTIONS. -- The following  
11 persons are exempt from licensure as physical therapists under  
12 the Physical Therapy Act:

13 A. a person who is pursuing a course of study leading  
14 to a degree as a physical therapist in an entry-level education  
15 program approved by the board and is satisfying supervised  
16 clinical education requirements related to his physical therapy  
17 education; and

18 B. a physical therapist practicing in the United  
19 States armed services, United States public health service or  
20 veterans administration as based on requirements under federal  
21 regulations for state licensure of health care providers.

22 Section 238. [NEW MATERIAL] SUPERVISION. --

23 A. A physical therapist is responsible for patient  
24 care given by assistive personnel under his supervision. A  
25 physical therapist may delegate to assistive personnel and



Underscored material = new  
[bracketed material] = delete

1 supervise selected acts, tasks or procedures that fall within  
2 the scope of physical therapy practice but do not exceed the  
3 assistive personnel's education or training.

4 B. A physical therapist assistant shall function under  
5 the supervision of a physical therapist as prescribed by rules  
6 of the board.

7 C. Physical therapy aides and other assistive  
8 personnel shall perform patient care activities under on-site  
9 supervision of a physical therapist. "On-site supervision"  
10 means the supervising physical therapist shall:

11 (1) be continuously on-site and present in the  
12 department or facility where the assistive personnel are  
13 performing services;

14 (2) be immediately available to assist the person  
15 being supervised in the services being performed; and

16 (3) maintain continued involvement in appropriate  
17 aspects of each treatment session in which a component of  
18 treatment is delegated to assistive personnel.

19 Section 239. [NEW MATERIAL] GROUNDS FOR DISCIPLINARY  
20 ACTION. --The following conduct, acts or conditions constitute  
21 grounds for disciplinary action:

22 A. practicing physical therapy in violation of the  
23 provisions of the Physical Therapy Act or rules adopted by the  
24 board;

25 B. practicing or offering to practice beyond the scope

Underscored material = new  
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1 of physical therapy practice as defined in the Physical Therapy  
2 Act;

3 C. obtaining or attempting to obtain a license by  
4 fraud or misrepresentation;

5 D. engaging in or permitting the performance of  
6 negligent care by a physical therapist or by assistive personnel  
7 working under the physical therapist's supervision, regardless  
8 of whether actual injury to the patient is established;

9 E. engaging in the performance of negligent care by a  
10 physical therapist assistant, regardless of whether actual  
11 injury to the patient is established. This includes exceeding  
12 the authority to perform tasks pursuant to the plan of care  
13 written by the supervising physical therapist;

14 F. having been convicted of a felony in the courts of  
15 this state or any other state, territory or country, subject to  
16 the Criminal Offender Employment Act. Conviction includes a  
17 finding or verdict of guilt, an admission of guilt or a plea of  
18 nolo contendere. A copy of the record of conviction, certified  
19 by the clerk of the court entering the conviction, is conclusive  
20 evidence;

21 G. practicing as a physical therapist or working as a  
22 physical therapist assistant when physical or mental abilities  
23 are impaired by the habitual or excessive use of controlled  
24 substances, other habit-forming drugs, chemicals or alcohol;

25 H. having had a license revoked or suspended; other

Underscored material = new  
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1 disciplinary action taken; or an application for licensure  
2 refused, revoked or suspended by the proper authorities of  
3 another state, territory or country based upon acts by the  
4 licensee similar to acts described in this section. A certified  
5 copy of the record of suspension, revocation or other  
6 disciplinary action taken by the state taking the disciplinary  
7 action is conclusive evidence;

8 I. if a physical therapist, failing to adequately  
9 supervise assistive personnel;

10 J. engaging in sexual misconduct, including engaging  
11 in or soliciting sexual relationships with a patient, whether  
12 consensual or nonconsensual, while a physical therapist- or  
13 physical therapist assistant-patient relationship exists; or  
14 sexual harassment of a patient that includes making sexual  
15 advances, requesting sexual favors and engaging in other verbal  
16 conduct or physical contact of a sexual nature while a physical  
17 therapist- or physical therapist assistant-patient relationship  
18 exists;

19 K. directly or indirectly requesting, receiving or  
20 participating in the dividing, transferring, assigning, rebating  
21 or refunding of an unearned fee; or profiting by means of a  
22 credit or other valuable consideration such as an unearned  
23 commission, discount or gratuity in connection with the  
24 furnishing of physical therapy services. Nothing in this  
25 subsection prohibits the members of any regularly and properly

1 organized business entity recognized by law and comprised of  
2 physical therapists from dividing fees received for professional  
3 services among themselves as they determine by contract  
4 necessary to defray their joint operating expense;

5 L. failing to adhere to the recognized standards of  
6 ethics of the physical therapy profession;

7 M. charging unreasonable or fraudulent fees for  
8 services performed or not performed;

9 N. making misleading, deceptive, untrue or fraudulent  
10 representations in the practice of physical therapy;

11 O. having been adjudged mentally incompetent by a  
12 court of competent jurisdiction;

13 P. aiding or abetting an unlicensed person to perform  
14 activities requiring a license;

15 Q. failing to report to the board any act or omission  
16 of a licensee, applicant or other person that violates the  
17 provisions of the Physical Therapy Act;

18 R. interfering with or refusing to cooperate in an  
19 investigation or disciplinary proceeding of the board, including  
20 misrepresentation of facts or by the use of threats or  
21 harassment against any patient or witness to prevent them from  
22 providing evidence in a disciplinary proceeding;

23 S. failing to maintain patient confidentiality without  
24 prior written consent or unless otherwise provided by law;

25 T. impersonating another person licensed to practice

Underscored material = new  
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1 physical therapy, permitting or allowing any person to use the  
2 physical therapist's or physical therapist assistant's license  
3 or practicing physical therapy under a false or assumed name;

4 U. failure to report to the board the surrendering of  
5 a license or other authorization to practice physical therapy in  
6 another state or jurisdiction or the surrendering of membership  
7 in any professional association following, in lieu of or while  
8 under disciplinary investigation by any of those authorities or  
9 bodies for acts or conduct similar to acts or conduct that would  
10 constitute grounds for action as defined in this section; and

11 V. abandonment of patients.

12 Section 240. [NEW MATERIAL] CONSUMER PROTECTION. --

13 A. Any person, including a licensee; corporation;  
14 insurance company; health care organization; health care  
15 facility; and state, federal or local governmental agency, shall  
16 report to the board any conviction, determination or finding  
17 that a licensee has committed an act that constitutes a  
18 violation of the Physical Therapy Act. The person is immune  
19 from civil liability for providing information in good faith to  
20 the board. Failure by a licensee to report a violation of the  
21 Physical Therapy Act shall constitute grounds for disciplinary  
22 action.

23 B. The board may permit an impaired physical therapist  
24 or assistive personnel to actively participate in a board-  
25 approved substance abuse treatment program under the following

1 conditions:

2 (1) the board has evidence indicating that the  
3 licensee is an impaired professional;

4 (2) the licensee has not been convicted of a  
5 felony relating to a controlled substance in a court of law of  
6 the United States or any other territory or country;

7 (3) the impaired professional enters into a  
8 written agreement with the board and complies with all the terms  
9 of the agreement, including making satisfactory progress in the  
10 program and adhering to any limitations on his practice imposed  
11 by the board to protect the public. Failure to enter into such  
12 an agreement shall disqualify the professional from the  
13 voluntary substance abuse program; and

14 (4) as part of the agreement established between  
15 the licensee and the board, the licensee shall sign a waiver  
16 allowing the substance abuse program to release information to  
17 the board if the licensee does not comply with the requirements  
18 of this section or is unable to practice with reasonable skill  
19 or safety.

20 C. The public shall have access to information  
21 pursuant to the Inspection of Public Records Act.

22 D. The board shall conduct its meetings and  
23 disciplinary hearings in accordance with the Open Meetings Act.

24 E. Physical therapists and physical therapist  
25 assistants shall disclose in writing to patients if the

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1 referring health care practitioner is deriving direct or  
2 indirect compensation from the referral to physical therapy.

3 F. Physical therapists and physical therapist  
4 assistants shall disclose any financial interest in products  
5 they endorse and recommend to their patients.

6 G. The licensee has the responsibility to ensure that  
7 the patient has knowledge of freedom of choice in services and  
8 products.

9 H. The physical therapist or physical therapist  
10 assistant shall not promote an unnecessary device, treatment  
11 intervention or service for the financial gain of himself or  
12 another person.

13 I. The physical therapist or physical therapist  
14 assistant shall not provide treatment intervention unwarranted  
15 by the condition of the patient, nor shall he continue treatment  
16 beyond the point of reasonable benefit.

17 J. A person may submit a complaint regarding a  
18 physical therapist, physical therapist assistant or other person  
19 potentially in violation of the Physical Therapy Act. The board  
20 shall keep all information relating to the receiving and  
21 investigation of complaints filed against licensees confidential  
22 until the information becomes public record according to the  
23 Inspection of Public Records Act.

24 K. Each licensee shall display a copy of his license  
25 and current renewal verification in a location accessible to

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1 public view at his place of practice.

2 Section 241. [NEW MATERIAL] DISCIPLINARY ACTIONS--  
3 PENALTIES. --

4 A. The board, upon satisfactory proof that any grounds  
5 enumerated in Section 239 of this act have been violated, may  
6 take the following disciplinary action singly or in combination:

- 7 (1) issue a letter of censure or reprimand;
- 8 (2) issue a restricted license, including  
9 requiring the licensee to report regularly to the board on  
10 matters related to the grounds for the restricted license;
- 11 (3) suspend a license for a period determined by  
12 the board;
- 13 (4) revoke a license;
- 14 (5) refuse to issue or renew a license;
- 15 (6) impose fines in accordance with the Physical  
16 Therapy Act; and
- 17 (7) accept a voluntary surrendering of a license.

18 B. Disciplinary actions of the board shall be taken in  
19 accordance with the Uniform Licensing Act.

20 C. The board may institute any legal proceedings  
21 necessary to effect compliance with the Physical Therapy Act,  
22 including:

- 23 (1) receiving and investigating complaints filed  
24 against licensees;
- 25 (2) conducting an investigation at any time and



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1 on its own initiative without receipt of a written complaint if  
2 the board has reason to believe that there may be a violation of  
3 the Physical Therapy Act;

4 (3) issuing subpoenas and compelling the  
5 attendance of witnesses or the production of documents relative  
6 to the case; and

7 (4) appointing hearing officers. Hearing  
8 officers shall prepare and submit to the board findings of fact,  
9 conclusions of law and an order that shall be reviewed and voted  
10 upon by the board.

11 Section 242. [NEW MATERIAL] UNLAWFUL PRACTICE--CRIMINAL  
12 AND CIVIL PENALTIES--INJUNCTIVE RELIEF.--

13 A. A person who engages in an activity requiring a  
14 license pursuant to the provisions of the Physical Therapy Act  
15 and who fails to obtain the required license; who violates any  
16 provision of the Physical Therapy Act; or who uses any word,  
17 title or representation to induce the false belief that the  
18 person is licensed to engage in the practice of physical therapy  
19 is guilty of a misdemeanor and shall be punished by a fine of  
20 not more than one thousand dollars (\$1,000) or by imprisonment  
21 of not more than one year, or both.

22 B. The board may apply for injunctive relief in any  
23 court of competent jurisdiction to enjoin a person from  
24 committing an act in violation of the Physical Therapy Act.  
25 Such injunction proceedings shall be in addition to and not in

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1 lieu of penalties and other remedies in the Physical Therapy  
2 Act.

3 C. The board may assess a civil penalty of up to one  
4 thousand dollars (\$1,000) for a first offense and up to five  
5 thousand dollars (\$5,000) for a second or subsequent offense  
6 against a licensee who aids or abets an unlicensed person to  
7 directly or indirectly evade the Physical Therapy Act or the  
8 applicable licensing laws; or permits his license to be used by  
9 an unlicensed person with the intent to evade the Physical  
10 Therapy Act or the applicable licensing laws, pursuant to the  
11 notice of hearing and appeal procedures pursuant to the Uniform  
12 Licensing Act. The civil penalties provided in this subsection  
13 are in addition to other disciplinary measures provided in the  
14 Physical Therapy Act. Civil penalties shall be deposited with  
15 the state treasurer to the credit of the current school fund.

16 Section 243. [NEW MATERIAL] TERMINATION OF AGENCY LIFE--  
17 DELAYED REPEAL. --The physical therapy board is terminated on  
18 July 1, 2003 pursuant to the Sunset Act. The board shall  
19 continue to operate according to the provisions of the Physical  
20 Therapy Act until July 1, 2004. Effective July 1, 2004, the  
21 Physical Therapy Act is repealed.

22 Section 244. [NEW MATERIAL] TEMPORARY PROVISION--EXISTING  
23 REGULATIONS--LICENSURE UNDER PRIOR LAW. --

24 A. Existing rules regarding physical therapy services  
25 shall remain in effect until new rules are adopted pursuant to

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1 the provisions of the Physical Therapy Act.

2 B. A person licensed to perform physical therapy  
3 services pursuant to the provisions of prior law, whose license  
4 is valid on July 1, 1997, is entitled to renew his license  
5 pursuant to the provisions of the Physical Therapy Act.

6 Section 245. TEMPORARY PROVISIONS--TRANSFERS. --

7 A. On the effective date of this act, all  
8 appropriations, money and personal property of the New Mexico  
9 athletic commission held by the state shall be transferred to  
10 the commission. All agreements and contractual obligations of  
11 the regulation and licensing department pertaining to the New  
12 Mexico athletic commission shall be binding on the commission.

13 B. On the effective date of this act, all  
14 appropriations, money and personal property of the board of  
15 optometry held by the state shall be transferred to the board.  
16 All agreements and contractual obligations of the regulation and  
17 licensing department pertaining to the board of optometry shall  
18 be binding on the board.

19 C. On the effective date of this act, all  
20 appropriations, money and personal property of the chiropractic  
21 board held by the state shall be transferred to the board. All  
22 agreements and contractual obligations of the regulation and  
23 licensing department pertaining to the chiropractic board shall  
24 be binding on the board.

25 D. On the effective date of this act, all

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1 appropriations, money and personal property of the New Mexico  
2 board of dental health care and the New Mexico dental hygienists  
3 committee held by the state shall be transferred to the board  
4 and the committee, respectively. All agreements and contractual  
5 obligations of the regulation and licensing department  
6 pertaining to the New Mexico board of dental health care and the  
7 New Mexico dental hygienists committee shall be binding on the  
8 board and committee, respectively.

9 E. On the effective date of this act, all  
10 appropriations, money and personal property of the nutrition and  
11 dietetics practice board held by the state shall be transferred  
12 to the board. All agreements and contractual obligations of the  
13 regulation and licensing department pertaining to the nutrition  
14 and dietetics practice board shall be binding on the board.

15 F. On the effective date of this act, all  
16 appropriations, money and personal property of the board of  
17 podiatry held by the state shall be transferred to the board.  
18 All agreements and contractual obligations of the regulation and  
19 licensing department pertaining to the board of podiatry shall  
20 be binding on the board.

21 G. On the effective date of this act, all  
22 appropriations, money and personal property of the New Mexico  
23 state board of psychologist examiners held by the state shall be  
24 transferred to the board. All agreements and contractual  
25 obligations of the regulation and licensing department

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1     pertaining to the New Mexico state board of psychologist  
2     examiners shall be binding on the board.

3             H. On the effective date of this act, all  
4     appropriations, money and personal property of the counseling  
5     and therapy practice board held by the state shall be  
6     transferred to the board. All agreements and contractual  
7     obligations of the regulation and licensing department  
8     pertaining to the counseling and therapy practice board shall be  
9     binding on the board.

10            I. On the effective date of this act, all  
11     appropriations, money and personal property of the board of  
12     osteopathic medical examiners held by the state shall be  
13     transferred to the board. All agreements and contractual  
14     obligations of the regulation and licensing department  
15     pertaining to the board of osteopathic medical examiners shall  
16     be binding on the board.

17            J. On the effective date of this act, all  
18     appropriations, money and personal property of the board of  
19     pharmacy held by the state shall be transferred to the board.  
20     All agreements and contractual obligations of the regulation and  
21     licensing department pertaining to the board of pharmacy shall  
22     be binding on the board.

23            K. On the effective date of this act, all  
24     appropriations, money and personal property of the physical  
25     therapists' licensing board held by the state shall be

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1 transferred to the physical therapy board. All agreements and  
2 contractual obligations of the regulation and licensing  
3 department pertaining to the physical therapists' licensing  
4 board shall be binding on the physical therapy board.

5 L. On the effective date of this act, all  
6 appropriations, money and personal property of the board of  
7 examiners for occupational therapy held by the state shall be  
8 transferred to the board. All agreements and contractual  
9 obligations of the regulation and licensing department  
10 pertaining to the board of examiners for occupational therapy  
11 shall be binding on the board.

12 M. On the effective date of this act, all  
13 appropriations, money and personal property of the advisory  
14 board of respiratory care practitioners held by the state shall  
15 be transferred to the board of respiratory care practitioners.  
16 All agreements and contractual obligations of the regulation and  
17 licensing department pertaining to respiratory care  
18 practitioners shall be binding on the board of respiratory care  
19 practitioners.

20 N. On the effective date of this act, all  
21 appropriations, money and personal property of the board of  
22 massage therapy held by the state shall be transferred to the  
23 board. All agreements and contractual obligations of the  
24 regulation and licensing department pertaining to the board of  
25 massage therapy shall be binding on the board.

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1           O. On the effective date of this act, all  
2 appropriations, money and personal property of the board of  
3 nursing home administrators held by the state shall be  
4 transferred to the board. All agreements and contractual  
5 obligations of the regulation and licensing department  
6 pertaining to the board of nursing home administrators shall be  
7 binding on the board.

8           P. On the effective date of this act, all  
9 appropriations, money and personal property of the board of  
10 acupuncture and oriental medicine held by the state shall be  
11 transferred to the board. All agreements and contractual  
12 obligations of the regulation and licensing department  
13 pertaining to the board of acupuncture and oriental medicine  
14 shall be binding on the board.

15           Q. On the effective date of this act, all  
16 appropriations, money and personal property of the speech  
17 language pathology, audiology and hearing aid dispensing  
18 practices board held by the state shall be transferred to the  
19 board. All agreements and contractual obligations of the  
20 regulation and licensing department pertaining to the speech  
21 language pathology, audiology and hearing aid dispensing  
22 practices board shall be binding on the board.

23           R. On the effective date of this act, all  
24 appropriations, money and personal property of the athletic  
25 trainer practice board held by the state shall be transferred to

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1 the board. All agreements and contractual obligations of the  
2 regulation and licensing department pertaining to the athletic  
3 trainer practice board shall be binding on the board.

4 S. On the effective date of this act, all  
5 appropriations, money and personal property of the board of  
6 barbers and cosmetologists held by the state shall be  
7 transferred to the board. All agreements and contractual  
8 obligations of the regulation and licensing department  
9 pertaining to the board of barbers and cosmetologists shall be  
10 binding on the board.

11 T. On the effective date of this act, all  
12 appropriations, money and personal property of the board of  
13 landscape architects held by the state shall be transferred to  
14 the board. All agreements and contractual obligations of the  
15 regulation and licensing department pertaining to the board of  
16 landscape architects shall be binding on the board.

17 U. On the effective date of this act, all  
18 appropriations, money and personal property of the interior  
19 design board held by the state shall be transferred to the  
20 board. All agreements and contractual obligations of the  
21 regulation and licensing department pertaining to the interior  
22 design board shall be binding on the board.

23 V. On the effective date of this act, all  
24 appropriations, money and personal property of the advisory  
25 board of the regulation and licensing department for private



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1 investigators and polygraphers held by the state shall be  
2 transferred to the private investigators and polygraphers board.  
3 All agreements and contractual obligations of the regulation and  
4 licensing department pertaining to private investigators and  
5 polygraphers shall be binding on the private investigators and  
6 polygraphers board.

7 W. On the effective date of this act, all  
8 appropriations, money and personal property of the New Mexico  
9 state board of public accountancy held by the state shall be  
10 transferred to the board. All agreements and contractual  
11 obligations of the regulation and licensing department  
12 pertaining to the New Mexico state board of public accountancy  
13 shall be binding on the board.

14 X. On the effective date of this act, all  
15 appropriations, money and personal property of the New Mexico  
16 real estate commission, including the real estate recovery fund,  
17 held by the state shall be transferred to the commission. All  
18 agreements and contractual obligations of the regulation and  
19 licensing department pertaining to the New Mexico real estate  
20 commission or the real estate recovery fund shall be binding on  
21 the commission.

22 Y. On the effective date of this act, all  
23 appropriations, money and personal property of the real estate  
24 appraisers board held by the state shall be transferred to the  
25 board. All agreements and contractual obligations of the

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1 regulation and licensing department pertaining to the real  
2 estate appraisers board shall be binding on the board.

3 Z. On the effective date of this act, all  
4 appropriations, money and personal property of the board of  
5 social work examiners held by the state shall be transferred to  
6 the board. All agreements and contractual obligations of the  
7 regulation and licensing department pertaining to the board of  
8 social work examiners shall be binding on the board.

9 AA. On the effective date of this act, all  
10 appropriations, money and personal property of the board of  
11 thanatopractice held by the state shall be transferred to the  
12 board. All agreements and contractual obligations of the  
13 regulation and licensing department pertaining to the board of  
14 thanatopractice shall be binding on the board.

15 Section 246. REPEAL. --

16 A. Sections 61-12-1 through 61-12-21 NMSA 1978 (being  
17 Laws 1953, Chapter 136, Section 1, Laws 1979, Chapter 369,  
18 Sections 2 and 3, Laws 1953, Chapter 136, Sections 3 through 11,  
19 Laws 1979, Chapter 369, Section 9, Laws 1953, Chapter 136,  
20 Sections 13 through 15, Laws 1974, Chapter 78, Section 18, Laws  
21 1953, Chapter 136, Sections 16 through 20 and Laws 1979, Chapter  
22 369, Section 12, as amended) are repealed.

23 B. Laws 1983, Chapter 297, Section 30 is repealed.

24 Section 247. EFFECTIVE DATE. -- The effective date of the  
25 provisions of this act is July 1, 1997.

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

Your BUSINESS AND INDUSTRY COMMITTEE, to whom has  
been referred

HOUSE BILL 1160

has had it under consideration and reports same with  
recommendation that it DO NOT PASS, but that

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE  
FOR HOUSE BILL 1160

DO PASS, and thence referred to the GOVERNMENT AND  
URBAN AFFAIRS COMMITTEE.

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

HBIC/HB 1160

Page 284

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Respectfully submitted,

\_\_\_\_\_  
Fred Luna, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 0 Against

Yes: 7

Excused: Alwin, Gubbels, Hobbs, Kissner, Rodella

Absent: Getty

M \H1160

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 1160

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO LICENSURE; ELIMINATING STATE CONTROL OVER THE NEW MEXICO STATE BOARD OF PUBLIC ACCOUNTANCY, THE PHYSICAL THERAPY BOARD AND THE BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE AS A PILOT PROJECT; MAKING EXCEPTIONS TO STATE LAWS PERTAINING TO STATE MONEY, PERSONNEL, RETIREMENT, TORT CLAIMS AND ATTORNEY GENERAL AND STATE AUDITOR SERVICES; EXEMPTING THOSE BOARDS AND THEIR EMPLOYEES FROM CERTAIN STATE LAWS AND COVERING THEM UNDER OTHERS; EXTENDING SUNSET DATES; PROVIDING FOR TRANSFERS OF MONEY, APPROPRIATIONS AND OTHER PERSONAL PROPERTY OF THOSE BOARDS; REPEALING THE PHYSICAL THERAPIST ACT; ENACTING THE PHYSICAL THERAPY ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 61-14A-1 NMSA 1978 (being Laws 1993, Chapter 158, Section 9) is amended to read:

"61-14A-1. SHORT TITLE. -- [~~Sections 61-14A-1 through 61-14A-21~~] Chapter 61, Article 14A NMSA 1978 may be cited as the

.117810.1

1 "Acupuncture and Oriental Medicine Practice Act". "

2 Section 2. Section 61-14A-3 NMSA 1978 (being Laws 1993,  
3 Chapter 158, Section 11) is amended to read:

4 "61-14A-3. DEFINITIONS. --As used in the Acupuncture and  
5 Oriental Medicine Practice Act:

6 A. "acupuncture" means the use of needles inserted  
7 into the human body and the use of other modalities and  
8 procedures at specific locations on the body for the prevention,  
9 cure or correction of any disease, illness, injury, pain or  
10 other condition by controlling and regulating the flow and  
11 balance of energy and functioning of the person to restore and  
12 maintain health;

13 B. "board" means the board of acupuncture and oriental  
14 medicine;

15 ~~[C. "department" means the regulation and licensing  
16 department;~~

17 ~~D.]~~ C. "doctor of oriental medicine" means a physician  
18 licensed to practice acupuncture and oriental medicine and  
19 includes the terms "oriental medical physician", "doctor of  
20 acupuncture", "acupuncture physician", "acupuncture  
21 practitioner" and "acupuncturist";

22 ~~[E.]~~ D. "moxibustion" means the use of heat on or  
23 above specific locations or on acupuncture needles at specific  
24 locations on the body for the prevention, cure or correction of  
25 any disease, illness, injury, pain or other condition;

~~[F.]~~ E. "oriental medicine" means the distinct system  
of primary health care that uses all allied techniques of  
oriental medicine, both traditional and modern, to diagnose,

1 treat and prescribe, as defined in Subsection ~~[G]~~ F of this  
 2 section, for the prevention, cure or correction of any disease,  
 3 illness, injury, pain or other physical or mental condition by  
 4 controlling and regulating the flow and balance of energy and  
 5 functioning of the person to restore and maintain health; and

6 ~~[G.]~~ E. "techniques of oriental medicine" means the  
 7 diagnostic and treatment techniques utilized in oriental medicine  
 8 that include ~~[but are not limited to]~~ diagnostic procedures;  
 9 acupuncture; moxibustion; manual therapy, also known as tui na;  
 10 breathing and exercise techniques; dietary, nutritional and  
 11 lifestyle counseling; and the prescription or administration of any  
 12 herbal medicine, homeopathic medicine, vitamin, mineral, enzyme or  
 13 glandular or nutritional supplement. "

14 Section 3. Section 61-14A-7 NMSA 1978 (being Laws 1993,  
 15 Chapter 158, Section 15) is amended to read:

16 "61-14A-7. BOARD CREATED--APPOINTMENT--OFFICERS--  
 17 COMPENSATION.--

18 A. There is created the "board of acupuncture and  
 19 oriental medicine".

20 ~~[B. The board shall be administratively attached to the  
 21 department.]~~

22 ~~G.]~~ B. The board shall consist of seven members appointed  
 23 by the governor for terms of three years each. Four members of the  
 24 board shall be doctors of oriental medicine who have been licensed  
 25 to practice acupuncture and oriental medicine in New Mexico for at  
 least five years and have practiced in New Mexico for at least two  
 years preceding the date of their appointment. Three members shall  
 be appointed to represent the public and shall not have practiced

1 acupuncture and oriental medicine in this or any other jurisdiction  
2 or have any financial interest in the profession regulated. No  
3 more than two board members shall be:

4 (1) owners of institutes offering educational  
5 programs in acupuncture and oriental medicine;

6 (2) faculty members at institutes offering  
7 educational programs in acupuncture and oriental medicine;

8 (3) private tutors offering educational programs in  
9 acupuncture and oriental medicine; or

10 (4) officers in a professional association of  
11 acupuncture and oriental medicine.

12 [~~D.~~] C. Members of the board shall be appointed by the  
13 governor for staggered terms of three years that shall be made in  
14 such a manner that the terms of board members will expire on July  
15 1. When a board member's term has expired, he shall serve until  
16 his successor has been appointed and qualified. Vacancies from an  
unexpired term shall be filled for the remainder of the term in the  
same manner as the original appointment.

17 [~~E.~~] D. No board member shall serve more than two  
18 consecutive full terms, and any member failing to attend, after he  
19 has received proper notice, three consecutive meetings shall be  
20 recommended for removal as a board member unless excused for  
21 reasons set forth by rule.

22 [~~F.~~] E. The board shall elect annually from its  
23 membership a chairman and other officers as necessary to carry out  
its duties.

24 [~~G.~~] F. The board shall meet at least once each year and  
25 at other times deemed necessary. Other meetings may be called by



1 the chairman, a majority of board members or the governor. A  
 2 simple majority of the board members serving constitutes a quorum  
 3 of the board.

4 ~~[H.] G. Members of the board shall [be reimbursed as~~  
 5 ~~provided in the Per Diem and Mileage Act and shall receive no other~~  
 6 ~~compensation, perquisite or allowance]~~ serve without compensation  
 7 other than reasonable reimbursement for mileage and per diem as  
 8 determined by the board and paid from board funds. "

9 Section 4. Section 61-14A-8 NMSA 1978 (being Laws 1993,  
 10 Chapter 158, Section 16) is amended to read:

11 "61-14A-8. BOARD--POWERS.--In addition to any other authority  
 12 provided by law, the board shall have the power to:

13 A. enforce the provisions of the Acupuncture and Oriental  
 14 Medicine Practice Act;

15 B. adopt, publish and file, in accordance with the  
 16 Uniform Licensing Act and the State Rules Act, all rules and  
 17 regulations necessary for the implementation and enforcement of the  
 18 provisions of the Acupuncture and Oriental Medicine Practice Act;

19 C. adopt a code of ethics;

20 D. adopt and use a seal;

21 E. inspect institutes, tutorships and the offices of  
 22 licensees;

23 F. adopt rules implementing continuing education  
 24 requirements for the purpose of protecting the health and well-  
 25 being of the citizens of this state and maintaining and continuing  
 informed professional knowledge and awareness;

G. employ agents or attorneys;

H. issue investigative subpoenas for the purpose of

1 investigating complaints against licensees prior to the issuance of  
2 a notice of contemplated action;

3 I. administer oaths and take testimony on any matters  
4 within the board's jurisdiction;

5 J. conduct hearings upon charges relating to the  
6 discipline of licensees, including the denial, suspension or  
7 revocation of a license in accordance with the Uniform Licensing  
8 Act; [~~and~~]

9 K. grant, deny, renew, suspend or revoke licenses to  
10 practice acupuncture and oriental medicine in accordance with the  
11 provisions of the Uniform Licensing Act for any cause stated in the  
12 Acupuncture and Oriental Medicine Practice Act or the rules and  
13 regulations of the board;

14 L. employ staff it deems necessary to assist it in  
15 carrying out its duties pursuant to the Acupuncture and Oriental  
16 Medicine Practice Act and may provide for health insurance or other  
17 benefits for them. Except as otherwise provided in that act,  
18 employees serve at the pleasure of the board and are exempt from  
19 the provisions of the Personnel Act; and

20 M. enter into contracts."

21 Section 5. A new section of the Acupuncture and Oriental  
22 Medicine Practice Act is enacted to read:

23 "[~~NEW MATERIAL~~] LEGAL SERVICES. -- Upon request of the board,  
24 the attorney general shall provide such legal services to the board  
25 necessary for the administration of the Acupuncture and Oriental  
Medicine Practice Act; provided, however, that the board may, in  
its discretion, employ or contract for the services of other  
attorneys to assist it in the administration of that act."

1 Section 6. A new section of the Acupuncture and Oriental  
2 Medicine Practice Act is enacted to read:

3 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

4 A. The board is specifically exempted from the provisions  
5 of the Procurement Code, the Art in Public Places Act, the  
6 Information and Communication Management Act and Sections 6-3-1  
7 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1 through 15-3-34  
8 NMSA 1978.

9 B. The board is also specifically exempted from the  
10 provisions of the Deferred Compensation Act, the Group Benefits  
11 Act, the Public Employee Bargaining Act, the Per Diem and Mileage  
12 Act and Sections 10-7-1 through 10-7-19 NMSA 1978; provided,  
13 however, that an employee of the regulation and licensing  
14 department who subsequently becomes employed by the board without a  
15 break in service may, by agreement of the board, continue to  
16 participate in and be covered by those acts until separation from  
17 employment with the board. Where required under those acts, the  
18 board shall make contributions for the participating employee.

19 C. The board is also specifically exempted from the  
20 provisions of the Public Employees Retirement Act and the Retiree  
21 Health Care Act; provided, however, that an employee of the  
22 regulation and licensing department who subsequently becomes  
23 employed by the board without a break in service may, by agreement  
24 of the board, continue to participate in the public employee  
25 retirement system under the terms and conditions of the Public  
Employees Retirement Act and the retiree health care system under  
the terms and conditions of the Retiree Health Care Act until  
separation from employment with the board. The board shall make

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1 contributions as required by those acts for the participating  
2 employee.

3 D. The board is also specifically exempted from the  
4 provisions of the Personnel Act; provided, however, that an  
5 employee in the classified service in the regulation and licensing  
6 department who subsequently becomes employed by the board without a  
7 break in service may, by agreement of the board, remain in the  
8 classified service and be covered by the Personnel Act until  
9 separation from the employment with the board. For all other  
employees, the board may adopt its own employment policies. "

10 Section 7. A new section of the Acupuncture and Oriental  
11 Medicine Practice Act is enacted to read:

12 "[NEW MATERIAL] APPLICABILITY OF OTHER ACTS. --The board, as  
13 an organization and its individual members and employees, is  
14 specifically subject to and covered by the provisions of the Tort  
15 Claims Act, the Joint Powers Agreements Act, the Inspection of  
16 Public Records Act, the Public Records Act, the Open Meetings Act,  
17 the Governmental Conduct Act, the Financial Disclosure Act and any  
18 other state law applicable to the board unless otherwise  
specifically exempted in the Acupuncture and Oriental Medicine  
Practice Act. "

19 Section 8. Section 61-14A-18 NMSA 1978 (being Laws 1993,  
20 Chapter 158, Section 26) is repealed and a new Section 61-14A-18  
21 NMSA 1978 is enacted to read:

22 "61-14A-18. [NEW MATERIAL] BOARD FUNDS. --

23 A. All money received by the board from fees provided for  
24 in the Acupuncture and Oriental Medicine Practice Act shall be  
25 deposited in an account in a federally insured financial

1 institution qualified to do business in New Mexico. Money in the  
 2 account shall be withdrawn on the order of the board or its  
 3 designee and shall be used only to carry out the board's duties  
 4 pursuant to that act.

5 B. In accordance with the provisions of the Audit Act,  
 6 the state auditor may examine the accounts and books of the board,  
 7 including its receipts, disbursements, contracts, leases and other  
 8 records relating to the performance of its duties pursuant to the  
 9 Acupuncture and Oriental Medicine Practice Act. In addition, the  
 10 governor may call for any additional, special audits by the state  
 11 auditor whenever deemed necessary for the protection and oversight  
 12 of board funds.

13 C. Money of the board is not public money or state funds  
 14 within the meaning of any law of the state relating to investment,  
 15 deposit, security or expenditure of public money. "

16 Section 9. Section 61-28A-1 NMSA 1978 (being Laws 1992,  
 17 Chapter 10, Section 1) is amended to read:

18 "61-28A-1. SHORT TITLE. -- ~~[Sections 1 through 26, 28 and 29 of~~  
 19 ~~this act]~~ Chapter 61, Article 28A NMSA 1978 may be cited as the  
 20 "Public Accountancy Act". "

21 Section 10. Section 61-28A-3 NMSA 1978 (being Laws 1992,  
 22 Chapter 10, Section 3) is amended to read:

23 "61-28A-3. DEFINITIONS. -- As used in the Public Accountancy  
 24 Act:

25 A. "board" means the New Mexico state board of public  
 accountancy;

B. "certified public accountant" means an individual who  
 has successfully met the certification requirements for certified

1 public accountant set forth in the Public Accountancy Act and who  
2 has been granted a certificate by the board;

3 C. "continuing professional education" means courses in  
4 accounting, auditing, tax or other functions of public accountancy  
5 identified and approved by the board and provided to individuals  
6 seeking to maintain a valid permit to practice;

7 D. "firm" means a sole proprietorship, a professional  
8 corporation or a partnership;

9 E. "fund" means the [~~public accountancy fund~~] board fund;

10 F. "person" means an individual or firm;

11 G. "practice" means the performance of public accountancy  
12 or the offering to perform public accountancy for a client or  
13 potential client by a person holding himself out to the public as a  
14 permit holder or registered firm;

15 H. "practitioner" means a registered firm or an  
16 individual engaged in the practice of public accountancy holding a  
17 valid certificate and permit;

18 I. "public accountancy" means the performance of one or  
19 more kinds of services involving accounting or auditing skills,  
20 including the issuance of reports on financial statements, the  
21 performance of one or more kinds of management, financial advisory  
22 or consulting services, the preparation of tax returns or the  
23 furnishing of advice on tax matters;

24 J. "quality review" means a study, appraisal or review of  
25 one or more aspects of the accounting and auditing work of a  
26 practitioner by a practitioner who is not affiliated with the  
27 person being reviewed;

28 K. "reciprocal jurisdiction" means a state or foreign

1 country identified by the board by rule as having standards for  
2 authorizing a person to practice public accountancy equivalent to  
3 those prescribed in New Mexico law and by board rule;

4 L. "registered firm" means a firm that has been granted a  
5 registration by the board pursuant to the Public Accountancy Act;

6 M "registered public accountant" means an individual  
7 who, prior to December 31, 1990, successfully met the certification  
8 requirements for registered public accountant set forth in the  
9 Public Accountancy Act or in prior law and who has been granted a  
certificate by the board;

10 N. "report" means an opinion or other writing that:

11 (1) states or implies assurance as to the  
12 reliability of any financial statements;

13 (2) includes or is accompanied by any statement or  
14 implication that the person issuing it has special knowledge or  
15 competency in accounting or auditing indicated by the use of names,  
16 titles or abbreviations likely to be understood to identify the  
author of the report as a practitioner; and

17 (3) includes the following types of reports as they  
18 are defined by board rule:

19 (a) a compilation report;

20 (b) a review report; or

21 (c) an audit report;

22 O. "rule" means any written directive of general  
23 application duly adopted by the board; and

24 P. "state" means any state or insular possession of the  
25 United States, including the District of Columbia, Puerto Rico, the  
United States Virgin Islands and Guam."

1 Section 11. Section 61-28A-7 NMSA 1978 (being Laws 1992,  
2 Chapter 10, Section 7) is amended to read:

3 "61-28A-7. BOARD--OFFICERS--MEETINGS--REIMBURSEMENT.--

4 A. The board shall elect annually from among its members  
5 a chairman and a secretary-treasurer. Surety bond coverage shall  
6 be in accordance with the Surety Bond Act.

7 B. The board shall meet at such times and places as may  
8 be fixed by the board. A majority of the board members then in  
9 office shall constitute a quorum at any meeting duly called.  
10 Meetings of the board shall be open to the public as required by  
11 the Open Meetings Act.

12 C. Each member of the board shall ~~[receive per diem and~~  
13 ~~mileage as provided in the Per Diem and Mileage Act and shall~~  
14 ~~receive no other compensation, perquisite or allowance]~~ serve  
15 without compensation other than reasonable reimbursement for  
16 mileage and per diem as determined by the board and paid from board  
17 funds.

18 D. The limit and extent of immunity provided to members  
19 of the board shall be defined by the Tort Claims Act."

20 Section 12. Section 61-28A-8 NMSA 1978 (being Laws 1992,  
21 Chapter 10, Section 8, as amended) is amended to read:

22 "61-28A-8. BOARD--POWERS AND DUTIES.--

23 A. The board shall retain or arrange for the retention of  
24 all applications, all documents under oath that are filed with the  
25 board and all records of its proceedings, and it shall maintain a  
26 registry of the names and addresses of all certificate and permit  
27 holders and registered firms.

28 B. The board may employ an executive director ~~[as an~~



1 ~~exempt employee]~~ and such other personnel as it deems necessary for  
 2 its administration and enforcement of the Public Accountancy Act  
 3 and provide for health insurance or other benefits for them.  
 4 Except as otherwise provided in the Public Accountancy Act,  
 5 employees shall serve at the pleasure of the board and are exempt  
 6 from the provisions of the Personnel Act.

7 C. The board may retain its own counsel to advise and  
 8 assist it [~~in addition to such~~] or may in its discretion request  
 9 the advice and assistance [as is provided by] of the attorney  
 10 general.

11 D. The board may sue and be sued in its official name [~~as~~  
 12 ~~an agency of New Mexico~~]. To promote fair and complete  
 13 investigations and hearings, the board may issue subpoenas to  
 14 compel the attendance of witnesses and the production of documents,  
 15 administer oaths, take testimony and receive evidence concerning  
 16 all matters within its jurisdiction according to the provisions of  
 17 the Uniform Licensing Act and pursuant to rules adopted by the  
 18 board.

19 E. The board shall adopt rules governing its  
 20 administration and enforcement of the Public Accountancy Act. All  
 21 rulemaking activities shall be carried out pursuant to the  
 22 provisions of the Uniform Licensing Act.

23 F. The board may conduct investigations and hearings upon  
 24 its own motion or after receiving notice from any person of an  
 25 alleged violation of the Public Accountancy Act. All hearings  
 regarding alleged violations of that act shall be conducted  
 pursuant to the provisions of the Uniform Licensing Act.  
 Injunctions and appeals from board orders or decisions shall be

1 pursued according to the provisions of the Uniform Licensing Act  
2 and the rules of civil procedure in the district courts.

3 G. The board shall promulgate rules governing the  
4 professional and ethical conduct of practitioners.

5 H. The board shall exercise such powers as are necessary  
6 to carry out the provisions of the Public Accountancy Act.

7 I. The board shall establish by rule the standards and  
8 means by which a practitioner may use a title, designation or  
9 abbreviation that indicates he is a specialist or has special  
10 expertise in conjunction with the practice of public accountancy."

11 Section 13. A new section of the Public Accountancy Act is  
12 enacted to read:

13 "[NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

14 A. The board is specifically exempted from the provisions  
15 of the Procurement Code, the Art in Public Places Act, the  
16 Information and Communication Management Act and Sections 6-3-1  
17 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1 through 15-3-34  
18 NMSA 1978.

19 B. The board is also specifically exempted from the  
20 provisions of the Deferred Compensation Act, the Group Benefits  
21 Act, the Public Employee Bargaining Act, the Per Diem and Mileage  
22 Act and Sections 10-7-1 through 10-7-19 NMSA 1978; provided,  
23 however, that an employee of the regulation and licensing  
24 department who subsequently becomes employed by the board without a  
25 break in service may, by agreement of the board, continue to  
participate in and be covered by those acts until separation from  
employment with the board. Where required under those acts, the  
board shall make contributions for the participating employee.

1 C. The board is also specifically exempted from the  
 2 provisions of the Public Employees Retirement Act and the Retiree  
 3 Health Care Act; provided, however, that an employee of the  
 4 regulation and licensing department who subsequently becomes  
 5 employed by the board without a break in service may, by agreement  
 6 of the board, continue to participate in the public employee  
 7 retirement system under the terms and conditions of the Public  
 8 Employees Retirement Act and the retiree health care system under  
 9 the terms and conditions of the Retiree Health Care Act until  
 10 separation from employment with the board. The board shall make  
 11 contributions as required by those acts for the participating  
 12 employee.

13 D. The board is also specifically exempted from the  
 14 provisions of the Personnel Act; provided, however, that an  
 15 employee in the classified service in the regulation and licensing  
 16 department who subsequently becomes employed by the board without a  
 17 break in service may, by agreement of the board, remain in the  
 18 classified service and be covered by the Personnel Act until  
 19 separation from employment with the board. For all other  
 20 employees, the board may adopt its own employment policies. "

21 Section 14. A new section of the Public Accountancy Act is  
 22 enacted to read:

23 " [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The board, as  
 24 an organization and its individual members and employees, is  
 25 specifically subject to and covered by the provisions of the Tort  
 Claims Act, the Joint Powers Agreements Act, the Inspection of  
 Public Records Act, the Public Records Act, the Open Meetings Act,  
 the Governmental Conduct Act, the Financial Disclosure Act and any

1 other state law applicable to the board unless otherwise  
2 specifically exempted in the Public Accountancy Act. "

3 Section 15. Section 61-28A-22 NMSA 1978 (being Laws 1992,  
4 Chapter 10, Section 22) is repealed and a new Section 61-28A-22  
5 NMSA 1978 is enacted to read:

6 "61-28A-22. [NEW MATERIAL] BOARD FUNDS. --

7 A. All money received by the board from fees provided for  
8 in the Public Accountancy Act shall be deposited in an account in a  
9 federally insured financial institution qualified to do business in  
10 New Mexico. Money in the account shall be withdrawn on the order  
11 of the board or its designee and shall only be used to carry out  
12 the board's duties pursuant to that act.

13 B. In accordance with the provisions of the Audit Act,  
14 the state auditor may examine the accounts and books of the board,  
15 including its receipts, disbursements, contracts, leases and other  
16 records relating to the performance of its duties pursuant to the  
17 Public Accountancy Act. In addition, the governor may call for any  
18 additional, special audits by the state auditor whenever deemed  
19 necessary for the protection and oversight of board funds.

20 C. Money of the board is not public money or state funds  
21 within the meaning of any law of the state relating to investment,  
22 deposit, security or expenditure of public money. "

23 Section 16. [NEW MATERIAL] SHORT TITLE. -- Sections 16 through  
24 34 of this act may be cited as the "Physical Therapy Act".

25 Section 17. [NEW MATERIAL] LEGISLATIVE PURPOSE. -- The purpose  
of the Physical Therapy Act is to protect the public health, safety  
and welfare and provide for control, supervision, licensure and  
regulation of the practice of physical therapy. To carry out those

1 purposes, only individuals who meet and maintain minimum standards  
 2 of competence and conduct may engage in the practice of physical  
 3 therapy. The practice of physical therapy is declared to affect  
 4 the public interest and that act shall be liberally construed so as  
 5 to accomplish the purpose stated in that act.

6 Section 18. [NEW MATERIAL] DEFINITIONS. -- As used in the  
 7 Physical Therapy Act:

8 A. "assistive personnel" means physical therapist  
 9 assistants, physical therapy aides and other assistive personnel;

10 B. "board" means the physical therapy board;

11 C. "other assistive personnel" means trained or educated  
 12 personnel other than physical therapist assistants or physical  
 13 therapy aides who perform specific designated tasks related to  
 14 physical therapy under the supervision of a physical therapist. At  
 15 the discretion of the supervising physical therapist and if not  
 16 prohibited by any other law, it may be appropriate for other  
 17 assistive personnel to be identified by the title specific to their  
 18 training or education;

19 D. "person" means an individual or other legal entity;

20 E. "physical therapist" means a person who is licensed in  
 21 this state to practice physical therapy;

22 F. "physical therapist assistant" means a person who  
 23 performs physical therapy procedures and related tasks pursuant to  
 24 a plan of care written by the supervising physical therapist;

25 G. "physical therapy" means the care and services  
 provided by or under the direction and supervision of a physical  
 therapist;

H. "physical therapy aide" means a person trained under

1 the direction of a physical therapist who performs designated and  
2 supervised routine physical therapy tasks;

3 I. "practice of physical therapy" means:

4 (1) examining and evaluating patients with  
5 mechanical, physiological and developmental impairments, functional  
6 limitations and disabilities or other health-related conditions in  
7 order to determine a diagnosis, prognosis and planned therapeutic  
8 intervention;

9 (2) alleviating impairments and functional  
10 limitations by designing, implementing and modifying therapeutic  
11 interventions that include therapeutic exercise; functional  
12 training in self-care and community or work reintegration; manual  
13 therapy techniques, including soft tissue and joint mobilization  
14 and manipulation; therapeutic massage; assistive and adaptive  
15 devices and equipment; bronchopulmonary hygiene; debridement and  
16 wound care; physical agents; mechanical and electrotherapeutic  
17 modalities; and patient-related instruction;

18 (3) preventing injury, impairments, functional  
19 limitations and disability, including the promotion and maintenance  
20 of fitness, health and quality of life in all age populations; and

21 (4) engaging in consultation, testing, education and  
22 research; and

23 J. "restricted license" means a license to which  
24 restrictions or conditions as to scope of practice, place of  
25 practice, supervision of practice, duration of licensed status or  
type or condition of patient or client served are imposed by the  
board.

Section 19. [NEW MATERIAL] BOARD CREATED. --

1           A. The "physical therapy board" is created. The board  
2 shall consist of five members appointed by the governor. Three  
3 members shall be physical therapists who are residents of the  
4 state, who possess unrestricted licenses to practice physical  
5 therapy and who have been practicing in New Mexico for no less than  
6 five years. Two members shall be citizens appointed from the  
7 public at large who are not associated with, or financially  
interested in, any health care profession.

8           B. All appointments shall be made for staggered terms of  
9 three years with no more than two terms ending at any one time.  
10 No member shall serve for more than two successive three-year  
11 terms. Vacancies shall be filled for the unexpired term by  
12 appointment by the governor prior to the next scheduled board  
meeting.

13           C. The governor may remove any member of the board for  
14 misconduct, incompetence or neglect of duty.

15           D. Members shall serve without compensation other than  
16 reasonable reimbursement for mileage and per diem as determined by  
17 the board and paid from board funds.

18           E. There shall be no liability on the part of and no  
19 action for damages against any board member when the member is  
20 acting within the scope of his duties.

21           Section 20. [NEW MATERIAL] POWERS AND DUTIES. --The board:

22           A. shall examine all applicants for licensure to practice  
23 physical therapy and issue licenses or permits to those who are  
duly qualified;

24           B. shall regulate the practice of physical therapy by  
25 interpreting and enforcing the provisions of the Physical Therapy

1 Act, including taking disciplinary action;

2 C. may adopt, file, amend or repeal rules and regulations  
3 in accordance with the Uniform Licensing Act to carry out the  
4 provisions of the Physical Therapy Act;

5 D. may meet as often as the board deems necessary in  
6 compliance with the Open Meetings Act. A majority of the members  
7 constitutes a quorum for the transaction of business. The board  
8 shall keep an official record of all its proceedings;

9 E. may establish requirements for assessing continuing  
10 competency;

11 F. may establish and collect fees for sustaining the  
12 necessary operation and expenses of the board;

13 G. may expend board funds as it deems necessary for  
14 carrying out the purposes and for the administration of the  
15 Physical Therapy Act;

16 H. may establish, impose and collect fines for violations  
17 of the Physical Therapy Act;

18 I. may elect such officers as it deems necessary for the  
19 operations and obligations of the board. Terms of office shall be  
20 one year;

21 J. shall provide for the timely orientation and training  
22 of new professional and public appointees to the board, including  
23 training in licensing and disciplinary procedures and orientation  
24 to all statutes, rules, policies and procedures of the board;

25 K. may employ an executive secretary and other personnel  
to carry out the administrative work of the board. The board may  
provide for health insurance or other benefits for those persons.  
Except as otherwise provided in the Physical Therapy Act, persons



1 employed by the board serve at the pleasure of the board and are  
 2 exempt from the provisions of the Personnel Act;

3 L. may enter into contracts for services determined to be  
 4 necessary for adequate administration and enforcement of the  
 5 Physical Therapy Act;

6 M shall report final disciplinary action taken against a  
 7 physical therapist or physical therapist assistant to the national  
 8 disciplinary data base;

9 N. shall publish at least annually final disciplinary  
 10 action taken against any physical therapist or physical therapist  
 11 assistant; and

12 O. may prescribe the forms of license certificates,  
 13 application forms and such other documents as it deems necessary to  
 14 carrying out of the provisions of the Physical Therapy Act.

15 Section 21. [NEW MATERIAL] BOARD FUNDS. --

16 A. All money received by the board from fees provided for  
 17 in the Physical Therapy Act shall be deposited in an account in a  
 18 federally insured financial institution qualified to do business in  
 19 New Mexico. Money in the account shall be withdrawn on the order  
 20 of the board or its designee and shall be used only to carry out  
 21 the board's duties under the Physical Therapy Act.

22 B. Pursuant to the Audit Act, the state auditor or his  
 23 legally authorized representatives may examine the accounts and  
 24 books of the board, including its receipts, disbursements,  
 25 contracts, leases and any other records relating to the performance  
 of its duties under the Physical Therapy Act. In addition, the  
 governor may call for additional, special audits to be conducted by  
 the state auditor or his legally authorized representatives

1 whenever deemed necessary for the protection and oversight of board  
2 funds.

3 C. Money of the board is not public money or state funds  
4 within the meaning of any law of the state relating to investment,  
5 deposit, security or expenditure of public money.

6 Section 22. [NEW MATERIAL] LEGAL SERVICES. -- Upon request of  
7 the board, the attorney general shall provide such legal services  
8 to the board necessary for the administration of the Physical  
9 Therapy Act. The board may, within its discretion, employ or  
10 contract for the services of licensed attorneys to assist it in the  
11 administration of the Physical Therapy Act.

12 Section 23. [NEW MATERIAL] EXEMPTION FROM CERTAIN ACTS. --

13 A. The board is specifically exempted from the provisions  
14 of the Procurement Code, the Art in Public Places Act, the  
15 Information and Communication Management Act and Sections 6-3-1  
16 through 6-3-25, 13-6-1 through 13-6-4 and 15-3-1 through 15-3-34  
17 NMSA 1978.

18 B. The board is also specifically exempted from the  
19 provisions of the Deferred Compensation Act, the Group Benefits  
20 Act, the Public Employee Bargaining Act, the Per Diem and Mileage  
21 Act and Sections 10-7-1 through 10-7-19 NMSA 1978; provided,  
22 however, that an employee of the regulation and licensing  
23 department who subsequently becomes employed by the board without a  
24 break in service may, by agreement of the board, continue to  
25 participate in and be covered by the provisions of those acts until  
separation from employment with the board. Where required under  
those acts, the board shall make contributions for participating  
employees.

1 C. The board is also specifically exempted from the  
 2 provisions of the Public Employees Retirement Act and the Retiree  
 3 Health Care Act; provided, however, that an employee of the  
 4 regulation and licensing department who subsequently becomes  
 5 employed by the board without a break in service may, by agreement  
 6 of the board, continue to participate in the public employee  
 7 retirement system under the terms and conditions of the Public  
 8 Employees Retirement Act and the retiree health care system under  
 9 the terms and conditions of the Retiree Health Care Act until  
 10 separation from employment with the board. The board shall make  
 11 contributions as required by those acts for a participating  
 12 employee.

13 D. The board is also specifically exempted from the  
 14 provisions of the Personnel Act; provided, however, that an  
 15 employee in the classified service in the regulation and licensing  
 16 department who subsequently becomes employed by the board without a  
 17 break in service may, by agreement of the board, remain in the  
 18 classified service and be covered by the Personnel Act until  
 19 separation from employment with the board. For all other  
 20 employees, the board may adopt its own employment policies.

21 Section 24. [NEW MATERIAL] APPLICABILITY OF OTHER ACTS. -- The  
 22 board, as an organization and its individual members and employees,  
 23 is specifically subject to and covered by the provisions of the  
 24 Tort Claims Act, the Joint Powers Agreements Act, the Inspection of  
 25 Public Records Act, the Public Records Act, the Open Meetings Act,  
 the Governmental Conduct Act, the Financial Disclosure Act and any  
 other state law applicable to the board unless otherwise  
 specifically exempted in the Physical Therapy Act.

1           Section 25.   [NEW MATERIAL]   PRACTICE OF PHYSICAL THERAPY--  
2   LICENSE REQUIRED. --

3           A.   No person shall practice or hold himself out to be  
4   engaging in the practice of physical therapy or designate himself  
5   as a physical therapist unless he is licensed as a physical  
6   therapist or is exempt from licensure as provided in the Physical  
7   Therapy Act.

8           B.   No person shall designate himself or act as a physical  
9   therapist assistant unless he is licensed as a physical therapist  
10   assistant or is exempt from licensure as provided in the Physical  
11   Therapy Act.

12           C.   A physical therapist shall refer persons under his  
13   care to the appropriate health care practitioner if the physical  
14   therapist has reasonable cause to believe symptoms or conditions  
15   are present that require services beyond his scope of practice or  
16   when physical therapy is contraindicated.

17           D.   Physical therapists or physical therapist assistants  
18   shall adhere to the recognized standards of ethics of the physical  
19   therapy profession.

20           Section 26.   [NEW MATERIAL]   USE OF TITLES-- RESTRICTIONS. --

21           A.   A physical therapist shall use the letters "PT" in  
22   connection with his name or place of business to denote licensure  
23   pursuant to the Physical Therapy Act.

24           B.   It is unlawful for a person or his employees, agents  
25   or representatives to use in connection with his name or the name  
26   or activity of the business the words "physical therapy", "physical  
27   therapist", "physiotherapy", "physiotherapist", "registered  
28   physical therapist", the letters "PT", "LPT", "RPT", "MPT", "DPT"

1 or any other words, abbreviations or insignia indicating or  
 2 implying directly or indirectly that physical therapy is provided  
 3 or supplied, including the billing of services labeled as physical  
 4 therapy, unless the services are provided by or under the direction  
 of a physical therapist.

5 C. A physical therapist assistant shall use the letters  
 6 "PTA" in connection with his name to denote licensure.

7 D. No person shall use the title "physical therapist  
 8 assistant" or use the letters "PTA" in connection with his name or  
 9 any other words, abbreviations or insignia indicating or implying  
 10 directly or indirectly that he is a physical therapist assistant  
 11 unless he has graduated from an accredited physical therapist  
 12 assistant education program approved by the board and has met the  
 requirements of the Physical Therapy Act.

13 Section 27. [NEW MATERIAL] LICENSURE--QUALIFICATIONS.--

14 A. An applicant for licensure as a physical therapist  
 15 shall have the following minimum qualifications:

- 16 (1) be of good moral character;  
 17 (2) be a graduate of an accredited physical therapy  
 18 program approved by the board;  
 19 (3) have successfully passed the national physical  
 20 therapy examination approved by the board; and  
 21 (4) have successfully passed the state jurisprudence  
 examination.

22 B. An applicant for licensure as a physical therapist who  
 23 has been educated outside the United States must meet the following  
 24 minimum qualifications:

- 25 (1) provide satisfactory evidence that his education

1 is substantially equivalent to the requirements of physical  
2 therapists educated in accredited educational programs in the  
3 United States, as determined by the board. If the board determines  
4 that a foreign-educated applicant's education is not substantially  
5 equivalent, it may require completion of additional course work  
6 before proceeding with the application process;

6 (2) provide evidence that he is a graduate of a  
7 school of training that is recognized by the foreign country's own  
8 ministry of education or similar institution;

9 (3) provide written proof of authorization to  
10 practice as a physical therapist without limitations in the legal  
11 jurisdiction where the post-secondary institution from which the  
12 applicant has graduated is located;

13 (4) provide proof of legal authorization to reside  
14 and seek employment in the United States or its territories;

15 (5) have his educational credentials evaluated by a  
16 board-approved credential evaluation agency;

17 (6) pass all approved English proficiency  
18 examinations as may be prescribed by the board if English is not  
19 his primary language; and

20 (7) participate in an interim supervised clinical  
21 practice period as may be prescribed by the board.

22 C. The board may issue an interim permit to a  
23 foreign-trained applicant who satisfies the board's requirements.  
24 An interim permit shall be issued for the purpose of participating  
25 in a supervised clinical practice period.

D. If the foreign-educated physical therapist applicant  
is a graduate of a college accredited by the commission on

1 accreditation in physical therapy education, the requirements of  
2 Paragraphs (1), (2), (5) and (7) of Subsection B of this section  
3 are waived.

4 E. An applicant for licensure as a physical therapist  
5 assistant shall meet the following minimum requirements:

- 6 (1) be of good moral character;
- 7 (2) have completed the application process;
- 8 (3) be a graduate of an accredited physical  
9 therapist assistant program approved by the board;
- 10 (4) have successfully passed the national physical  
11 therapy examination approved by the board; and
- 12 (5) have successfully passed the state jurisprudence  
13 examination.

14 F. An applicant for licensure as a physical therapist or  
15 physical therapist assistant shall file a written application on  
16 forms provided by the board. A nonrefundable application fee and  
17 the cost of the examination shall accompany the completed written  
18 application. Fees shall be established by board rule.

19 G. The board shall review applicants for physical therapy  
20 licensure after all application processes are completed. The  
21 national physical therapy examination shall test entry-level  
22 competency related to physical therapy theory, evaluation,  
23 treatment intervention, prevention and consultation.

24 H. The board shall review applicants for physical  
25 therapist assistant licensure after all application processes are  
completed. The national examination shall test for requisite  
knowledge and skills.

I. The board shall require proof of passage of a

1 jurisprudence examination on state laws, rules and regulations that  
2 pertain to the practice of physical therapy.

3 J. Applicants who fail to pass the examinations shall be  
4 subject to requirements determined by board regulations prior to  
5 being approved by the board for subsequent testing.

6 K. The board or its designee shall issue a license to a  
7 physical therapist or physical therapist assistant who has a valid  
8 unrestricted license from another United States jurisdiction and  
9 who meets all requirements for licensure in New Mexico.

10 L. Prior to licensure, if prescribed by the board, the  
11 board or its designee may issue a temporary nonrenewable license to  
12 a physical therapist or physical therapist assistant who has  
13 completed the education and experience requirements of the Physical  
14 Therapist Act. The temporary license shall allow the applicant to  
15 practice physical therapy under the supervision of a licensed  
16 physical therapist until a permanent license is approved that shall  
17 include passing the national physical therapy examination.

18 M. The board or its designee may issue a temporary  
19 license to a physical therapist or physical therapist assistant  
20 performing physical therapy while teaching an educational seminar  
21 who has met the requirements established by regulation of the  
22 board.

23 N. A physical therapist or physical therapist assistant  
24 licensed under the provisions of the Physical Therapy Act shall  
25 renew his license as specified in board rules. A person who fails  
to renew his license by the date of expiration shall not practice  
physical therapy in New Mexico.

O. Reinstatement of a lapsed license following a renewal



1 deadline requires payment of a renewal fee and late penalty as  
2 specified by board rules.

3 P. Reinstatement of a physical therapist or physical  
4 therapist assistant license that has lapsed for more than three  
5 years, without evidence of continued practice in another state  
6 pursuant to a valid unrestricted license in that state, requires  
7 reapplication and payment of fees, as specified in board rules.  
8 The board shall promulgate rules establishing the qualifications  
9 for reinstatement of a lapsed license.

9 Q. The board shall establish, by rule, activities to  
10 periodically assess continuing competence to practice physical  
11 therapy. The board may implement remedial actions if necessary to  
12 require continuing competence as a condition of relicensure.

12 Section 28. [NEW MATERIAL] EXEMPTIONS. -- The following  
13 persons are exempt from licensure as physical therapists under the  
14 Physical Therapy Act:

15 A. a person who is pursuing a course of study leading to  
16 a degree as a physical therapist in an entry-level education  
17 program approved by the board and is satisfying supervised clinical  
18 education requirements related to his physical therapy education;  
19 and

20 B. a physical therapist practicing in the United States  
21 armed services, United States public health service or veterans  
22 administration as based on requirements under federal regulations  
23 for state licensure of health care providers.

23 Section 29. [NEW MATERIAL] SUPERVISION. --

24 A. A physical therapist is responsible for patient care  
25 given by assistive personnel under his supervision. A physical

1 therapist may delegate to assistive personnel and supervise  
2 selected acts, tasks or procedures that fall within the scope of  
3 physical therapy practice but do not exceed the assistive  
4 personnel's education or training.

5 B. A physical therapist assistant shall function under  
6 the supervision of a physical therapist as prescribed by rules of  
7 the board.

8 C. Physical therapy aides and other assistive personnel  
9 shall perform patient care activities under on-site supervision of  
10 a physical therapist. "On-site supervision" means the supervising  
11 physical therapist shall:

12 (1) be continuously on-site and present in the  
13 department or facility where the assistive personnel are performing  
14 services;

15 (2) be immediately available to assist the person  
16 being supervised in the services being performed; and

17 (3) maintain continued involvement in appropriate  
18 aspects of each treatment session in which a component of treatment  
19 is delegated to assistive personnel.

20 Section 30. [NEW MATERIAL] GROUNDS FOR DISCIPLINARY ACTION. -  
21 -The following conduct, acts or conditions constitute grounds for  
22 disciplinary action:

23 A. practicing physical therapy in violation of the  
24 provisions of the Physical Therapy Act or rules adopted by the  
25 board;

B. practicing or offering to practice beyond the scope of  
physical therapy practice as defined in the Physical Therapy Act;

C. obtaining or attempting to obtain a license by fraud

1 or misrepresentation;

2 D. engaging in or permitting the performance of negligent  
3 care by a physical therapist or by assistive personnel working  
4 under the physical therapist's supervision, regardless of whether  
5 actual injury to the patient is established;

6 E. engaging in the performance of negligent care by a  
7 physical therapist assistant, regardless of whether actual injury  
8 to the patient is established. This includes exceeding the  
9 authority to perform tasks pursuant to the plan of care written by  
10 the supervising physical therapist;

11 F. having been convicted of a felony in the courts of  
12 this state or any other state, territory or country, subject to the  
13 Criminal Offender Employment Act. Conviction includes a finding or  
14 verdict of guilt, an admission of guilt or a plea of nolo  
15 contendere. A copy of the record of conviction, certified by the  
16 clerk of the court entering the conviction, is conclusive evidence;

17 G. practicing as a physical therapist or working as a  
18 physical therapist assistant when physical or mental abilities are  
19 impaired by the habitual or excessive use of controlled substances,  
20 other habit-forming drugs, chemicals or alcohol;

21 H. having had a license revoked or suspended; other  
22 disciplinary action taken; or an application for licensure refused,  
23 revoked or suspended by the proper authorities of another state,  
24 territory or country based upon acts by the licensee similar to  
25 acts described in this section. A certified copy of the record of  
suspension, revocation or other disciplinary action taken by the  
state taking the disciplinary action is conclusive evidence;

I. if a physical therapist, failing to adequately

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1 supervise assistive personnel;

2 J. engaging in sexual misconduct, including engaging in  
3 or soliciting sexual relationships with a patient, whether  
4 consensual or nonconsensual, while a physical therapist- or  
5 physical therapist assistant-patient relationship exists; or sexual  
6 harassment of a patient that includes making sexual advances,  
7 requesting sexual favors and engaging in other verbal conduct or  
8 physical contact of a sexual nature while a physical therapist- or  
9 physical therapist assistant-patient relationship exists;

10 K. directly or indirectly requesting, receiving or  
11 participating in the dividing, transferring, assigning, rebating or  
12 refunding of an unearned fee; or profiting by means of a credit or  
13 other valuable consideration such as an unearned commission,  
14 discount or gratuity in connection with the furnishing of physical  
15 therapy services. Nothing in this subsection prohibits the members  
16 of any regularly and properly organized business entity recognized  
17 by law and comprised of physical therapists from dividing fees  
18 received for professional services among themselves as they  
19 determine by contract necessary to defray their joint operating  
20 expense;

21 L. failing to adhere to the recognized standards of  
22 ethics of the physical therapy profession;

23 M. charging unreasonable or fraudulent fees for services  
24 performed or not performed;

25 N. making misleading, deceptive, untrue or fraudulent  
26 representations in the practice of physical therapy;

27 O. having been adjudged mentally incompetent by a court  
28 of competent jurisdiction;

1 P. aiding or abetting an unlicensed person to perform  
2 activities requiring a license;

3 Q. failing to report to the board any act or omission of  
4 a licensee, applicant or other person that violates the provisions  
5 of the Physical Therapy Act;

6 R. interfering with or refusing to cooperate in an  
7 investigation or disciplinary proceeding of the board, including  
8 misrepresentation of facts or by the use of threats or harassment  
9 against any patient or witness to prevent them from providing  
10 evidence in a disciplinary proceeding;

11 S. failing to maintain patient confidentiality without  
12 prior written consent or unless otherwise provided by law;

13 T. impersonating another person licensed to practice  
14 physical therapy, permitting or allowing any person to use the  
15 physical therapist's or physical therapist assistant's license or  
16 practicing physical therapy under a false or assumed name;

17 U. failure to report to the board the surrendering of a  
18 license or other authorization to practice physical therapy in  
19 another state or jurisdiction or the surrendering of membership in  
20 any professional association following, in lieu of or while under  
21 disciplinary investigation by any of those authorities or bodies  
22 for acts or conduct similar to acts or conduct that would  
23 constitute grounds for action as defined in this section; and

24 V. abandonment of patients.

25 Section 31. [NEW MATERIAL] CONSUMER PROTECTION. --

A. Any person, including a licensee; corporation;  
insurance company; health care organization; health care facility;  
and state, federal or local governmental agency, shall report to

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1 the board any conviction, determination or finding that a licensee  
2 has committed an act that constitutes a violation of the Physical  
3 Therapy Act. The person is immune from civil liability for  
4 providing information in good faith to the board. Failure by a  
5 licensee to report a violation of the Physical Therapy Act shall  
6 constitute grounds for disciplinary action.

7 B. The board may permit an impaired physical therapist or  
8 assistive personnel to actively participate in a board-approved  
9 substance abuse treatment program under the following conditions:

10 (1) the board has evidence indicating that the  
11 licensee is an impaired professional;

12 (2) the licensee has not been convicted of a felony  
13 relating to a controlled substance in a court of law of the United  
14 States or any other territory or country;

15 (3) the impaired professional enters into a written  
16 agreement with the board and complies with all the terms of the  
17 agreement, including making satisfactory progress in the program  
18 and adhering to any limitations on his practice imposed by the  
19 board to protect the public. Failure to enter into such an  
20 agreement shall disqualify the professional from the voluntary  
21 substance abuse program; and

22 (4) as part of the agreement established between the  
23 licensee and the board, the licensee shall sign a waiver allowing  
24 the substance abuse program to release information to the board if  
25 the licensee does not comply with the requirements of this section  
or is unable to practice with reasonable skill or safety.

C. The public shall have access to information pursuant  
to the Inspection of Public Records Act.

1           D. The board shall conduct its meetings and disciplinary  
2 hearings in accordance with the Open Meetings Act.

3           E. Physical therapists and physical therapist assistants  
4 shall disclose in writing to patients if the referring health care  
5 practitioner is deriving direct or indirect compensation from the  
6 referral to physical therapy.

7           F. Physical therapists and physical therapist assistants  
8 shall disclose any financial interest in products they endorse and  
9 recommend to their patients.

10          G. The licensee has the responsibility to ensure that the  
11 patient has knowledge of freedom of choice in services and  
12 products.

13          H. The physical therapist or physical therapist assistant  
14 shall not promote an unnecessary device, treatment intervention or  
15 service for the financial gain of himself or another person.

16          I. The physical therapist or physical therapist assistant  
17 shall not provide treatment intervention unwarranted by the  
18 condition of the patient, nor shall he continue treatment beyond  
19 the point of reasonable benefit.

20          J. A person may submit a complaint regarding a physical  
21 therapist, physical therapist assistant or other person potentially  
22 in violation of the Physical Therapy Act. The board shall keep all  
23 information relating to the receiving and investigation of  
24 complaints filed against licensees confidential until the  
25 information becomes public record according to the Inspection of  
Public Records Act.

        K. Each licensee shall display a copy of his license and  
current renewal verification in a location accessible to public

1 view at his place of practice.

2 Section 32. [NEW MATERIAL] DISCIPLINARY ACTIONS--PENALTIES. -

3 -  
4 A. The board, upon satisfactory proof that any grounds  
5 enumerated in Section 30 of this act have been violated, may take  
6 the following disciplinary action singly or in combination:

6 (1) issue a letter of censure or reprimand;

7 (2) issue a restricted license, including requiring  
8 the licensee to report regularly to the board on matters related to  
9 the grounds for the restricted license;

10 (3) suspend a license for a period determined by the  
11 board;

12 (4) revoke a license;

13 (5) refuse to issue or renew a license;

14 (6) impose fines in accordance with the Physical  
15 Therapy Act; and

16 (7) accept a voluntary surrendering of a license.

17 B. Disciplinary actions of the board shall be taken in  
18 accordance with the Uniform Licensing Act.

19 C. The board may institute any legal proceedings  
20 necessary to effect compliance with the Physical Therapy Act,  
21 including:

22 (1) receiving and investigating complaints filed  
23 against licensees;

24 (2) conducting an investigation at any time and on  
25 its own initiative without receipt of a written complaint if the  
board has reason to believe that there may be a violation of the  
Physical Therapy Act;



1           (3) issuing subpoenas and compelling the attendance  
2 of witnesses or the production of documents relative to the case;  
3 and

4           (4) appointing hearing officers. Hearing officers  
5 shall prepare and submit to the board findings of fact, conclusions  
6 of law and an order that shall be reviewed and voted upon by the  
7 board.

8           Section 33. [NEW MATERIAL] UNLAWFUL PRACTICE--CRIMINAL AND  
9 CIVIL PENALTIES--INJUNCTIVE RELIEF. --

10           A. A person who engages in an activity requiring a  
11 license pursuant to the provisions of the Physical Therapy Act and  
12 who fails to obtain the required license; who violates any  
13 provision of the Physical Therapy Act; or who uses any word, title  
14 or representation to induce the false belief that the person is  
15 licensed to engage in the practice of physical therapy is guilty of  
16 a misdemeanor and shall be punished by a fine of not more than one  
17 thousand dollars (\$1,000) or by imprisonment of not more than one  
18 year, or both.

19           B. The board may apply for injunctive relief in any court  
20 of competent jurisdiction to enjoin a person from committing an act  
21 in violation of the Physical Therapy Act. Such injunction  
22 proceedings shall be in addition to and not in lieu of penalties  
23 and other remedies in the Physical Therapy Act.

24           C. The board may assess a civil penalty of up to one  
25 thousand dollars (\$1,000) for a first offense and up to five  
thousand dollars (\$5,000) for a second or subsequent offense  
against a licensee who aids or abets an unlicensed person to  
directly or indirectly evade the Physical Therapy Act or the

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1 applicable licensing laws; or permits his license to be used by an  
2 unlicensed person with the intent to evade the Physical Therapy Act  
3 or the applicable licensing laws, pursuant to the notice of hearing  
4 and appeal procedures pursuant to the Uniform Licensing Act. The  
5 civil penalties provided in this subsection are in addition to  
6 other disciplinary measures provided in the Physical Therapy Act.  
7 Civil penalties shall be deposited with the state treasurer to the  
8 credit of the current school fund.

8 Section 34. ~~[NEW MATERIAL]~~ TERMINATION OF AGENCY LIFE--  
9 DELAYED REPEAL. --The physical therapy board is terminated on July  
10 1, 2003 pursuant to the Sunset Act. The board shall continue to  
11 operate according to the provisions of the Physical Therapy Act  
12 until July 1, 2004. Effective July 1, 2004, the Physical Therapy  
13 Act is repealed.

13 Section 35. TEMPORARY PROVISION--EXISTING REGULATIONS--  
14 LICENSURE UNDER PRIOR LAW. --

15 A. Existing rules regarding physical therapy services  
16 shall remain in effect until new rules are adopted pursuant to the  
17 provisions of the Physical Therapy Act.

18 B. A person licensed to perform physical therapy  
19 services pursuant to the provisions of prior law, whose license is  
20 valid on July 1, 1997, is entitled to renew his license pursuant to  
21 the provisions of the Physical Therapy Act.

21 Section 36. TEMPORARY PROVISIONS--TRANSFERS. --

22 A. On the effective date of this act, all appropriations,  
23 money and personal property of the board of acupuncture and  
24 oriental medicine held by the state shall be transferred to the  
25 board. All agreements and contractual obligations of the

1 regulation and licensing department pertaining to the board of  
2 acupuncture and oriental medicine shall be binding on the board.

3 B. On the effective date of this act, all appropriations,  
4 money and personal property of the New Mexico state board of public  
5 accountancy held by the state shall be transferred to the board.

6 All agreements and contractual obligations of the regulation and  
7 licensing department pertaining to the New Mexico state board of  
8 public accountancy shall be binding on the board.

9 C. On the effective date of this act, all appropriations,  
10 money and personal property of the physical therapists' licensing  
11 board held by the state shall be transferred to the physical  
12 therapy board. All agreements and contractual obligations of the  
13 regulation and licensing department pertaining to the physical  
14 therapists' licensing board shall be binding on the physical  
15 therapy board.

16 Section 37. TEMPORARY PROVISION--VOID EXECUTIVE ORDER.--Any  
17 executive order issued pursuant to Laws 1983, Chapter 297, Section  
18 30 is void as it relates to consolidation of the New Mexico state  
19 board of public accountancy, the physical therapists' licensing  
20 board or its successor or the board of acupuncture and oriental  
21 medicine in the regulation and licensing department.

22 Section 38. REPEAL.--Sections 61-12-1 through 61-12-21 NMSA  
23 1978 (being Laws 1953, Chapter 136, Section 1, Laws 1979, Chapter  
24 369, Sections 2 and 3, Laws 1953, Chapter 136, Sections 3 through  
25 11, Laws 1979, Chapter 369, Section 9, Laws 1953, Chapter 136,  
Sections 13 through 15, Laws 1974, Chapter 78, Section 18, Laws  
1953, Chapter 136, Sections 16 and 17, Laws 1978, Chapter 116,  
Section 1, Laws 1953, Chapter 136, Sections 19 and 20 and Laws

.117810.1

1 1979, Chapter 369, Section 12, as amended) are repealed.

2 Section 39. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 1997.

4 - 324 -

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