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# The Law and Practice of Occupational Licensing Boards in New Mexico

Wilfred Ernest Torres

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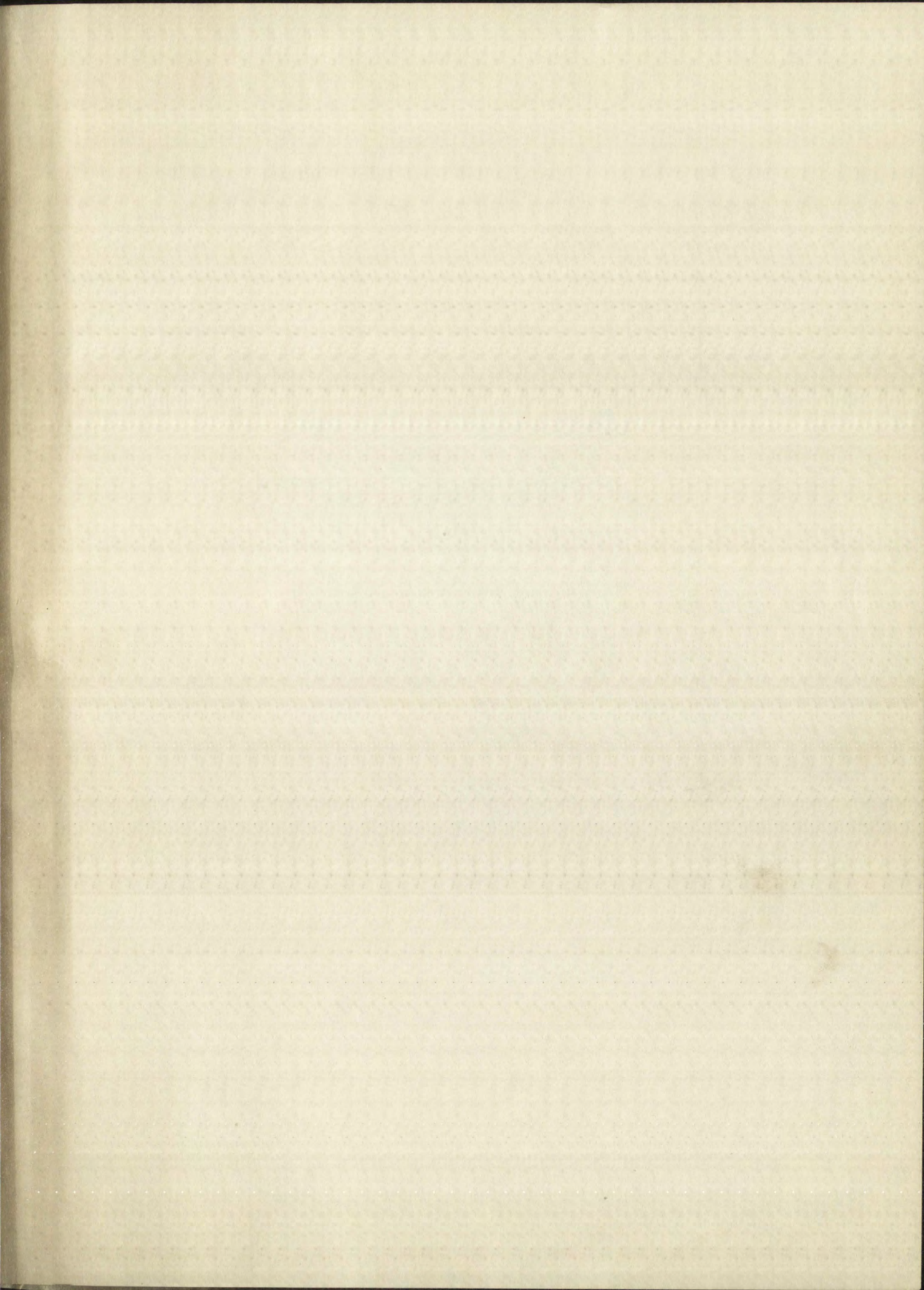
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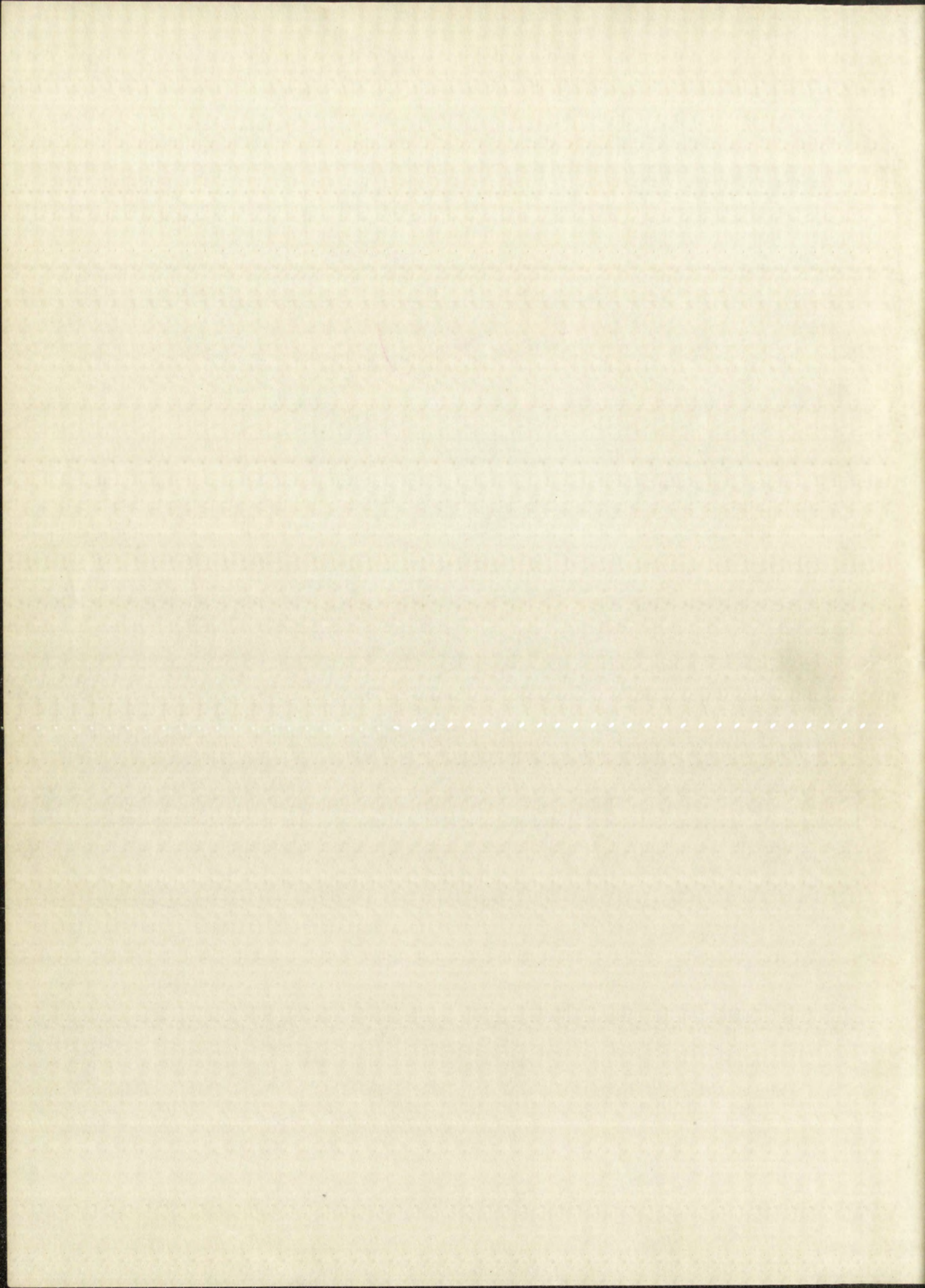














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1914

NANTY, E. J. 1914



THE LAW AND PRACTICE OF OCCUPATIONAL  
LICENSING BOARDS IN NEW MEXICO

By

Wilfred Ernest Torres

A Thesis

In partial fulfillment of the  
Requirements for the Degree of  
Master of Arts in Government

The University of New Mexico

1947

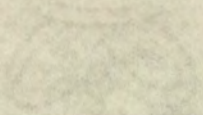


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EXHIBIT





This thesis, directed and approved by the candidate's committee, has been accepted by the Graduate Committee of the University of New Mexico in partial fulfillment of the requirements for the degree of

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Rance V. Schlar  
DEAN

May 30, 1947  
DATE

Thesis committee

Samuel G.  
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J. W. Diesendorf



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## FOREWORD

The term "license" is variously used in law and government with different shades of meaning. Many excise taxes are levied in connection with the licensing of some trade, occupation, and use or possession of property; but if they are an important source of general revenue rather than simply a means of defraying the expense of administering the particular licensing regulation, they are more usually referred to as license taxes. A license in the sense of a permit does not necessarily involve the idea of a fee and may be issued gratuitously.

It is possible to establish license requirements from which administrative discretion is practically eliminated. This means that the license requirements are fully specified by the law. If the ascertainment of these requirements involves the determination of facts, the non-discretionary character of the power expresses itself in the inconclusiveness of the administrative finding, which can always be judicially controlled by a mandamus proceeding. A legislative policy opposed to discretion, however, will endeavor to prevent factual controversy by prescribing methods of proof or by basing the license upon statements rather than facts. If this is carried to the point where the official act is one of mere certification,



The Government has a right to regulate the  
taxes are levied on the importation of goods  
trade, carrying on, and the Government has a right to  
they are an important part of the national revenue  
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it may become difficult to distinguish the system from a mere registration requirement. Occasionally, however, the difference will become politically important. The legislature may desire to avoid even the semblance of an official consent requirement and yet deem public notice necessary; and it attains that end by attaching to the registration a right to an immediate receipt.

Procedural provisions of licensing laws serve the purpose either of safeguarding the public interest or of preventing injustice to the applicant. The public interest is the more important and is achieved principally through prescribed forms of applications and notice requirements. As a matter of principle, the applicant himself is entitled to fair consideration; but since through his application he has a chance to present his case and since he has also a common law remedy of mandamus in case of arbitrary refusal, the occasional failure of the licensing statute to make provision for hearing presents no constitutional question.<sup>1</sup> Almost all of the examining boards herein discussed grant the right of hearing and even appeal to aggrieved registrants.

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<sup>1</sup> Ernst Freund, "Licensing," Encyclopedia of the Social Sciences, IX, p. 449.







In more human terms we may conceive of licensing in such fashion as this. Citizens stand before their government, one saying, "I desire to prepare drug prescriptions," another, "I wish to treat the sick," another, "I want to design buildings," still another "I desire to construct buildings." To each of them and to others the state government says, "Your proposed life work is so important to your fellow citizens that they require you to demonstrate fitness and capacity before you may undertake it and to maintain such ability while you serve the people. If you can meet the established standards, you will be licensed to practice your calling or profession, but not otherwise." The citizens of the state may also demand that such professional people follow methods of transaction consistent with the public interest and otherwise appropriate for the particular occupation.

These and other aspects that are pertinent to the licensing power of the state is the import of this thesis. Herein, also, persons who are prospective candidates for any one of the occupations included will find the requirements which they must fulfill in order to qualify for such practice in New Mexico.

The writer has sought to state the details in the manner which to him appeared both practical and precise.







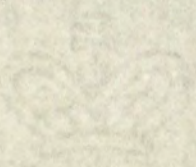
He does not purport to maintain that the practices herein set forth are followed verbatim by the examining boards. But generally, and for the most part, the boards do follow a procedure for examination and licensing of applicants that is consistent with the laws that instituted such boards.

To the graduate staff of the Department of Government the writer is grateful for some helpful suggestions made during the preparation of this paper. The writer's thanks also go to the secretaries of the various examining boards for providing much useful information.

Wilfred Ernest Torres.

June 1947.





MINISTER OF  
INDUSTRY

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It does not appear to be possible to determine the exact date of the  
and will not be able to provide a more definite answer.  
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that is consistent with the principles of the Access to Information Act.  
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for providing such information.

Very truly yours,  
Minister of Industry

June 1987



## CHAPTER I

### CERTIFIED PUBLIC ACCOUNTANTS

A certified public accountant is recognized by the public as one expertly skilled in his occupation, and his testimony as an expert is usually accredited by a court without further qualification. Because of this fact, and also because a public accountant usually aspires to become "certified," that is, to submit to an examination to determine fitness for a certificate, the Legislature of New Mexico passed the accountancy law in 1921 and added some amendments to it in 1937.

The State Board of Accountancy, Appointment and Tenure of Office. The governor appoints to this board three persons skilled in the knowledge and practice of accountancy. Each member must have practiced accountancy in New Mexico for at least three (3) years. Each serves a three-year term and each must be certified under this law. Any vacancy that occurs from any cause is filled by the governor, for the un-<sup>1</sup>expired term, by regular appointment.

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<sup>1</sup> New Mexico Statutes Annotated, 1941, (Indianapolis: The Bobbs-Merrill Company, 1942), Chapter 51, Article 17, Section 51-1702.







Compensation of Members, Public Accountancy Fund, Annual Report. The members of the board receive as compensation ten dollars (\$10.00) per day for the time actually employed and expenses incurred in the discharge of their duties, provided that all compensation for services and expenses does not exceed the amounts received as fees from applicants. All per diem and expense payments are made from the Public Accountancy Fund. The secretary-treasurer is the custodian of all moneys received and collected. At the close of each calendar year the board shall make its report to the governor with a record of all proceedings, an account of all moneys received and disbursed, a list of names of all persons who are certified public accountants in this state, and also a list of those persons whose certificates have been revoked. The board at such time may also make recommendations for new<sup>2</sup> legislation and such other matters as it may deem proper.

Organization, Rules, and Meetings. The board formulates rules for its guidance, not inconsistent with this law, which rules may be changed at any regular meeting. It elects a president and a secretary-treasurer, and shall meet at least once each year, and oftener if necessary, at such times and places as it may select. A majority from the three

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<sup>2</sup> Statutes, op. cit., Sec. 51-1708.

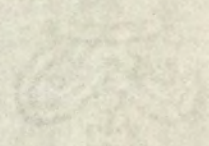


General Instructions to the Local Authorities

Annual Reports. The Secretary of the Local Authorities should be requested to submit to the Secretary of the Local Authorities, for the year ending 31st March 1911, a report on the work done during the year, and on the progress of the various schemes and projects which have been undertaken. The report should be submitted in the form of a printed statement, and should be accompanied by a copy of the accounts for the year. The Secretary should also be requested to submit a list of the names of the persons who have been appointed to the various committees and sub-committees, and a list of the names of the persons who have been appointed to the various offices and positions. The Secretary should also be requested to submit a list of the names of the persons who have been appointed to the various offices and positions, and a list of the names of the persons who have been appointed to the various offices and positions.

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members shall constitute a quorum. Meetings of the board are open to the public at all reasonable times. It may, at any regular meeting, examine and determine the qualifications of persons applying for certificates under this law. It may require the secretary-treasurer to give a bond in an amount to be fixed by it, payable to the state and conditioned upon the faithful performance of his duties.<sup>3</sup>

Qualifications of Applicants, Fees, and Examinations.

An applicant for a certificate must produce evidence satisfactory to the board that he is a citizen of the United States and resident of New Mexico, that he is twenty-five (25) years of age, of good moral character, a graduate of an accredited high school with a four-year course, or have an equivalent education. If he is not a graduate of an accredited high school, he must pass a preliminary examination given by the board for the purpose of determining that his educational qualifications are equal to that of a graduate of an accredited high school. The accountancy requirement is that he must have had at least three (3) years of practical accounting experience prior to the examination. At least one (1) of these three years must have been employed as an accountant in the service of a recognized public accountant or

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<sup>3</sup> Statutes, op. cit., Sec. 51-1703.







in public practice on the applicant's own account. The examination covers the following subjects: Theory of accounts, practical accounting, auditing, and commercial law as affecting accountancy. The examination fee is twenty-five dollars (\$25.00), with a five-dollar (\$5.00) renewal fee to be paid each year. The fees are payable to the secretary-treasurer of the board before the applicant is admitted to examination. The applicant must achieve a grade of seventy-five (75%) per cent on the examination to qualify for a certificate.<sup>4</sup>

Reciprocity. The board of accountancy may, in its discretion, register the certificate of any person who, although a non-resident, is the lawful holder of a C. P. A. certificate issued under the laws of another state which extends similar privileges to C. P. A. certificate holders of this state. The requirements for certification in such states shall be equivalent to those in New Mexico; provided, that applicants for registration in this state, who are holders of certificates of other states with which this board does not have reciprocal arrangements, are required to submit evidence that such applicant has resided or maintained an office within this state for at least twelve (12) months

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<sup>4</sup> Statutes, op. cit., Sec. 51-1704.







immediately preceding the date of application.<sup>5</sup>

Penalty for Violations. If any person holds himself out to the public as having received a certificate under this law, or assumes to practice as a certified public accountant or chartered accountant, or uses the letters "C. P. A." or "C. A." after his name without having legally received such certificate or designation, he is deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment of not more than one (1) year, or both, fine and imprisonment, at the discretion of the court.<sup>6</sup>

Penalty for Misconduct. If any person practicing in this state as a certified public accountant under this law is found guilty of gross negligence or carelessness, or wilfully falsifies any report, statement, or any examination, investigation, or audit made by him or under his direction, he is deemed guilty of a felony and, upon conviction, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or

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<sup>5</sup> Statutes, op. cit., Sec. 51-1706.

<sup>6</sup> Statutes, op. cit., Sec. 51-1709. Also op. cit., Sec. 20-112, Par. (f) 7.







by imprisonment of not more than two (2) years, or both, such  
fine and imprisonment, at the discretion of the court.<sup>7</sup>

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<sup>7</sup> Statutes, op. cit., Sec. 51-1710.







## CHAPTER II

### ENGINEERING, LAND SURVEYING, AND ARCHITECTURE

#### A. Engineering and Land Surveying

The practice of professional engineering within the meaning and intent of the New Mexico law includes any professional service, such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health or property is concerned or involved, when such professional service requires the application of engineering principles and data.<sup>1</sup>

The practice of land surveying within the meaning and intent of the same law includes the application of a knowledge of mathematics and those principles of engineering required in surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the plotting of lands and subdivisions thereof.<sup>2</sup>

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<sup>1</sup> "Engineers and Surveyors Registration Act," Chapter 45, Session Laws of New Mexico, 1935, (Santa Fe: The State Board of Registration for Professional Engineers and Land Surveyors).

<sup>2</sup> Ibid.



THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
CHICAGO, ILLINOIS 60637

The purpose of this study is to determine the effect of the concentration of the solution on the rate of reaction. The reaction studied is the reaction between hydrogen peroxide and potassium iodide in the presence of a catalyst. The rate of reaction is measured by the volume of oxygen gas evolved over a period of time. The concentration of the hydrogen peroxide solution is varied while the concentration of the potassium iodide solution is kept constant. The results show that the rate of reaction increases with increasing concentration of hydrogen peroxide. The reaction is first order with respect to hydrogen peroxide and zero order with respect to potassium iodide. The activation energy of the reaction is determined to be 50 kJ/mol.

1. Introduction  
2. Experimental  
3. Results and Discussion  
4. Conclusion  
5. References



The State Board of Registration for Professional Engineers and Land Surveyors, Appointment and Terms of Office. This board consists of five members, three professional engineers, one land surveyor, and the State Engineer of the State of New Mexico, who, during his tenure, shall serve as ex-officio secretary of the board. The members of the board are appointed by the governor for terms of four (4) years and they must be registered under this law. They must be citizens of the United States, residents of this state, and shall have had at least twelve (12) years of practice and five (5) years of responsible charge of important work prior to appointment. Responsible charge of engineering teaching<sup>3</sup> may be construed as responsible charge of important work.

Compensation and Expenses of Board Members. Each member of the board except the State Engineer shall receive a sum of five dollars (\$5.00) per diem when actually attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition, all members shall be reimbursed for all actual traveling, subsistence, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this law.<sup>4</sup>

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<sup>3</sup> New Mexico Statutes, Annotated, 1941, (Indianapolis: The Bobbs-Merrill Company, 1942), Chapter 51, Article 24, Sections 51-2404, 51-2405.

<sup>4</sup> Statutes, op. cit., Sec. 51-2406.



The State Board of Education of the State of New Mexico

and the State Board of Health of the State of New Mexico

do hereby certify that the following is a true and correct copy of the

act of the Legislature of the State of New Mexico, approved March 1, 1911,

relating to the State Board of Education and the State Board of Health,

and the State Board of Prisoners, and the State Board of Charities,

and the State Board of Agriculture, and the State Board of Labor,

and the State Board of Mines, and the State Board of Forestry,

and the State Board of Commerce, and the State Board of Trade,

and the State Board of Public Works, and the State Board of Public Safety,

and the State Board of Public Health, and the State Board of Public Welfare,

and the State Board of Public Education, and the State Board of Public Instruction,

and the State Board of Public Administration, and the State Board of Public Finance,

and the State Board of Public Revenue, and the State Board of Public Debt,

and the State Board of Public Property, and the State Board of Public Lands,

and the State Board of Public Water, and the State Board of Public Power,

and the State Board of Public Transportation, and the State Board of Public Communication,

and the State Board of Public Utilities, and the State Board of Public Services,

and the State Board of Public Works, and the State Board of Public Safety,

and the State Board of Public Health, and the State Board of Public Welfare,

and the State Board of Public Education, and the State Board of Public Instruction,

and the State Board of Public Administration, and the State Board of Public Finance,

and the State Board of Public Revenue, and the State Board of Public Debt,

and the State Board of Public Property, and the State Board of Public Lands,

and the State Board of Public Water, and the State Board of Public Power,

and the State Board of Public Transportation, and the State Board of Public Communication,

and the State Board of Public Utilities, and the State Board of Public Services,



Organization and Meetings of the Board. The board shall hold at least two regular meetings each year. Special meetings shall be held at such time as the by-laws of the board may provide. Notice of all meetings shall be given in such manner as the by-laws may provide. The board shall elect or appoint annually the following officers: a chairman and a vice-chairman. The secretary of the board shall be the State Engineer. A quorum of the board shall consist of not less than three (3) members.<sup>5</sup>

Powers of the Board. The board shall have the power to make all by-laws and rules, not inconsistent with the constitution and laws of this state, which may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall possess an official seal.

In carrying into effect the provisions of this law, the board may, under the hand of its chairman and the seal of the board, subpoena witnesses and compel their attendance, and also may require the production of books, papers, documents, etc., in a case involving the revocation of registration or practicing or offering to practice without registration. Any member of the board may administer oaths or

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<sup>5</sup> Statutes, op. cit., Sec. 51-2408.







affirmations to witnesses appearing before the board. If any person shall refuse to obey any subpoena so issued, the board may present its petition to the district court of the state of New Mexico. Any person failing or refusing to obey the subpoena or order of the district court may be proceeded against in the same manner as for refusal to obey any other subpoena or order of the district court.<sup>6</sup>

Receipts and Disbursements. The secretary of the board shall receive and account for all moneys derived under the provisions of this law, and shall pay the same monthly to the State Treasurer, who shall keep such moneys in a separate fund known as the "Professional Engineers' Fund." The secretary of the board shall give a surety bond to this state in such sum as the board may determine.<sup>7</sup>

Records and Reports. The board shall keep a record of its proceedings and a register of all applications for registration. The records of the board shall be prima facie evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

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<sup>6</sup> Statutes, op. cit., Sec. 51-2409.

<sup>7</sup> Statutes, op. cit., Sec. 51-2410.



affirmation in this regard, and the  
board shall report to the  
any person who is found to be  
of the board, and any person who  
independent of the board, and  
agreed in the case of the  
independent of the board, and

Board of Directors

board shall receive and be paid  
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in the case of the board, and  
such funds known as the  
secretary of the board, and  
in such case as the board

Records and Reports

its proceedings and a statement  
thereof, the secretary shall  
dances of the proceedings of  
a permanent record, and  
board must keep, and  
such records and reports



Annually, as of June 30, the board shall submit to the governor a report of its transactions of the preceding year, and shall also transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits<sup>8</sup> of its chairman and its secretary.

General Requirements for Registration. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or land surveyor, respectively: (1) As a professional engineer the applicant must present evidence of graduation from an approved course in engineering of four (4) years or more in a school or college approved by the board as of satisfactory standing, and a specific record of an additional four (4) years or more of active practice in engineering work of a character satisfactory to the board, and indicating that the applicant is competent to be placed in responsible charge of such work. Or the alternative is as follows: The applicant must successfully pass a written, or written and oral, examination designated to show knowledge and skill approximating that attained through graduation from an approved engineering course of four (4) years, and a specific record of eight (8) years or more of active practice

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<sup>8</sup> Statutes, op. cit., Sec. 51-2411.







in engineering work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work. (2) As a land surveyor the applicant must present evidence of graduation from an approved course in surveying in a school or college approved by the board as of satisfactory standing; and an additional two (2) years or more of active practice in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work. Or the alternative for registration as a land surveyor is as follows: The applicant must successfully pass a written, or written and oral, examination in surveying prescribed by the board, and he must present a specific record of six (6) years or more of active practice in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to be placed in responsible charge of such work.

No person shall be eligible for registration as a professional engineer, or land surveyor, who is not of good character and reputation. In considering the qualifications of applicants, responsible charge of engineering teaching may be construed as responsible charge of engineering work. The satisfactory completion of each year of an approved course in engineering in a school or college approved by the board as of satisfactory standing, without graduation, shall be



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considered as equivalent to a year of active practice. Graduation in a course other than engineering from a college or university of recognized standing shall be considered as equivalent to two (2) years of active practice; provided, that no applicant shall receive credit for more than four (4) years of active practice because of educational qualifications. The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent shall not be deemed to be active practice in engineering work.

Any person having the necessary qualifications prescribed in this law to entitle him to registration shall be eligible for such registration though he may not be practicing his profession at the time of making his application.<sup>9</sup>

Applications and Registration Fees. Applications for registration shall be on forms prescribed and furnished by the board shall contain statements made under oath, and showing the applicant's education and detail summary of his technical work they shall contain not less than five (5) references, of whom three or more shall be engineers having personal knowledge of his engineering experience.

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<sup>9</sup> Statutes, op. cit., Sec. 51-2413.



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The registration fee for professional engineers shall be fifteen dollars (\$15.00), ten dollars (\$10.00) of which shall accompany the application, the remaining five dollars (\$5.00) to be paid upon issuance of certificate. When a Certificate of Qualification issued by the National Bureau of Engineering Registration is accepted as evidence of qualification, the total fee for registration as professional engineer shall be ten dollars (\$10.00).

The registration fee for land surveyors shall be ten dollars (\$10.00), five dollars (\$5.00) of which shall accompany application. Any applicant holding a certificate issued by the Surveyors' Examining Board shall receive a credit of five dollars (\$5.00) toward the registration fees. Should the board deny the issuance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an application fee. When an applicant for registration qualifies as a professional engineer and a land surveyor he shall be issued a certificate covering both classifications upon payment of the fee provided for professional engineer.<sup>10</sup>

Examinations. When oral or written examinations are required, they shall be held at such time and place as the

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<sup>10</sup> Statutes, op. cit., Sec. 51-2414.







board shall determine. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability to design and supervise engineering works, which all insure the safety of life, health, and property. Examinations shall be given for the purpose of determining the qualifications of applicants for registration separately in professional engineering and land surveying. A candidate failing on examination may apply for re-examination at the expiration of six (6) months and will be re-examined without payment of additional fee. Subsequent examination will be granted upon payment of a fee to be determined by the board.<sup>11</sup>

Expirations and Renewals. Certificates of registration shall expire on the last day of the month of June following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this law of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during

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<sup>11</sup> Statutes, op. cit., Sec. 51-2415.



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the month of June by the payment of a fee to be fixed by the board and not to exceed five dollars (\$5.00). The failure on the part of any registrant to renew his certificate annually in the month of June as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of June shall be increased ten per cent for each month or fraction of a month that payment of renewal is delayed; provided, that the maximum fee for delayed renewal shall not exceed twice the normal renewal fee.<sup>12</sup>

Firms, Partnerships, Corporations, and Joint Stock Associations. A firm, or a co-partnership, or a corporation, or a joint stock association may engage in the practice of professional engineering or land surveying in this state, provided only such practice is carried on by professional engineers or land surveyors, respectively, registered in this state.<sup>13</sup>

Public Work. It shall be unlawful for this state, or for any of its political subdivisions, for any county, city, or town, to engage in the construction of any public work involving professional engineering, or land surveying, unless

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<sup>12</sup> Statutes, op. cit., Sec. 51-2417.

<sup>13</sup> Statutes, op. cit., Sec. 51-2418.



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Witness, Testimony, and Evidence.  
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provided only such as may be required by the laws of the  
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Public Works. A work, or a project, or a plan, or a  
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the plans and specifications and estimates have been prepared by, and the construction executed under the direct supervision of, a registered professional engineer; provided, that this rule shall not apply to any public work wherein the contemplated expenditure for the complete project does not exceed two thousand dollars (\$2,000.00).<sup>14</sup>

Exemptions. The following persons shall be exempt from the provisions of this law: (a) A person not a resident of and having no established place of business in this state, practicing or offering to practice the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than sixty days in any calendar year; provided, such person is legally qualified by registration to practice the profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this law. (b) A person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice for more than sixty (60) days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of

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<sup>14</sup> Statutes, op. cit., Sec. 51-2423.



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registration and shall have paid the fee required by this law. Such exemption shall continue only for such time as the board requires for the consideration of the application for registration; provided, that such a person is legally qualified to practice such profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this law. (c) An employee or a subordinate of a person holding a certificate of registration under this law, or an employee of a person exempted from registration by classes (a) and (b) above; provided, his practice does not include responsible charge of design or supervision. (d) Officers and employees of the United States Government while engaged within this state in the practice of the profession of engineering or land surveying, for said Government.<sup>15</sup>

Reciprocity. The board may, upon application therefor, and the payment of a fee of ten dollars (\$10.00), issue a certificate of registration as a professional engineer to any person who holds a Certificate of Qualification or Registration issued to him by proper authority of the National Council of State Board of Engineering Examiners, or of the National Bureau of Engineering Registration, or of any state or territory or possession of the United States, or any

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<sup>15</sup> Statutes, op. cit., Sec. 51-2419.







country, provided that the requirements for the registration of professional engineers under which said certificate of registration was issued do not conflict with the provisions of this law and are of a standard not lower than that specified in this law.<sup>16</sup>

Revocation and Re-Issuance of Certificates. The board shall have the power to revoke the certificate of registration of any registrant who is found guilty of (a) the practice of any fraud or deceit in obtaining a certificate of registration; (b) any gross negligence, incompetency, or misconduct in the practice of professional engineering or land surveying as a registered professional engineer or land surveyor. Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three (3) months after the date on which they shall have been preferred. The board or any member thereof may initiate proceedings under the provisions of this law. The time and place for such hearing shall be fixed by the board, a copy of

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<sup>16</sup> Statutes, op. cit., Sec. 51-2420.



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the charges, together with a notice of the time and place of hearing, shall be personally served on or sent by registered mail to the last known address of such registrant, at least thirty days before the date fixed for the hearing. At any hearing the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witness in his own defense.

If, after such hearing, three or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered professional engineer or land surveyor, but the accused registrant may appeal from the findings of the board to the First Judicial District Court of the State of New Mexico for the County of Santa Fe. The board, for reasons it may deem sufficient, may re-issue a certificate of registration to any person whose certificate has been revoked, providing three or more members of the board vote in favor of such re-issuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board, and a charge of three dollars (\$3.00) shall be made for such issuance.

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<sup>17</sup> Statutes, op. cit., Sec. 51-2421.







Violations and Penalties. Any person who shall practice, or offer to practice, the profession of engineering or land surveying in this state without being registered or exempted in accordance with the provisions of this law, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this law, shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or suffer imprisonment for a period not exceeding three (3) months, or both, fine and imprisonment.

It shall be the duty of all duly constituted officers of the law of this state, or any political sub-division thereof, to enforce the provisions of this law and to prosecute any persons violating same. The Attorney-General of the state or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in







carrying out the provisions of this law.<sup>18</sup>

No person except one who is a registered professional engineer or land surveyor, whichever is applicable, shall be eligible to hold any responsible engineering office in, or responsible engineering position for the State of New Mexico<sup>19</sup> or any political sub-division thereof.

### B. Architects

In order to safeguard life, health, and property, and to promote public welfare, any person practicing architecture in this state shall be required to submit evidence that he or she is qualified to practice and shall be registered as hereinafter provided.<sup>20</sup>

The State Board of Examiners for Architects, Appointment and Tenure of Office. This board consists of five (5) members appointed by the governor for terms of three (3) years. Each of these members must be a registered resident architect practicing in the state. Each shall have had at least ten (10) years' experience in the practice of architecture and shall have been in responsible charge of work for

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<sup>18</sup> Statutes, op. cit., Sec. 51-2422.

<sup>19</sup> Session Laws, 1935, Sec. 25.

<sup>20</sup> "New Mexico Architectural Law," 1941 Statutes Annotated, Chapter 51, Article 14, (Santa Fe: The State Board of Examiners for Architects).







at least five (5) years. Each member shall be a citizen of the United States and shall have been a resident of New Mexico for five (5) years at the time of his appointment and shall be at least thirty-five (35) years of age. The governor may remove any member of the board for misconduct,<sup>21</sup> incompetency, or neglect of duty.

Duties of the Board. The board shall hold at least two (2) regular meetings each year. The board or any committee thereof shall have power to subpoena any witness, to administer oaths, and to take testimony concerning matters within its jurisdiction. It shall be within the jurisdiction of the board to determine and establish the qualifications necessary for the practice of architecture in New Mexico. The board shall adopt and have an official seal, which shall be affixed to all certificates of registration granted; and it may make rules and regulations not inconsistent with the<sup>22</sup> law.

Compensation and the Architect Fund. No member of the board, excepting the secretary, shall receive compensation, but all shall be reimbursed for all necessary traveling, incidental and clerical expense incurred in carrying out the

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<sup>21</sup> Statutes, 1941, op. cit., Sec. 51-1402.

<sup>22</sup> Statutes, op. cit., Sec. 51-1403.



an issue for the year 1961, the United States and the United Kingdom have agreed to a joint declaration of intent to continue their cooperation in the field of nuclear energy. This declaration is a significant step in the development of international nuclear law and is a reflection of the growing importance of nuclear energy in the world.

The purpose of this document is to provide a summary of the declaration and to discuss its implications for the future of nuclear energy. The declaration is a joint statement by the United States and the United Kingdom, and it is a reflection of the growing importance of nuclear energy in the world. The declaration is a significant step in the development of international nuclear law and is a reflection of the growing importance of nuclear energy in the world.

The declaration is a joint statement by the United States and the United Kingdom, and it is a reflection of the growing importance of nuclear energy in the world. The declaration is a significant step in the development of international nuclear law and is a reflection of the growing importance of nuclear energy in the world.

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provisions of this law. All expenses certified by the board as properly and necessarily incurred in the discharge of its duties, including authorized compensation, and including necessary expenses incident to cooperation with like boards of other states, shall be paid by the State Treasurer out of the "Fund of the Board of Examiners for Architects" on the warrant of the State Auditor issued upon vouchers signed by the chairman and secretary or by two (2) other members and the secretary of the board; provided, that at no time shall the total warrants issued exceed the total amount of funds accumulated under this law. All moneys derived from the operation of this law shall be deposited with the State Treasurer, who shall keep such moneys in the separate fund designated above.<sup>23</sup> The secretary of the board shall receive for the performance of the duties of his office the sum of one dollar (\$1.00) per year.<sup>24</sup>

Duties of the Secretary of the Board. The secretary of the board shall receive and account for all moneys derived from the operation of this law, and shall deposit these in the state treasury, and shall give a surety bond in the sum of two thousand dollars (\$2,000.00) for the faithful performance of his or her duties.

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<sup>23</sup> Ibid.

<sup>24</sup> Statutes, op. cit., Sec. 51-1404.



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The secretary shall notify every person registered hereunder of the date of the expiration of his certificate, and the amount of the renewal fee for one (1) year. Such notices shall be given not less than thirty (30) days prior to the expiration of said certificate. The secretary shall keep a record of the proceedings of the board and the register of all applicants for registration, and a complete record of all examinations, written and oral.<sup>25</sup>

Examination and Fee. The board shall hold at least once each year an examination of applicants for registration at a time and place designated by the board. Upon application therefor upon a prescribed form, and upon the payment by the applicant of a fee of fifty dollars (\$50.00), the board shall consider such application, and, in cases as hereby authorized, issue a certificate of registration as an architect to any person who submits evidence satisfactory to the board that he or she is fully qualified to practice architecture.<sup>26</sup>

Requirements for Registration. No person shall be eligible for registration who is not of good character and

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<sup>25</sup> Ibid.

<sup>26</sup> Statutes, op. cit., Sec. 51-1403.



The following information is being furnished to you for your information and the use of your organization. It is requested that you keep a record of the information received and the manner of its use. It is also requested that you advise the Bureau of any changes in the information received or the manner of its use.

Information received from the Bureau of the Census

One copy of the information received from the Bureau of the Census is being furnished to you for your information and the use of your organization. It is requested that you keep a record of the information received and the manner of its use. It is also requested that you advise the Bureau of any changes in the information received or the manner of its use.

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reputation, and who has not been actively engaged for eight (8) years or more in architectural work of a character satisfactory to the board. However, each year of teaching or study satisfactorily completed in a school of architecture of a standing satisfactory to the board shall be equivalent to one (1) year of such active engagement. All applicants for registration shall be required to pass a written and/or oral examination as required by the board. In determining the qualifications of applicants for registration as architects, a majority vote of the members of the board shall be required. In case the board denies the issuance of a certificate to an applicant, one-half of the registration fee deposited shall be returned by the board to the applicant. <sup>27</sup>

A corporation, partnership or association may engage in the practice of architecture in this state, provided at least two (2) of the principals of such corporation and all members of such partnership or association are registered as hereby required, or as otherwise authorized to practice by this law. <sup>28</sup>

Certificates of Registration. Each registrant may, upon registration, obtain the seal of the design authorized

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<sup>27</sup> Statutes, op. cit., Sec. 51-1405.

<sup>28</sup> Ibid.







by the board, bearing the registrant's name and the legend "Registered Architect--State of New Mexico." Plans, specifications, plats and reports issued by a registrant must be stamped with the said seal during the life of a registrant's certificate, and it shall be unlawful for anyone to stamp or seal any documents with said seal after the certificate has expired or has been revoked.

Certificates of registration shall expire on the last day of the month of December following their issuance or renewal, and shall be invalid after that date unless renewed. Renewal may be effected at any time during the month of December by the payment of a fee of five dollars (\$5.00) for a legal resident, and ten dollars (\$10.00) for a non-resident, to the secretary of the board. The failure on the part of any registrant to renew his certificate annually in the month of December, as required above, shall not deprive such person of the right of renewal thereafter, but the fee to be paid for the renewal of a certificate after the month of December shall be increased ten per cent for each month or a fraction of a month that the payment for renewal is delayed; provided, that the maximum fee for a delayed renewal shall not exceed twice the normal fee, for each and every year that the registrant remains in default.

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<sup>29</sup> Statutes, op. cit., Sec. 51-1406.



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Revocation and Hearing. The board shall have the power to revoke the certificate of registration of any architect registered under this law who is found guilty of any fraud or deceit in obtaining a certificate of registration, or of gross negligence, incompetency or misconduct in the practice of architecture, or of stamping with his official seal any plans, specifications, plats, and reports in violation of the provisions of this law.

Any person may prefer charges of such fraud, deceit, negligence, incompetency, misconduct, or misuse of his official seal against any architect registered hereunder; and such charges shall be in writing and sworn to by the complainant and submitted to the board. Such charges, unless dismissed without hearing by the board as unfounded or trivial, shall be heard and determined by the board within three (3) months after the date on which they are preferred. A time and place for such hearing shall be fixed by the board. A copy of the charges, together with a notice of the time and place of hearing shall be legally served on the accused at least thirty (30) days before the date fixed for the hearing. And in the event that such service cannot be effected thirty (30) days before such hearing, then the date of hearing and the date of determining shall be postponed as may be necessary to permit the carrying out of this condition. At such hearing the accused shall have the right to







appear personally, and by counsel, and to cross-examine witnesses against him, and to produce evidence and witnesses in his defense. If after said hearing three (3) or more members of the board vote in favor of finding the accused guilty of any fraud or deceit in obtaining a certificate, or of gross negligence, incompetency, misconduct or misuse of his official seal in the practice of architecture, the board shall revoke the certificate of registration of the accused registrant.<sup>30</sup>

Exemptions. The following shall be exempt from the provisions of this law: (a) Architects who are not legal residents of and have no established places of business in this state who are acting as consulting associates of a legal resident architect registered under the provisions of this law, provided, that the non-resident architect is qualified for such professional service in his own state or country; (b) architects acting solely as an officer or an employee of the United States or any interstate railroad system; (c) architects acting solely as employees of the State of New Mexico, or any political subdivision of the state at the time this law went into effect and thereafter only until the expiration of the then existing term of office of such employees; (d) draftsmen, students, clerks of the work,

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<sup>30</sup> Statutes, op. cit., Sec. 51-1403.







superintendents and other employees of lawfully practicing architects under the provisions of this law and acting under the instructions, control, or supervision of the employer,<sup>31</sup> the registered architect.

Restrictions. Neither the state nor any township, county, city, town, village, school district, nor other political subdivision of the state shall engage in the construction or maintenance of any public work involving architecture for which the plans, specifications, and architectural services have not been provided by legal resident registered architects of the State of New Mexico; provided, that nothing hereby shall be held to apply to such public work wherein the contemplated expenditure for the complete project does not exceed five thousand dollars (\$5,000.00).

Nothing in this law shall prevent any individual, firm, or corporation from preparing architectural plans and specifications without being registered, unless the same involves public safety or health, providing that the work shall be done on residences of less than three (3) stories, and provided that the work shall be done on commercial or industrial or semi-public buildings, the construction cost of which does not exceed five thousand dollars (\$5,000.00).<sup>32</sup>

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<sup>31</sup> Statutes, op. cit., Sec. 51-1407.

<sup>32</sup> Statutes, op. cit., Sec. 51-1408.







Violations and Penalties. Any person who shall present or attempt to file as his own the certificate of registration of another, or who shall give forged or wilfully false evidence of any kind to the board or any member thereof for the purpose of obtaining a certificate, or shall falsely impersonate any other practitioner, or who shall use or attempt to use, an expired or revoked certificate of registration, or shall use, or permit another to use his official architect's seal to stamp or seal any documents that have not been prepared either by him or under his supervision, shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment for three (3) months, or both, such fine and imprisonment. Any any person who shall practice or offer to practice architecture in this state in violation of the provisions of this law shall be deemed guilty of a misdemeanor and shall be liable to a fine of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for such offense, each day to constitute a separate offense. A person shall be construed to practice, or offer to practice, architecture who, by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be an architect, with or without qualifying adjectives, or through the use of some other title implies that he is an architect. The grand juries in the







county seats of the State of New Mexico are given inquisitorial powers over all violations of this law, and the judges of the courts shall give same in their charges to the grand juries. It shall be the duty of the members of the board to report any violations of this law to the proper authorities. The word "person" or "persons" herein shall also include firms and corporations. The Attorney-General of the state or his assistant shall act as legal adviser to the board when-<sup>33</sup> ever such assistance is deemed necessary by the board.

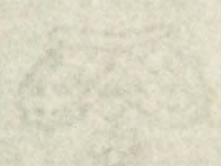
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<sup>33</sup> Statutes, op. cit., Sec. 51-1409.



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## CHAPTER III

### ATTORNEYS

The Committee on Qualifications for Admission to the State Bar prepares and submits from time to time for the approval and adoption of the Board of Commissioners of the State Bar of New Mexico any amendments to the rules and requirements for admission to the practice of law, including the fee to be charged applicants for admission. Such rules become binding and effective when approved by the Board of Commissioners. The Committee on Qualifications advises and cooperates with the Board of Bar Examiners, and acts on petitions for reinstatement of members suspended and dis-<sup>1</sup>barred.

The State Board of Bar Examiners, Appointment, Tenure of Office, and Organization. This board is composed of three active members of the State Bar who are appointed by the Board of Commissioners of the State Bar with the advice and approval of the State Supreme Court. There is no specified length of time which these members serve, but they may be removed at the pleasure of the Supreme Court or the Board of

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"Rules of the Board of Commissioners of the State Bar of New Mexico," Revised June 4, 1941, (Santa Fe: The Board of Commissioners of the State Bar of New Mexico).



The Committee on the Judiciary of the United States Senate has the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the proposed amendment to the Federal Constitution, which provides for the election of the President and Vice President by the electors of the several States. The Committee has the honor to inform you that it has the pleasure to inform you that the same has been referred to the Committee on the Judiciary of the United States Senate for their consideration.

The Senate Committee on the Judiciary  
of the United States Senate has the honor to inform you that the same has been referred to the Committee on the Judiciary of the United States Senate for their consideration.

Very respectfully,  
The Secretary of the Senate



Commissioners. The members of the State Board of Bar Examiners are invited to attend all meetings of the Board of Commissioners, and of the Committee on Qualifications for Admission to the State Bar, at which amendments to the rules for admission are being considered for final adoption or at which action is taken on petitions for reinstatement or readmission of members disbarred or suspended, and they may aid the Board of Commissioners with their advice, assistance, and recommendations in such matters. The board shall elect its chairman. The secretary-treasurer is appointed by the Board of Commissioners. The secretary-treasurer shall keep a record of all official business of the examining board, and he shall receive applications and fees from applicants for the bar examination, and accredit diplomas and certificates<sup>2</sup> of admission of applicants from other states.

Compensation of the Examining Board. The three examining members shall serve without pay, but all are reimbursed for all expenses incurred in traveling to and from official meetings of the examining board either at the state capital or in other cities in the state. It is provided that the secretary-treasurer shall receive six hundred dollars (\$600.00) per year for the performance of his duties, and

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<sup>2</sup> Ibid.







such salary shall be paid from the fund created by the collection of application fees.<sup>3</sup>

Application Upon Examination and Fee. The Board of Bar Examiners shall receive with the application from each person applying for examination the sum of twenty-five dollars (\$25.00), and from applicants for examination who were admitted to the bar and practiced law in another state the sum of fifty dollars (\$50.00). All remittances for fees shall be made payable to and shall be deposited with the secretary-treasurer of the board and applied toward the expenses of said board.

An applicant for admission must file with the secretary of the board of examiners an application under oath, setting forth the date and place of birth of such applicant, his or her place of residence for seven years immediately preceding the filing of such application, and facts showing the qualifications of such applicant, which application must be accompanied by the certificate of an attorney of this state that the applicant is a person of good moral character.

Upon filing the application for admission to the bar, it shall be the duty of the secretary of the Board of Bar

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<sup>3</sup> Ibid.



your salary shall be \$10,000 per annum, payable in advance at the rate of \$5,000 per annum, and the balance of \$5,000 shall be paid at the end of the year.

Section 10. Term of Office.

The term of office of the Board shall be for a period of five years, and the Board shall be organized as soon as possible after its appointment.

Any person appointed to the Board shall hold office until the expiration of the term for which he was appointed, unless he shall be removed by the Senate.

Section 11. Powers and Duties. The Board shall have the honor and privilege of the Senate, and shall be entitled to the same treatment and respect as the Senate.

The Board shall have the right to call for and receive from any department or officer of the State any information or documents which it may deem necessary for the proper discharge of its duties.

The Board shall have the right to hold public hearings and to receive testimony from any person who may wish to give it.

The Board shall have the right to make and publish reports from time to time, and to make such recommendations as it may deem proper to the Senate.

The Board shall have the right to make and publish such other reports and recommendations as it may deem proper.

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Examiners to immediately make an investigation independent of the matters stated in the application of the moral character of the applicant and attach to such application his report thereof together with all papers which he may receive in the course of such investigation. The board is not bound by the matter stated in the application, but may require other evidence as to the truth of the matters and things therein stated.

All applications for admission to the bar shall be addressed to the Chief Justice and Justices of the Supreme Court and be filed with the secretary of the board at the state capital not less than forty-five (45) days prior to the meeting of the examining board, unless special leave to otherwise file be obtained. All applications shall be submitted in duplicate under oath on the forms prescribed which may be obtained from the secretary-treasurer.

An applicant for admission on examination shall transmit with application a diploma or properly authenticated certificate showing his graduation from an approved law school. If applicant is not a graduate of an approved law school, he shall transmit with his application the following evidence: (1) A certificate of his admission in another state; (2) three certificates vouching for his good moral character by members of the bar of such foreign state; (3) a similar certificate by a member of the bar of this state;







(4) one or more certificates by a judge or judges of highest court of original jurisdiction in such foreign state or states, or the clerk or clerks thereof to the effect that applicant actually held himself out as an attorney and actively practiced law therein for at least three years prior to the date of the certificate, and further that the applicant has never been suspended or disbarred, or if suspended or disbarred,<sup>4</sup> that he has been duly reinstated.

Application Upon Motion. The Board of Bar Examiners shall receive from each person applying for admission on certificate the sum of one hundred dollars (\$100.00) made payable to the secretary-treasurer of the board. A procedure similar to that stated for applicants for examination must be followed by applicants upon motion with the following provisions: Attorneys of foreign states applying for admission without examination shall attach to their applications (1) certificates of admission in such foreign state or states; (2) three certificates of the good moral character of the applicant by members of the bar of such foreign state or states; (3) a similar certificate by a member of the bar of this state; and (4) one or more certificates of a judge or

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<sup>4</sup> "Rules Governing Admission to the Bar," (Santa Fe: The State Board of Bar Examiners, 1946).







judges of highest court of original jurisdiction in such foreign state or states, or the clerk or clerks thereof, to the effect that applicant actually held himself out as an attorney and actively practiced law therein for at least seven years prior to the date of the certificate, that a period of at least three years of such practice was continuous in one jurisdiction, and further that the applicant has never been suspended or disbarred, or if suspended or disbarred,<sup>5</sup> that he has been duly reinstated.

Qualifications of Regular Applicants. An applicant for admission to the bar, either upon examination or upon certificate and motion must be a citizen of the United States, an actual bona fide resident of the State of New Mexico for at least six (6) months prior to admission, twenty-one (21) years of age and of good moral character. No person who has been disbarred and not reinstated can be granted a license who at the time is under suspension from a court in any other state.

No person, other than those admitted on certificate from other states, shall be granted a license to practice law in this state or shall be entitled to take examination for admission to the bar unless such person shall have graduated



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from a law school approved by the American Bar Association as meeting the standards of that Association. An applicant, however, who is not a graduate of an accredited law school as herein provided but who has been admitted to practice in some other state and has actively and continuously practiced in said state for a period of at least three (3) years may be permitted to take the bar examination.

If any applicant has not practiced law for the time prescribed for persons who are not graduates of accredited law schools (above), or for persons who are licensed by other states, who are required to have practiced at least seven years immediately preceding establishment of residence in New Mexico, due to ill health or other cause sufficient in the opinion of the board, the latter may nevertheless recommend the admission of such person to practice in this state, if the applicant is otherwise qualified. The board may, however, in its discretion, require any applicant for admission to the bar to demonstrate his qualifications by taking<sup>6</sup> the regular bar examination.

Examinations. The Board of Bar Examiners shall hold examinations for the admission of applicants to the bar of this state at the Supreme Court Building in the state







capital, commencing on the fourth Monday in February and second Monday in August of each year, unless otherwise announced.

The board may hold other examinations or meetings in the state for the purpose of passing upon the qualifications of applicants or for the disposition of the business before it as they may deem necessary. They may hold examinations or meetings at such places and times as in their judgment will be most convenient for all parties concerned; but whenever examinations are held as provided by these rules all persons whose applications are on file awaiting examination must be notified of the time and place at least ten (10) days prior thereto; and the board of examiners may, as a condition precedent to holding a special examination or special meeting as herein provided, require applicant to pay, in addition to the regular fee, a sufficient amount to pay the expenses of such meeting.

The board shall prepare, as often as in their judgment is necessary, written questions to be submitted to applicants at examinations and may make such rules and regulations as to place, time, and manner of holding such examinations as in their judgment will best meet the objects of these rules.

Examination Subjects. The examination given by the Board of Bar Examiners shall cover the following subjects:







Real and personal property, contracts, partnership, negotiable instruments, agency, principal and surety, executors and administrators, bailments, corporations, personal rights, domestic relations, the principles of constitutional law, wills, equity jurisdiction, pleading, evidence and criminal law, and such other subjects and matters as the board shall direct, and such examination may be written or oral, or both.

The board of examiners will not recommend any candidate for admission who shall not have attained an average of at least seventy (70%) per cent in his examination. No information regarding the grade attained by any candidate taking the examination shall be divulged by the board. The applicant will be advised that he either passed or failed.<sup>7</sup>

Re-Examination. Any applicant who has failed or may hereafter fail to pass any examination may take any subsequent examination by notifying the secretary-treasurer of the board in writing sixty (60) days in advance of the date set for such examination of his desire so to do and by paying a fee of twenty-five dollars (\$25.00), said fee to accompany said notice; provided, that the Board of Bar Examiners may decline to permit any such applicant to take the examination when not satisfied of his good moral character.<sup>8</sup>

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<sup>7</sup> "Rules," op. cit., Rule III.

<sup>8</sup> Ibid.







Licenses. Licenses to practice law shall be granted only to applicants who pass the examination and to applicants entitled thereto under these rules upon certificate and motion. Any applicant on certificate and motion, who is not a resident of New Mexico when he files his application shall comply with the six (6) months' residence requirement within one (1) year and eighteen (18) months, respectively, from the date of filing such application.

Applicants who have qualified for admission either by reason of having passed the examination successfully or through compliance with the requirements of admission on certificate and motion, and have met all other requirements shall then be granted licenses to practice law in all the courts of this state.

Every member of the State Bar is required to pay a license fee of five dollars (\$5.00) per year. Newly admitted members are exempt for the calendar year in which they are admitted. All members, except those who are exempt by statute and those who are relieved therefrom by suspension orders of the Board of Commissioners, are required to pay the annual license fee. The secretary shall, in the name of the Board of Commissioners, certify to the Supreme Court all members who are delinquent in the payment of renewal license fees as soon as practicable after March 1st of each year. Certification for suspension shall not be made if a member makes



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satisfactory showing that his delinquency is due to the fact that he has had no notice of the requirements of these<sup>9</sup> rules.

Investigation of Misconduct. Complaints against members of the bar for unprofessional conduct shall be, in the first instance, referred to the Committee on Ethics, Grievances and Discipline. This committee is one of several committees of the Board of Commissioners. Such complaints shall be in writing, and the committee shall thereupon make such investigation as in its discretion is demanded and warranted. After making such investigation, the committee may dismiss the charge or accusation if found insufficient. Should the committee determine that a complaint or charge is sufficiently serious to require a trial thereof, it shall then file with the Board of Commissioners a formal accusation; provided, however, that such accusation shall be filed with the Supreme Court direct if it appears probable to the committee that the accused will not appear for trial, that no defense will be offered or that the charges contained in the accusation will be admitted, thus avoiding unnecessary board meetings and expense. In such cases the committee will

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<sup>9</sup> "Rules of the Board of Commissioners," Procedure for Investigation and Trial of Charges of Misconduct against Attorneys.







prepare and sign the accusation and transmit it to the President of the State Bar. If the President approves, he will note his approval upon the accusation and transmit it to the Attorney General of the state with the request that it be filed by him after obtaining permission of the Supreme Court. In cases in which accusations are filed with the Board of Commissioners as provided, the cause will thereafter proceed  
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as a trial in court.

The Board of Commissioners will report to the Supreme Court its findings and conclusions together with its recommendations, provided, however, that no report shall be made to the Court of such matters which are dismissed by the Committee on Grievances nor of cases heard by the Board of Commissioners resulting in dismissal of the charges. The members of the committee shall act as attorneys for the prosecution before the Board of Commissioners, and also before the Supreme Court if necessary, but the members of said committee shall not participate as referees or in the report to the Supreme Court. Said Committee on Grievances shall report to the Board of Commissioners in January and June of each year, giving the names and nature of charges filed with said committee and investigated by it and briefly state what







disposition was made of matters which did not justify the  
<sup>11</sup>  
 filing of an accusation. All members of the Commissioners,  
 excepting the members of the Committee on Grievances, may sit  
 as referees under this rule; provided, that three (3) members  
 only may sit and constitute a quorum. The files, records,  
 and actions of this committee shall be confidential. The  
 accused shall be given the right to say whether or not trial  
 before the Board of Commissioners shall be open to the pub-  
 lic. Any publicity attending the investigation of a member  
 by the committee or trial before the Board of Commissioners,  
<sup>12</sup>  
 unless approved by the accused, will be considered improper.

Re-Instatement or Re-Admission. Upon receipt by the  
 Board of Commissioners, as referee, or a petition for rein-  
 statement of a member disbarred or suspended, the same shall  
 be referred in the first instance to the Committee on Qual-  
 ifications for Admission to the Bar, and said committee shall  
 make its report to the board with recommendations. If the  
 recommendation is adverse to petitioner's unqualified rein-  
 statement, the report to the board should include specific  
 recommendations as to whether petitioner should be required  
 to take another bar examination, or if a temporary license

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<sup>11</sup> Loc. cit.

<sup>12</sup> Ibid.







only, for a specified period, should be granted, or other conditions that should be imposed. If the report of the committee mentioned above, whether it be favorable or adverse, is protested by the petitioner or by the Board of Bar Examiners or other interested persons, a hearing may be granted by the Board of Commissioners sitting as referees of the Court but shall appear in support of their recommendations, if requested to do so by the Board of Commissioners. The members of the Board of Bar Examiners shall also be privileged to appear at such a hearing and to take part therein in support of their recommendations or contentions.

Excepting members of the Committee on Qualifications for Admission to the Bar, all members of the Commissioners may sit as referees under this rule; provided, that three (3) members may sit and constitute a quorum. The Board of Commissioners shall make its report to the Supreme Court as referees in the usual manner.

The files, records, and actions of this Committee on Qualifications or of the Board of Commissioners in such matters shall be considered confidential. Any publicity attending the consideration by the committee or by the Board of

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<sup>13</sup> "Rules," op. cit. Procedure Relating to Petitions for Reinstatement or Readmission of Members Disbarred or Suspended.







Commissioners of such petitions will be considered improper  
unless approved or desired by petitioner.<sup>14</sup>

Duties of Members of the State Bar. Members of the State Bar are required to conform and abide by the oath which is administered in the Supreme Court upon admission. They shall obey the canons of ethics adopted and promulgated by the American Bar Association as from time to time amended by said association. The Canons of Judicial Ethics of the American Bar Association are closely adhered to by the Board of Commissioners. They shall obey the rules established by the Supreme Court and by the District Courts of the state, and by the Federal Courts before which they may be called  
upon to practice.<sup>15</sup>

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<sup>14</sup> Ibid.

<sup>15</sup> "Rules," op. cit., Duties of Members of the Bar.



Commissioners of such religious and educational institutions

unless approved or disapproved by the State

Article of Amendment to the Constitution

State law are reserved to the State and no law

is administered in the United States and no law

shall deny the same to any person or persons

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## CHAPTER IV

### MEDICINE AND THE HEALING ARTS

#### A. Chiropody

The practice of chiropody, according to the New Mexico law, is the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of ailments of the human foot, excepting amputation of the foot or toes or the administration of an anesthetic other than local.<sup>1</sup>

The State Board of Chiropody Examiners, Appointment and Tenure of Office. This board is composed of three (3) practicing chiropodists of integrity and ability, who shall have been residents of the State of New Mexico for a period of at least two (2) years prior to their appointment. Each member is appointed for a three (3) year term. Any vacancy which may occur is filled by appointment by the governor, and the chiropodist so appointed shall hold office until the expiration of the term. The board elects its president and secretary-treasurer from among its members. The secretary-treasurer shall give bond in the sum of five hundred dollars

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New Mexico Statutes, Annotated, 1941, (Indianapolis: The Bobbs-Merrill Company, 1942), Chapter 51, Article 2, Section 51-201.







(\\$500.00) for the faithful performance of his or her duties.

Chiropody Fund and Compensation of Members. All moneys received by the board shall be paid to the State Treasurer monthly, and shall be credited to the Chiropodist Fund of the state. The incidental and traveling expenses of said board and such salary to the secretary as the board may fix, shall be paid from such fund only. The members of the board, except the secretary, shall receive no compensation for their services except necessary traveling expenses in attending meetings of the board, and in no case shall anyone be paid more than was actually expended. Such incidental and traveling expenses shall be approved by said board and sent to the State Auditor who shall issue his warrant upon the State Treasurer for the amounts due, provided that the amount so paid shall not exceed the amount received by the State Treasurer from said board in advance. Any balance remaining from this fund at the end of the fiscal year, after the payment of all necessary expenses, shall not revert to the general fund but shall be carried forward and be made available for the use of the board during the next or any subsequent year.

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<sup>2</sup> Statutes, op. cit., Sec. 51-206.

<sup>3</sup> Statutes, op. cit., Sec. 51-207.



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Application of Applicants. Applications for registration shall be made upon blanks furnished by the board, and shall be signed and sworn to by the applicant. Applicants of this class shall be registered and shall receive licenses only at the discretion of the board. The applicant shall file with the secretary of the board, at least one (1) week prior to an examination, an approved application through the blank furnished by the board, covering the detail of his or her personal history and his or her preliminary and professional education, and such other evidence of qualification as<sup>4</sup> the board may require.

Qualifications of Applicants. An applicant must furnish the board with satisfactory proof that he or she is twenty-one (21) years of age, is of good moral character, and that he or she has obtained a preliminary education which is the equivalent of a four-year course of instruction in an accredited high school. Such applicant must also furnish the board with evidence that he or she has, in addition to this preliminary requirement, received a degree in chiropody from a college of chiropody having a four (4) year course of instruction having an aggregate number of scholastic hours of

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<sup>4</sup> Statutes, op. cit., Sec. 51-202.



Application of Admission

tion shall be made upon blanks furnished by the board, and shall be signed and sworn to by the applicant. Admission of this class shall be registered and shall receive license only at the discretion of the board. The applicant shall file with the secretary of the board, at least one (1) year prior to an examination, an approved application through a blank furnished by the board, covering the data of his or her personal history and his or her educational and professional education, and such other evidence of qualifications as the board may require.

Qualifications of Applicants

nish the board with satisfactory proof that he or she is twenty-one (21) years of age, of good moral character, and that he or she has obtained a preliminary education which is the equivalent of a four-year course of instruction in an accredited high school. Such applicant must also furnish the board with evidence that he or she was in attendance upon preliminary instruction, received a diploma in chemistry from a college of chemistry during a four (4) year course of instruction having an average number of semester hours of



four thousand (4,000) hours. Applicants for examination under the above rule shall, upon payment of a fee of twenty-five dollars (\$25.00), be examined and if found qualified shall be registered and shall receive in testimony thereof a certificate signed by the president and secretary of the board. The Board of Chiropody Examiners shall from time to time adopt standards of preliminary and professional qualifications, and no college or school of chiropody shall be designated as approved unless it conforms with the standards of the Council on Education of the National Association of Chiropodists.<sup>5</sup>

Examination. The Board of Chiropody Examiners shall hold one (1) examination annually for the purpose of examining applicants under this law. The examination shall be held at such time and place as the board may see fit. The board may make such rules and regulations as it may deem necessary to conduct its examinations and meetings; it shall provide such books, blanks, and forms as may be necessary to conduct its examinations. All wilful violation of such rules and regulations shall subject the applicant to the loss of the examination and fee. Examinations shall be in the English language and shall be written and clinical. The

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<sup>5</sup> Ibid.



four thousand (4,000) dollars, and the sum of  
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examinations shall embrace the subjects of anatomy, histology, chemistry, physiology, pathology, bacteriology, materia medica, therapeutics, diagnosis and treatment, and clinical chiropody, medicine and surgery, and such added subjects as may be pertinent to the practice of chiropody. The minimum requirements for registration of applicants under this law shall be based on a general average of seventy-five (75%) per cent of the subjects involved, and not less than fifty (50%) per cent in any one subject.<sup>6</sup>

Recording of License. Every person to whom a certificate or license has been issued under this law shall, within one (1) month from date of receipt of said license, submit same to the county clerk of the county in which said person has his or her legal residence, or usual place of business, and shall make oath that he or she is the person designated therein. Upon payment of the usual fee, it shall be the duty of the county clerk to whom such certificate is presented, to register the name and address of the person therein designated in the license together with the date and number inscribed thereon; which record shall be open to the inspection of the public.<sup>7</sup>

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<sup>6</sup> Ibid.

<sup>7</sup> Statutes, op. cit., Sec. 51-205.



examinations shall embrace the subjects of anatomy, physiology, chemistry, physics, pathology, bacteriology, materia medica, therapeutics, diagnosis and treatment, and clinical philosophy, medicine and surgery, and such other subjects as may be pertinent to the practice of medicine. The minimum requirements for registration of applicants under this law shall be based on a general average of seventy-five (75) per cent of the subjects included, and not less than fifty (50) per cent in any one subject.

Recording of Licenses. Every person licensed as a physician or licensee has been issued under this law shall, within one (1) month after date of receipt of said license, report same to the county clerk of the county in which said person has his or her legal residence, or usual place of business, and shall make oath that he or she is the person so registered. Upon payment of the annual fee, it shall be the duty of the county clerk to whom such certificate is presented, to register the name and address of the person so registered in the license together with the date and number assigned thereon; which record shall be open to the inspection of the public.

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Idid.



Reciprocity. An applicant may, at the discretion of the board, be registered and given a license if he or she shall present satisfactory proof of endorsement from his or her state association as having practiced chiropody and being in possession of a license to practice in his or her state issued at least one (1) year prior to filing of application for reciprocal privileges. The license must have been issued within the states, territories, districts, or provinces of the United States, or within any foreign nation, where requirements for licensure shall be deemed by the board to be equivalent to those contained in this law, and where a state or country from which the applicant has received a license has like reciprocal privileges with the State of New Mexico. The fee for registration of applicants of this class shall be fifty dollars (\$50.00), and for the endorsement of an applicant to another state or country, five dollars (\$5.00).<sup>8</sup>

In addition to the application and examination fee of twenty-five dollars (\$25.00) for residents, or the fee of fifty dollars (\$50.00) for reciprocal license, each applicant shall be required to pay to the board the sum of ten dollars (\$10.00) for the issuance of the license.<sup>9</sup>

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<sup>8</sup> Statutes, op. cit., Sec. 51-203.

<sup>9</sup> Statutes, op. cit., Sec. 51-204.







Fraud in Obtaining License. Any person who shall unlawfully obtain registration or license under this law, whether by false or untrue statements contained in his or her application to the board, or by presenting to the board a fraudulent diploma, certificate, or license, or one fraudulently obtained, shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00), or by imprisonment of not less than one (1) year nor more than two (2) years, or both such fines and imprisonment. Any person who shall swear falsely to any affidavit or oral testimony made or given by virtue of the provisions of this law, or the regulations of the State Board of Chiropractic Examiners, shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to all the pains and penalties of perjury.

Refusal or Revocation of License. The board may, after hearing, refuse to issue a license to any person, or may revoke and cancel the license of any person licensed under the provisions of this law, who, after investigation, shall be found by a majority vote of the board guilty of

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<sup>10</sup> Statutes, op. cit., Sec. 51-208.



Final or Conditional License.

lawfully obtain registration or license under this law, whether by false or untrue statements furnished in application to the board, or by procuring the same by fraudulent means, certificates, or licenses, or any other means, shall be guilty of a felony, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment of not less than (1) year nor more than two (2) years, or both such fines and imprisonment. Any person who shall enter falsely in any affidavit or oral testimony made or given in violation of the provisions of this law, or the regulations of the board of chiropractic examiners, shall be deemed guilty of perjury, and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment of not less than (1) year nor more than two (2) years, or both such fines and imprisonment.

Refusal or Revocation of License.

after hearing, refuse to issue a license to any person, or may revoke and cancel the license of any person licensed under the provisions of this law, who, after investigation, shall be found by a majority vote of the board of chiropractic examiners to be guilty of any of the offenses herein provided for.



grossly unprofessional conduct and dishonest conduct. Said hearing is to be held under the rules and regulations to be adopted by the board. The words "unprofessional" and "dishonest conduct" shall be held to mean within the provisions of this law (a) the making of a false statement in any affidavit required of the applicant for application, examination, or registration under the provisions of this law; (b) conviction of a crime involving moral turpitude; (c) any person habitually indulging in the use of narcotics, ardent spirits, stimulants, or other substances which impair intellect and judgment to such an extent as in the opinion of the board will incapacitate such persons from the performance of their professional duties; (d) lending the use of one's name to an unregistered chiroprapist; (e) the wilful betrayal of a professional secret; (f) conduct which in the opinion of the board disqualifies him or her to practice with safety to the public.<sup>11</sup>

Temporary Suspension. The board may suspend any license issued by it for an indefinite period, to be fixed by the board, for misconduct on the part of a licensed chiroprapist which would not in the judgment of the board warrant a

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<sup>11</sup> Statutes, op. cit., Sec. 51-209.







complete revocation of the license. Any person against whom charges have been made shall be notified of the fact and a copy of the charges shall be sent him or her by the board, and he or she shall be given a fair and impartial hearing by the board, whose decision shall be made by a majority vote of its members.<sup>12</sup>

Penalty for Violation. Any person who shall practice chiropody in this state, or shall advertise in any form or hold himself out to be a chiropodist, or who shall by any means advise the public that he is licensed to practice chiropody as defined in this law, without having at the time of so doing a valid, unrevoked license as provided for in this law, shall be deemed guilty of a felony, and, upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000.00), or imprisonment of not more than two (2) years, or both, in the discretion of the court, for each offense. It shall be the duty of the Attorney-General of the state to prosecute violations of the provisions of this law.<sup>13</sup>

Advertising Restrictions. Any chiropodist who shall

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<sup>12</sup> Statutes, op. cit., Sec. 51-210.

<sup>13</sup> Statutes, op. cit., Sec. 51-211.



complete revocation of the license, and the license shall be  
charges have been made, and the license shall be  
copy of the charges shall be sent to the board, and the board  
and he or she shall be liable to the board, whose decision  
the board, whose decision shall be final, and the board shall  
its members.

Punishment for violation. Any person who violates the provisions of this act shall be liable to the board, whose decision shall be final, and the board shall impose a fine of not less than ten dollars nor more than one hundred dollars, or imprisonment for not less than ten days nor more than six months, or both, at its discretion, for each offense. The board may also suspend the license of any person who violates the provisions of this act for a period of not less than thirty days nor more than six months, or both, at its discretion. The board may also revoke the license of any person who violates the provisions of this act, and the license shall be void from the date of revocation. The board may also impose any other penalty which it deems proper for any violation of the provisions of this act.

Advertising. Any person who advertises for the purpose of procuring the services of a person who is not licensed under this act shall be liable to the board, whose decision shall be final, and the board shall impose a fine of not less than ten dollars nor more than one hundred dollars, or imprisonment for not less than ten days nor more than six months, or both, at its discretion, for each offense.



use objectionable display advertising in any manner detrimental to the dignity of the profession, and therefore unprofessional, shall be punished by the provisions of this law. Chiropodists shall not advertise in newspapers, telephone books, street cars or busses, or by direct appeal to the public by means of motion pictures, circulars, booklets, radio, or procure patients through the use of agents or solicitors employed for this purpose. A chiropodist shall not inspire newspaper or magazine comment in cases where the chiropodist is involved. He or she shall not boast of radical cures or treatments, nor promise cures, nor claim secret treatments or remedies. Nothing in this rule shall be construed as to prohibit the publishing in ordinary type the name, address, and telephone number of any practicing chiropodist in any newspaper or telephone book. Periodical or newspaper advertisements shall not exceed one (1) inch in depth and one column in width, and shall conform likewise to the mentioned restrictions. Outdoor or similar signs shall not exceed twelve by thirty (12 x 30) inches, and shall be limited to the mentioned qualifications. Should all the practicing chiropodists of the state or a given city wish to conduct an educational campaign, this shall not be considered unprofessional as long as it is endorsed by the state association.<sup>14</sup>

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<sup>14</sup> Statutes, op. cit., Sec. 51-212.



use objectionable display advertisements in any newspaper  
mental to the dignity of the profession, and therefore un-  
professional, shall be prohibited by the provisions of this  
law. Chiropractors shall not advertise in newspapers, tele-  
phone books, street cars or buses, in any licensed newspaper  
the public by means of motion pictures, or radio, or  
radio, or procure patients through the use of signs or  
advertisers employed for this purpose. A chiropractor shall  
not insert newspaper or magazine columns in which to advertise  
chiropractic is involved. No one shall be permitted to  
call upon or visit, or make house calls, or visit, or  
treatments or referrals. Nothing in this law shall be con-  
sidered as prohibiting the publishing in ordinary type the  
name, address, and telephone number of any practicing chi-  
ropodist in any newspaper or telephone book. Any such  
newspaper advertisement shall not exceed one (1) inch in  
depth and one column in width, and shall contain no more  
the mentioned restrictions. No such restriction shall  
not exceed twelve by thirty (12 x 30 inches), and shall be  
limited to the mentioned restrictions. No such restriction shall  
practicing chiropractors of the name or a given physician to  
conduct an educational campaign, and shall be considered  
unprofessional as long as it is considered to be the active cam-  
paign.



Enforcement of the Law. It is the duty of police departments of the cities, and the sheriffs of the counties of this state to see that all persons practicing chiropody in their respective cities and counties are legally registered and licensed according to the provisions of this law, and to<sup>15</sup> report to the Attorney-General all violations of this law.

Exemptions. This law shall not apply to the commission surgeons of the United States Army, Navy, or Marine Hospital Service in the actual performance of their official duties; nor shall the provisions of this law be so construed as to be in conflict with existing laws regulating the practice of the healing arts in this state. This law shall not apply to a visiting chiropodist called into consultation in this state from another state where he or she is duly qualified<sup>16</sup> under the laws of that state to practice chiropody. Nor shall this law apply to the manufacturers or dealers in corrective foot appliances, remedies, or shoes for the correction or relief of foot ailments, provided such manufacturers and dealers shall not be entitled to practice chiropody as in this law defined, unless duly licensed to

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<sup>15</sup> Statutes, op. cit., Sec. 51-213.

<sup>16</sup> Statutes, op. cit., Sec. 51-214.



Department of the Interior, Bureau of Land Management  
of this State to see that the same are properly  
their respective titles and interests in the same  
and issued according to the provisions of the  
report to the State.

Exemption.

also exempted of the same the same shall be  
Hospital Service to the same shall be  
unless; now shall the same be  
as to be in conflict with the same  
time of the hearing of the same shall  
apply to a visiting officer of the same  
this State from such cases shall be  
ried under the laws of the State  
Now shall this law apply to the same  
correlative fees applied to the same  
recognition or relief of the same  
turns and delays of the same  
chiropractic as in this law.

18

Statutes, 1907, c. 100, § 100

18

Statutes, 1907, c. 100, § 100



17  
do so.

Corporations, Partnerships, or Associations. No license to practice chiropody shall be issued to a corporation, partnership, or association, provided however, this rule does not prohibit persons practicing chiropody under the provisions of this law from associating themselves together in the same suite of offices.<sup>18</sup>

The Board of Chiropody Examiners shall not issue a license to any person who is not a citizen of the United States.

#### B. Chiropractics

The practice of chiropractic within the meaning and intent of the law in New Mexico is to diagnose and treat diseases, injuries, deformities, or other physical or mental conditions by the use of any or all methods as, for example, palpating, diagnosing, adjusting and treating diseases, injuries, and defects of human beings by the application of manipulative manual and mechanical means, including all natural agencies imbued with the healing art, such as food, water, heat, cold, electricity, vacuum cupping and drugless

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<sup>17</sup> Ibid.

<sup>18</sup> Statutes, op. cit., Sec. 51-215.



### Corporations, partnerships, or associations

license to practice exclusively as a corporation, partnership, or association, no person shall be permitted to practice in the same office of this law from which the license is issued.

The Board of Osteopathy shall have the right to issue a license to any person who is not a citizen of the State.

### B. Chiropractic

The practice of chiropractic is defined as the treatment of the law in New Mexico in the treatment of diseases, injuries, deformities, or other conditions of the body by the use of any or all of the following: palpating, diagnosing, adjusting and twisting, and other manipulative manual and mechanical means, including the use of natural agencies labored with the feet, water, heat, cold, electricity, motion and other means.



appliances, without the use of drugs or what are commonly known as medicinal preparations, or in any manner severing or penetrating any of the tissues of the human body, known as surgery.<sup>19</sup>

The State Board of Chiropractic Examiners, Appointment and Term of Office. This board is composed of three (3) licensed chiropractors who must be graduates of chartered schools or colleges of chiropractic, and must have practiced chiropractic for two (2) years prior to appointment to the board. Each member serves a three (3) year term, one (1) member being appointed each year. All vacancies on the board are filled by appointment by the governor. No two members of the board may be graduates of the same school or college of chiropractic.<sup>20</sup>

Organization, Meetings, and Compensation of the Board. The board organizes by electing one member as president, one as treasurer, and one as clerk, each of which performs the duties generally appertaining to such office. The board adopts rules and regulations for its procedure, copies of

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<sup>19</sup> "Laws Regulating the Practice of Chiropractic in the State of New Mexico," (Santa Fe: The State Board of Chiropractic Examiners, 1946).

<sup>20</sup> Statutes, op. cit., Chap. 51, Art. 3, Sec. 51-301.



applicability, without the aid of the  
know as mentioned in the  
generating any of the  
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category

The State Board of Education  
ment and form of the  
licensed educators  
schools or colleges of  
chiropractic for the  
board. Each member serves  
member being appointed  
are filled by appointment  
the board may be  
20  
chiropractic.

Organization  
The board organizes  
as president, and one  
action generally  
admits rules and regulations

12 Laws regulating the  
the State of New Mexico  
chiropractic examination, 1935  
20 Statutes, the  
the State of New Mexico



which are kept by the clerk of the board and are delivered free upon request. After the election meeting, the board convenes regularly on the second Monday of January and July of each year at the state capital, and holds such adjourned and special meetings as are found to be expedient. At the July meeting each year, the board is organized by re-electing officers, provided that the last appointed member is to be the president of the board.<sup>21</sup> It is provided that each member shall receive ten dollars (\$10.00) per diem for each day necessarily spent in the discharge of his duties as such member of the board, and shall receive three cents (3¢) per mile for each mile necessarily traveled in going to an returning from all meetings of the board; provided, that the salaries and expenses above stated and all other expenses incident to the conduct of the affairs of the board shall be paid out of the funds of the board and not otherwise, payment to be made only on the order of the board signed by the president and the clerk of the board.<sup>22</sup>

Bond and Duties of the Treasurer. The treasurer must give bond in the sum of five thousand dollars (\$5,000.00)

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<sup>21</sup> Statutes, op. cit., Sec. 51-302.

<sup>22</sup> Statutes, op. cit., Sec. 51-304.







with one or more sureties to be approved by the board for the faithful performance of his duties, and must make, at the July meeting of the board, a full itemized report of his receipts and disbursements for the year, showing the amount on hand, and any he may have in excess of the estimated amount for the ensuing year is to be turned over by him to the State Auditor to be kept by the latter as a fund for the use and benefit of the board, subject to be drawn upon by it in any emergency requiring such use.

23

Application and Fee. Application for license to practice chiropractic must be made to the Board of Chiropractic Examiners signed by the applicant in his own handwriting and acknowledged before some officer authorized to administer oaths, setting forth the qualifications of the applicant, and, by reference, making a copy of his or her diploma a part of the application, which statement must be supported by the affidavits of two chiropractors, not related to nor under financial obligation to the applicant, to which shall be appended affidavits of at least two prominent citizens of this state, showing the applicant to be possessed of good moral character, and must accompany such application with



with one or more persons...  
falsely representing...  
only meeting at the...  
receipts and disbursements...  
on hand, and any amount...  
amount for the entire year...  
the State Auditor to be kept...  
has and benefit of the...  
in any emergency requiring...

Application and Affidavit

also prospective must...  
Examiners signed by...  
acknowledged before...  
office, setting forth...  
and, by reference, to...  
of the application...  
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financial obligation...  
appended affidavits...  
this state, showing...  
moral character, and...



ten dollars (\$10.00). The applicant must first have undergone an examination in the basic sciences before being considered by the chiropractic examiners; the certificate from the Board of Examiners in the basic sciences must also accompany the application to the chiropractic examiners. Before proceeding further, the board must pass upon the application. If the same is disapproved, the application is returned to the applicant with the reasons for its disapproval fully stated in writing, which reasons are subscribed by the clerk of the board of chiropractic examiners. If the application is approved, the applicant is admitted to examination, and before taking same, must deposit with the treasurer of the board fifteen dollars (\$15.00) additional. If the applicant shall fail to pass the examination, the fifteen-dollar (\$15.00) deposit is returned to him, and if the applicant shall pass the examination, said sum of fifteen dollars (\$15.00) shall be in full payment of the license  
24  
fee.

Qualifications and Examination of Applicants. All applicants for licenses to practice chiropractic in this state must be citizens of the United States, and must be

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24 Statutes, op. cit., Sec. 51-303.



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some an examination ...  
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Application for admission of ...  
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24



graduates of chartered colleges of chiropractic teaching a resident course of not less than two thousand four hundred (2,400) hours, and all such applicants must have at least a high school education or its equivalent. The board shall examine all applicants whose applications have been approved in writing on the following subjects: Chiropractic principles, anatomy, histology, physiology, systematology, bacteriology, chemistry, diagnosis, hygiene, pathology, public health service, and adjustology. Following the written examination, the board shall examine each applicant in the act of chiropractic adjusting in such manner and by such methods as shall reveal the applicant's qualifications. The board shall issue licenses to all applicants whose applications have been filed with and approved by the board, and who have paid the required fee and passed the required examination with a general average of not less than seventy-five (75%) per cent, with no subject below sixty (60%) per cent; provided, that a license shall be refused to any applicant who fails to make application as provided by this law or  
 25  
 fails to pay the fee as required.

Recording of License. Before the holder of any license shall enter the practice thereunder, he must have the

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<sup>25</sup> Statutes, op. cit., Sec. 51-303.



Examination of applicant shall be held at the  
resident campus of the State Board of Health  
(12,400) hours, and the applicant shall be  
high school education or its equivalent.  
Examine all applicants upon the following subjects  
in writing on the following subjects:  
anatomy, physiology, histology, microbiology,  
bacteriology, chemistry, physics, and  
public health subjects, and the applicant shall  
then examination, the board shall determine  
the apt of the applicant in subjects mentioned  
methods as shall be determined by the board.  
Board shall issue license to the applicant  
if the applicant has been found to be qualified  
have paid the required fee.  
Also with a general examination.  
(25%) per cent, with no other subjects.  
provided, that a license shall be issued to the  
applicant if the applicant fails to make application  
fails to pay the fee as required.  
Recording of license  
license shall enter the name of the applicant



same recorded in the miscellaneous records of the office of the recorder of deeds in the county of the practitioner's residence and practice; provided, that failure to record said license within ten (10) days after demand by the board shall result in a suspension of the license until the same is recorded. The fee for recording the license shall be two dollars (\$2.00) which is paid by the license holder. The recorder of deeds shall attach his certificate of record and date of recording to said license.

26

Observance of Health Regulations and Penalty for Violation. Chiropractic practitioners are required to observe all health and hygiene regulations of this state and to report all infections and contagious diseases to the proper health officers. It is further provided that any person who shall practice chiropractic without having first secured the license provided for under this law, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall for the first offense be fined not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), and for the second offense shall be fined as for the first offense, and, in addition thereto, confined in the county jail

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<sup>26</sup> Statutes, op. cit., Sec. 51-304.



same recorded in the miscellaneous records of the health officer  
the recorder of deeds in the county of the recorder of  
residence and practice; provided, that within ten days  
said license within ten (10) days after receipt of the same  
shall result in a suspension of the license until the same is  
recorded. The fee for recording the license shall be ten  
dollars (\$10.00) which is paid by the license holder. The  
recorder of deeds shall attach his certificate of record and  
date of recording to said license.

Observance of Health Regulations and Penalties for Non-  
Compliance. Chiropractic practitioners are required to observe  
all health and hygiene regulations of this state and to re-  
port all infectious and contagious diseases to the health  
officers. It is further provided that any person who  
shall practice chiropractic without having first secured the  
license provided for under this law, shall be guilty of a  
misdemeanor, and, upon conviction thereof, shall be  
first offense be fined not less than one hundred dollars  
(\$100.00) nor more than two hundred dollars (\$200.00), and  
for the second offense shall be fined not less than two  
hundred dollars, and, in addition thereto, confined in the county



for not less than one (1) month and not more than three (3) months, and in either event shall pay the costs of prosecution.<sup>27</sup>

Reciprocity. Reciprocal licensure shall be extended to any person licensed to practice chiropractic under the laws of another state having at least equal requirements as prescribed in this law, providing this courtesy shall be extended to licensed practitioners of this state. The fee for same shall be twenty-five dollars (\$25.00) and shall accompany the application.<sup>28</sup>

### C. Dentistry

Any person shall be regarded as practicing dentistry, within the meaning of the New Mexico law, who shall treat any of the diseases of the oral cavity, teeth, gums, maxillary bones, or extract teeth, or shall prepare or fill cavities in human teeth, correct malposition of teeth or jaws, or supply artificial teeth as substitutes for natural teeth, or any other practice included in the curricula of recognized dental colleges; provided, that nothing in this law shall be

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<sup>27</sup>

Statutes, op. cit., Sec. 51-305.

<sup>28</sup>

Statutes, op. cit., Sec. 51-306.







construed as to prevent regularly licensed physicians and surgeons from extracting teeth or treating any disease coming within the province of the practice of medicine, but this exception shall not apply to itinerant licensed physicians and surgeons who have abandoned their practice as physicians and surgeons, and are in fact and effect practicing dentistry.<sup>29</sup>

The foregoing definition or section has been declared as clear, definite, and certain by the New Mexico courts. In 1929 the New Mexico Supreme Court declared that this section is not too vague, indefinite, and uncertain, as contended by the defendant, but that a criminal information for practicing dentistry contrary to the provisions of this law could be based thereon as the regulation complained of is within the police power of the state.<sup>30</sup> In this same case it was decided that this law is not an attempt to confer a monopoly upon those who are able to comply with its conditions, as the conditions are just and reasonable.

The State Board of Dental Examiners, Appointment and Tenure of Office. This board consists of five (5) practicing

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<sup>29</sup> Statutes, op. cit., Chapter 51, Article 4, Section 51-412.

<sup>30</sup> State v. Culdice, 33 N. M. 641, 275 Pac. 371, (1929).



constituted as the persons who are to be  
surgons from among the persons who are  
within the province of the province of the province  
exception shall not apply to the persons who are  
and surgeons who have been appointed by the  
and surgeons, and the persons who are appointed  
20 The persons who are appointed by the  
as officers, dentists, and surgeons, and the persons  
1932 the persons who are appointed by the  
is not too young, and the persons who are  
the defendant, but the persons who are appointed  
dentistry contrary to the persons who are  
based thereon as the persons who are  
police power of the persons who are  
added that this law is not too young  
upon those who are appointed by the  
conditions are not too young

The State of New York  
Legislature of the State of New York  
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State of New York  
(1932)



dentists whose duty it shall be to carry out the purposes and enforce the provisions of this law. The members are appointed by the governor, by and with the advice and consent of the State Senate, and at the time of their appointment must have been actual residents and legally licensed practicing dentists of this state for a period of five (5) years or more immediately preceding their appointment. No person is eligible for appointment to this board who is in any way connected with any dental college or dental department of any institution of learning. The term for which the members of said board shall hold office shall be five (5) years. The governor shall have the power to remove any examiner for neglect of duty, incompetency, or dishonorable conduct.<sup>31</sup>

Organization, Meetings, and Bond of Secretary-Treasurer. The board is organized by electing one member as president and one as secretary-treasurer. The board shall meet at least once in each year and as often and at such time and place as it may deem proper and necessary. A majority of said board shall at all times constitute a quorum for the transaction of business. The board shall keep a record book in which shall be kept the names of all persons registered

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<sup>31</sup>Statutes, op. cit., Sec. 51-402.



dentists whose duty it shall be to carry out the provisions and  
 enforce the provisions of this law. The provisions herein  
 shall be by the Governor, by and with the advice and consent  
 of the State Senate, and at the time of their appointment shall  
 have been actual residents and lawfully licensed practitioners  
 dentists of this state for a period of five (5) years or more  
 immediately preceding their appointment. No person is eli-  
 gible for appointment to this board who is in any way con-  
 nected with any dental college or dental department of any  
 institution of learning. The term for which the members of  
 said board shall hold office shall be five (5) years. The  
 Governor shall have the power to remove any member for  
 neglect of duty, incompetency, or dishonorable conduct.

Organization, Meetings, and Term of Secretary

Treasurer. The board is authorized by electing the members a  
 president and one or more secretaries. The board shall  
 meet at least once in each year and may hold as many other  
 meetings as it may deem proper and necessary. A majority of  
 said board shall at all times constitute a quorum for the  
 transaction of business. The board shall keep a record book  
 in which shall be kept the names of all persons registered



with the board, a minute book and a cash book. The secretary-treasurer shall give to the board a good and sufficient bond to be approved by the board and in an amount to be fixed by the board. Each member, except the secretary, shall receive ten dollars (\$10.00) for each day actually engaged in the duties of his office, and all legitimate and necessary expenses incurred in attending the meeting of the board. The secretary shall receive a reasonable salary to be fixed by the board. All salaries and expenses shall be paid out of the board fund only. The board shall make its annual report to the governor on or before November 30 of each year. <sup>32</sup>

Application for License. Applications for license shall be made to said board in writing and shall be accompanied by the examination fee of twenty-five dollars (\$25.00) which sum is authorized to be charged for each examination by said board. The applicant must be a citizen of the United States, of good moral character, at least twenty-one (21) years of age at the time of making application, and the application must be accompanied by satisfactory evidence that the applicant is a graduate of and has a diploma from the faculty of a reputable dental college, school, or







department of a reputable university as classified by the Council on Dental Education. Examinations are based on such subjects as taught in Class A and B dental schools, both written and clinical, and of such character as to thoroughly test the qualifications of the applicant to practice dentistry. The board may, in its discretion, refuse to grant license to any person it finds not qualified or guilty of cheating, deception, or fraud during such examination, or for public health reasons.<sup>33</sup>

In addition to the examination fee, each applicant must pay a fee of ten dollars (\$10.00) for every license or duplicate license issued by the board; thus the total fee for examination and license is thirty-five dollars (\$35.00).<sup>34</sup>

Renewal and Suspension of License. On or before the first day of June of each year, every dentist legally licensed to practice dentistry in this state shall renew his license by transmitting to the secretary of the board his signature and address together with the fee of three dollars (\$3.00). Any license granted by said board shall be automatically suspended if the holder thereof fails to apply for

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<sup>33</sup> Statutes, op. cit., Sec. 51-404.

<sup>34</sup> Statutes, op. cit., Sec. 51-406.



Department of a ...  
Council on ...  
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iv. The board ...  
license to any ...  
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In addition to ...  
must pay a fee of ...  
duplicate license ...  
examination and ...

General and ...  
first day of ...  
needed to practice ...  
license by ...  
signature and ...  
(\$2.00). In ...  
materially ...



the renewal certificate within a period of three (3) months after the first day of June of each year, provided that any license thus suspended may be restored by the board upon the payment of a fee of ten dollars (\$10.00), together with all unpaid fees.<sup>35</sup>

Suspension or Revocation, Grounds and Appeals. The Board of Dental Examiners may refuse to issue a license, or, if a license has already been issued, have the right to suspend or revoke the same for any of the following causes: (a) The presentation to the board of any diploma, license, or certificate obtained from an institution which is not reputable, or an unrecognized or irregular institution or state board, or obtained by using any illegality, fraud, or deception; (b) insanity of the applicant or license holder, as adjudged by the regularly constituted authorities; (c) the commission of a criminal operation, or the conviction of a felony involving moral turpitude, or chronic or persistent inebriety or addiction to drugs; (d) the failure of the applicant to pursue and complete a satisfactory course of dental and pre-dental studies.

The board shall have the power to suspend or revoke a







license already issued upon any one or more of the grounds enumerated above and on any one of the following counts: (a) That the holder thereof has repeatedly and persistently violated any of the dental laws of New Mexico or any other state of the United States, and has been convicted thereof; (b) that the holder thereof has been convicted of a felony or any offense involving moral turpitude; (c) that the holder thereof procured said certificate or license through fraud or misrepresentation or deceit; (d) that the holder thereof employs a solicitor or capper for the purpose of procuring patients for dental work to be done; (e) that the holder thereof employs or permits, or has employed or permitted, unlicensed persons to practice dentistry in the office under his control or management; (f) that the holder thereof has been convicted of practicing dentistry under a corporate or trade or firm name in violation of any of the provisions of this law or any amendments thereto; (g) that the holder thereof has, within one (1) year prior to the filing of the complaint as provided hereby, been guilty of unprofessional conduct; (h) that the holder thereof has failed, neglected, or refused to comply with any of the provisions of this law or any of its subsequent amendments.

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<sup>36</sup> Statutes, op. cit., Sec. 51-409.



licensee already issued under any and all laws of the State of New York, and in any case of the following nature: (a) That the holder thereof has repeatedly and wilfully violated any of the dental laws of New York or of any other State of the United States, and has been convicted thereof; (b) That the holder thereof has been convicted of a crime involving offense involving moral turpitude; (c) That the holder thereof of procured said certificate of license by means of a representation or deceit; (d) That the holder thereof employs a solicitor or agent for the purpose of procuring patients for dental work to be done; (e) That the holder thereof employs or permits, or has employed or permitted, unlicensed persons to practice dentistry in the State under his control or management; (f) That the holder thereof has been convicted of practicing dentistry under a false name or trade or firm name in violation of any of the provisions of this law or any amendments thereto; (g) That the holder thereof of has, within one (1) year prior to the filing of this law, failed to comply with any of the provisions of this law or any of its subsequent amendments.



The term "unprofessional conduct" shall mean and embrace any one or more of the following practices: (a) To publish or circulate any fraudulent, false, or misleading statements relating to the skill, technical ability, professional training or the method of practice of any person, operator, or technician; (b) to advertise in any manner that will deceive or defraud or mislead or will tend to deceive or defraud or mislead the public; (c) to advertise to practice dentistry without causing pain; (d) to advertise professional superiority or the performance of professional services in any manner superior to other dental practitioners; (e) to publish reports of cases or the certificates thereof by means of any public advertising media; (f) to advertise the use of any anesthetic, drug, formula, material, medicine, method or system, provided, that nothing in this rule shall operate to prevent any person, firm, or corporation engaged in the practice of dentistry in New Mexico from using the patented, copyrighted, or trade-marked name which was in actual possession by the person, firm, or corporation at the time this law was passed and which entitles the possessor to advertising such patent, copyright, or trade-mark; (g) to advertise free dental service or free dental examinations or free consultation; (h) to advertise any price, cost, charge or fee or any reference thereto, for the service performed or to be



The same shall be true of any other person who

proceeds any one of the above mentioned persons

publish or circulate any statement or information

statement or information relating to the

actual training or education of any person

operator, or instructor, or any other person

will be deemed to be a violation of the

provisions of the Act, and any person who

violates the provisions of the Act shall be

subject to the same penalties as are provided

for any person who violates the provisions of

the Act, and any person who violates the

provisions of the Act shall be deemed to be

in violation of the Act, and any person who

violates the provisions of the Act shall be

subject to the same penalties as are provided

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in violation of the Act, and any person who

violates the provisions of the Act shall be

subject to the same penalties as are provided

for any person who violates the provisions of



performed or for the material used or to be used; (i) to publicly exhibit or display or publicly use specimens of dental work or any tooth, teeth, bridgework, denture or any portion of the human head or any representation or picture or illustration thereof for the purpose of attracting the attention and patronage of the public to any person, firm, or corporation who is engaged in the practice of dentistry; (j) to give a public demonstration of skill or the method of practicing dentistry for the purpose of attracting patronage upon or along any street or highway or in any place other than the office where such person, firm, or corporation is known to be regularly engaged in the practice of dentistry; (k) to advertise or to attempt to attract patronage by the erection of display signs, placards or devices visible from the street or highway or any other public place or from the public corridors or halls of any building; provided, that nothing in this rule shall prohibit or prevent the erection or use of a sign or placard, illuminated or otherwise, within the professional office or offices or upon the doors and/or windows thereof, or upon or within the building in which such office or offices are located, and carrying the name of the dentist or the firm of dentists and such other information with regard to such dental office or offices as shall merely inform the public that such person or firm is engaged in the practice of dentistry, the location of the







office or offices, the office hours, and days when the same is or are open for the practice of dentistry, provided, that the largest letters upon such sign or placard shall not exceed five (5) inches in height; (1) to advertise a guarantee or warranty of any dental service where the result depends upon the action or reaction of human tissue.

37

Procedure for Revocation or Suspension. Any proceeding for the revocation or suspension of any license to practice dentistry in the State of New Mexico shall be begun by the filing of a written complaint with the secretary of the Board of Dental Examiners. Such complaint shall be signed and verified by a resident of this state and shall set out the part or parts of this law claimed to have been violated by the accused and a brief statement of the facts constituting such violation. Upon the filing of such complaint the board shall make such investigation of the matters set out therein as it may deem proper, and if, upon such investigation, it believes a hearing upon such complaint is warranted, it shall fix a time and place for such hearing. Such time so fixed shall be not less than twenty (20) days after notice to the accused. All such hearings shall be held at the state



office or officer, the person or persons in or are open for the purpose of the largest letters upon the case five (5) inches in or warranty of any amount upon the action or motion.

Procedure for the  
for the revealing of the character in the State of a written declaration of Dental Examination. Such examination verified by a resident of the State or parts of this law shall the accused and a witness to each violation. Upon the shall make such investigation as it may deem proper, believes a hearing shall fix a time and place shall be not less than accused. All such



capital, at such place therein as the board may fix. Notice of the time and place of such hearing and a copy of the complaint shall be served upon the accused not less than twenty (20) days prior thereto. The secretary of the board has the power to issue subpoenas for such witnesses as the case may call for, which subpoenas shall be served and returned as in civil cases. The president and the secretary of the board or any hearing member shall be authorized to administer any oaths or affirmations necessary to the conduct of such hearing. The board shall make and enter upon its records such order as in its opinion shall be warranted by the facts set forth in the hearing. Such order may be that the license of the accused be revoked or that the same be suspended for any specified period not exceeding one (1) year, or that the complaint be dismissed.

38

Appeal from Board Order. Any person whose license has been revoked or suspended, may, within sixty (60) days after the entering of such order or revocation or suspension, or, if a rehearing has been applied for, within thirty (30) days after the denial of such application for rehearing, if the same is denied, file an action in the district court for the county in which such hearing was held, against the Board of

38

Ibid.



...at such place ...  
...of the time and place of such hearing ...  
...plaint shall be served upon the respondent ...  
... (20) days prior thereto. The respondent ...  
...power to issue subpoenas for witnesses ...  
...self for, which appearance shall be required ...  
...civil cases. The presiding and the ...  
...any hearing member shall be ...  
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38  
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Appeal from Board Order. Any person whose license has  
been revoked or suspended, may, within sixty (60) days after  
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if a rehearing has been applied for, within thirty (30) days  
after the denial of such application for rehearing, file  
an appeal, this an action in the district court for the  
county in which such hearing was held, against the board of



Dental Examiners to vacate or set aside such order of revocation or suspension upon any one or more of the following grounds: (a) That the order of the board is contrary to law; (b) that the order of the board was obtained through fraud or other unlawful methods; (c) that the order of the board is not supported by sufficient evidence; (d) that additional evidence introduced before the court discloses that the facts, as found by the board, are erroneous upon a material issue. Changes of venue and changes of judge may be had therein as is provided by law in the trial of other civil cases. Pending the final judgment of such court, the order of the board remains in full force and effect. From any final judgment of such court, an appeal may be taken by either party to such action to the Supreme Court of the State of New Mexico, as other appeals are taken in other civil cases.

Duties of the Attorney-General and District Attorneys.

It shall be the duty of the Attorney-General to represent the Board of Dental Examiners in any court in which an action may be filed for the review of an order of the board. The Attorney-General may, at his discretion, call to his



Board of Dental Examiners to examine or re-examine any dentist upon any one or more of the following grounds: (a) That the order of the board is contrary to law; (b) That the order of the board was obtained through fraud or other unlawful methods; (c) That the order of the board is not supported by sufficient evidence; (d) That the board has evidence introduced before the court which shows that the facts, as found by the board, are erroneous when material issues. Changes of venue and changes of judge may be had therein as is provided by law in the trial of other civil cases. Pending the final judgment of such court, the order of the board remains in full force and effect. From any final judgment of such court, an appeal may be taken by either party to such action to the Supreme Court of the State of New Mexico, or other appeals now taken in other civil cases.

Rules of the Attorney-General and District Attorneys.  
It shall be the duty of the Attorney-General to represent the Board of Dental Examiners in any court in which a review may be filed for the review of an order of the board. Attorney-General may, at his discretion, call to his



assistance in such action, the district attorney of the county in which such action is filed. Also, the board shall have the right to employ, out of its own funds, any other attorney<sup>40</sup> or attorneys to represent the board in any such action.

Injunction to Prevent Practice Without License. The Attorney-General, the district attorney, the Board of Dental Examiners, or any citizen of any county where any person shall engage in the practice of dentistry, as defined by the laws of New Mexico, without possessing a valid license so to do, may, in accordance with the laws of the state governing injunctions, maintain an action in the name of the state to enjoin such person from engaging in the practice of dentistry, as defined by the laws of New Mexico, until a valid license so to practice be secured. And any person who has been so enjoined who shall violate such injunction shall be punished for contempt of court; provided, that such injunction shall not relieve such person, so practicing dentistry without a valid license, from a criminal prosecution therefor as is now provided for by law, but such remedy by injunction shall be in addition to any remedy now provided for the criminal<sup>41</sup> prosecution of such offender. This rule has been

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<sup>40</sup> Statutes, op. cit., Sec. 51-410.

<sup>41</sup> Statutes, op. cit., Sec. 51-411.



assistance in such action, the district attorney, the board of health, or any other person, or any citizen of any county who may be so engaged, shall engage in the practice of dentistry, as defined by the laws of New Mexico, without possessing a valid license to do so, in accordance with the laws of the State of New Mexico, shall be deemed to be in violation of the laws of the State of New Mexico, and shall be liable to the same penalties as are provided for by law, and such remedy by injunction shall be in addition to any remedy now provided for the same.

Information to prevent practicing dentistry.

Attorney-General, the district attorney, the board of health, or any citizen of any county who may be so engaged, shall engage in the practice of dentistry, as defined by the laws of New Mexico, without possessing a valid license to do so, in accordance with the laws of the State of New Mexico, shall be deemed to be in violation of the laws of the State of New Mexico, and shall be liable to the same penalties as are provided for by law, and such remedy by injunction shall be in addition to any remedy now provided for the same. This rule has been

40 Statutes, op. cit., Sec. 51-52.

41 Statutes, op. cit., Sec. 51-51.



upheld by the Supreme Court of New Mexico in 1940.<sup>42</sup>

Practice Under Other Than Own Name Unlawful. It shall be unlawful for any person or persons to practice dentistry or dental surgery under the name of any company, association, or corporation, and any person or persons practicing or offering to practice dentistry or dental surgery shall practice<sup>43</sup> under his or her own respective name or names only.

Penalty for Violation. Any person who shall practice or attempt to practice dentistry in this state without first having a license as herein provided, or who shall violate any of the provisions of this law, for which no specific penalty has been provided herein, shall be subject to prosecution before any court of competent jurisdiction upon complaint, information, or indictment, and shall, upon conviction, be fined for each offense in any sum not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00), or be imprisoned in the county jail not less than one (1) month nor more than six (6) months, or both such fine

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42

State ex. rel. Marron v. Compere, 44 N. M. 414, 103 Pac. (2d) 273, (1940).

43

Statutes, op. cit., Sec. 51-413.







and imprisonment in the discretion of the court.<sup>44</sup>

Injunction to Prevent Further Violation. Upon the conviction of any person for the violation of any provision of this law, the court may, in addition to the penalty provided herein, make an order restraining said person from further or continued violation of this law and enforce said order by contempt proceedings, provided, that the provisions of this rule shall not apply to justice of the peace courts.<sup>45</sup>

Reciprocity. The Board of Dental Examiners may provide for the admission to license and practice in New Mexico of dentists from other states having rules and regulations which are, in the opinion of the board, equal to the laws of New Mexico governing such licensing and practice; provided, that such other states shall have equal reciprocity for practicing dentists from the State of New Mexico.

Applicants applying for license under this clause must present satisfactory evidence of moral and professional character and in other respects conform to the rules and regulations for the practice of dentistry established by this board, and must have been in continuous practice of the profession of

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<sup>44</sup> Statutes, op. cit., Sec. 51-414.

<sup>45</sup> Statutes, op. cit., Sec. 51-415.



and imprisonment in the discretion of the court.

Information to Prevent Further Violations. Upon the conviction of any person for the violation of any provision of this law, the court may, in addition to the punishment provided herein, make an order restraining said person from further or continued violation of this law and enforce said order by contempt proceedings, provided, that the provisions of this rule shall not apply to justice of the peace courts.

Reciprocity. The Board of Dental Examiners may advise for the admission to license and practice in New Mexico of dentists from other states having rules and regulations which are, in the opinion of the board, equal to the laws of New Mexico governing such licensing and practice; provided, that such other states shall have equal reciprocity for practicing dentists from the State of New Mexico.

Applicants applying for license under this chapter shall present satisfactory evidence of moral and professional character and in other respects conform to the rules and regulations for the practice of dentistry established by this board, and must have been in continuous practice of the profession

44 Statutes, no. 211, Sec. 21-214.

45 Statutes, no. 211, Sec. 21-215.



dentistry for a period of not less than five (5) years preceding their application for license in New Mexico. The license to practice dentistry shall at all times be displayed in a conspicuous place in the office or offices wherein he or she shall practice the profession of dentistry.<sup>46</sup>

#### D. Medicine and Surgery

The Practice of Medicine. The practice of medicine, according to the New Mexico law, shall mean to open an office for such purpose or to announce to the public or any individual in any way, a desire or willingness or readiness to treat the sick or afflicted, or to investigate or to diagnose, or offer to investigate or diagnose any physical or mental ailment or disease of any person, or to suggest, recommend, prescribe, or direct, for the use of any person, any drug, medicine, appliance or other agency, whether material or not material, for the cure, relief or palliation of any ailment or disease of the mind or body, or for the cure or relief of any wound, fracture, or bodily injury or deformity, after having received, or, with the intent of receiving therefor, either directly or indirectly, any bonus, gift, or compensation. Provided, that nothing in this law

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<sup>46</sup>

Statutes, op. cit., Sec. 51-405.



dentistry for a period of not less than five (5) years and  
submitting their application for license in New Mexico. The  
license to practice dentistry shall be all rights to practice  
in a conspicuous place in the office or offices wherein  
she shall practice the profession of dentistry.

### D. Medicine and Surgery

The Practice of Medicine. The practice of medicine  
according to the New Mexico law, shall mean to open an office  
for such purpose or to announce to the public or to hold  
visual in any way, a device or willingness to investigate  
the sick or afflicted, or to investigate or to dis-  
nose, or offer to investigate or diagnose any physical or  
mental ailment or disease of any person, or to attempt  
recommend, prescribe, or direct, for the use of any person,  
any drug, medicine, appliance or other remedy, whether  
verbal or not material, for the cure, relief or palliation of  
any ailment or disease of the mind or body, or for the cure  
or relief of any wound, fracture, or dislocation, or to  
perform any operation, or with the intent of re-  
ceiving therefor, either directly or indirectly, any money,  
gift, or compensation. Provided, that nothing in this law



shall be construed to prohibit gratuitous services in cases of emergency or the domestic administration of family remedies, or women from practicing midwifery, and this law shall not apply to surgeons of the United States in the discharge of their official duties, and provided, further, that nothing in this law shall be construed so as to interfere with the practice of osteopathy, optometry, chiropractic, or dentistry, as provided for by law, nor affect or limit in any way the practice of the religious tenets of any church in the ministration to the sick or suffering by mental or spiritual means. This law shall not be construed to exempt any person from the operation or enforcement of the sanitary and quarantine laws of the state.<sup>47</sup>

The State Board of Medical Examiners, Appointment and Tenure of Office. This board is composed of five (5) members who must be reputable physicians of known ability and graduates of medical colleges in good standing. They must have been registered practitioners in, and bona fide residents of, the State of New Mexico for a period of five (5) years next preceding the date of their appointment. The governor of the state shall appoint the members of this board and he shall

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<sup>47</sup> Statutes, op. cit., Chapter 51, Article 5, Section 51-508.







fill any vacancies occurring in said board, and may remove any member who fails to perform his duties. The members of said board shall hold their offices for a period of four (4) years and until their successors are appointed and qualified. All members of the board shall qualify as required by the Board of Regents of the University of New Mexico.<sup>48</sup>

Meetings of the Board of Medical Examiners. The board shall organize by electing one member as president, one as vice-president, and one as secretary and treasurer. Regular meetings of said board shall be held in the state capitol building on the second Mondays of April and October of each year, and there shall be not less than a two (2) days' session at each meeting. Special meetings may be held at any time upon call of the president by written notice to all of the members of the board, in which notice the object of the meeting shall be fully stated. A majority of the members shall constitute a quorum for the transaction of business,<sup>49</sup> but a less number may meet and adjourn to some fixed date.

Bond of Treasurer, Compensation of the Board. The treasurer of said board shall give a bond to the board in the

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<sup>48</sup> Statutes, op. cit., Sec. 51-501.

<sup>49</sup> Statutes, op. cit., Sec. 51-502.



will any vacancies occurring in said board, and any member who fails to perform his duties, the members of said board shall hold their offices for a period of four years and until their successors are appointed and qualified. All members of the board shall dwell in the city of Mexico.

Meetings of the Board of Medical Examiners. The board shall organize by electing one member as president, one as vice-president, and one as secretary and treasurer. Meetings of said board shall be held in the state capital building on the second Mondays of April and October of each year, and there shall be not less than a two (2) hour session at each meeting. Special meetings may be held at any time upon call of the president by written notice to all of the members of the board, in which notice the nature of the meeting shall be fully stated. A majority of the members shall constitute a quorum for the transaction of business, but a less number may meet and adjourn to another date.

Board of Treasurer, Compensation of the Board. The treasurer of said board shall give a bond to the board in the



sum of one thousand dollars (\$1,000.00), conditioned for the faithful performance of his duties, and that he shall pay over any and all sums of money received by him as such upon the proper order therefor. Such bond shall be given by some fidelity or surety company authorized to do business in the state, and the premiums therefor shall be paid by the board as one of its necessary expenses. The members of said board shall receive a per diem of ten dollars (\$10.00) for each and every day consumed in attendance upon said board meetings and, in addition, all expenses necessarily incurred in attending the session of said board. The treasurer of the board shall keep a correct and itemized account of all moneys received and disbursed, and shall make a report to the board at each meeting. The secretary of the board shall report the doings and proceedings of the board, together with the amount of all moneys by it received and disbursed and on what account, with items, on the first day of December of each year, to the  
50  
governor of the State of New Mexico.

Fee for Application. Each applicant for a license to practice medicine in New Mexico shall pay to the secretary of the Board of Medical Examiners a fee of fifty dollars  
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(\$50.00) at the time of making his application. The said

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<sup>50</sup> Statutes, op. cit., Sec. 51-503.

<sup>51</sup> Statutes, op. cit., Sec. 51-509.



sum of one thousand dollars (\$1,000.00), conditioned for the faithful performance of his duties, and shall be available over any and all sums of money received by him as such member of the proper order therefor. Such bond shall be filed in the fidelity or surety company authorized to do business in the state, and the premiums therefor shall be paid by the board as one of its necessary expenses. The members of said board shall receive a per diem of ten dollars (\$10.00) for each and every day consumed in attendance upon said board, and, in addition, all expenses necessarily incurred in attending the sessions of said board. The treasurer of the board shall keep a correct and itemized account of all moneys received and disbursed, and shall make a report to the board at each meeting. The secretary of the board shall report the actions and proceedings of the board, together with the amount of all moneys by it received and disbursed and all other accounts, with items, on the first day of December of each year, to the Governor of the State of New Mexico.

Fee for Application. Each applicant for a license to practice medicine in New Mexico shall pay to the board of Medical Examiners a fee of fifty dollars (\$50.00) at the time of making his application.



board shall, upon production of evidence satisfactory to it, admit to examination for license any reputable person, who has applied for citizenship in the United States or is a citizen of the United States, and who is a graduate of a medical college in good standing as defined in this law. A medical college in good standing is one which has as high a standard as that required by the Association of American Medical Colleges. The board shall not recognize any college that misrepresents its teachings, its clinical facilities, or as to its students or graduates. No permanent licenses shall be granted except by the board at a regular meeting.

Examination. All applicants for licenses already referred to shall be examined in the English language on the following and such other subjects as the board may from time to time prescribe: Anatomy and histology, ten (10) questions; chemistry, five (5) questions; etiology and hygiene, five (5) questions; physiology, five (5) questions; materia medica, ten (10) questions; therapeutics, ten (10) questions; pathology and bacteriology, ten (10) questions; surgery, ten (10) questions; diagnoses, ten (10) questions; obstetrics, ten (10) questions; gynecology, five (5) questions; practice of medicine, ten (10) questions. An average of seventy-five



board shall, upon production of evidence satisfactory to it, admit to examination for license any person who has applied for citizenship in the United States and who is a citizen of the United States, and who has graduated from a medical college in good standing as defined in this law. A medical college in good standing is one which has as high a standard as that required by the Association of American Medical Colleges. The board shall not receive any evidence that represents its teaching, its clinical facilities, or as to its students or graduates. Its permanent license shall be granted except by the board at a regular meeting.

Examination. All applicants for license shall be referred to shall be examined in the English language on the following and such other subjects as the board may from time to time prescribe: Anatomy and Histology, ten (10) questions; Chemistry, five (5) questions; Microbiology, five (5) questions; Physiology, five (5) questions; Pathology and Bacteriology, ten (10) questions; Therapeutics, ten (10) questions; Diagnosis, five (5) questions; Hygiene, five (5) questions; Gynecology, five (5) questions; Obstetrics, five (5) questions; Mental and Nervous Diseases, five (5) questions. An average of seventy-five



(75%) per cent must be obtained at such examination by each applicant, and not less than sixty (60%) per cent must be obtained on each subject. The board shall allow an applicant credit marks of five (5%) per cent for five (5) years of active practice.

Reciprocity and Temporary Licenses. The Board of Medical Examiners may grant licenses without examination and by endorsement to those applicants who have been regular licensed physicians in other states and territories having qualifications and requirements equivalent to those required in New Mexico. Such applicants must be properly endorsed by the officers of such examining board as may have jurisdiction in the state or territory in which the applicant was examined, and the application must be made upon a blank furnished by the Board of Medical Examiners of this state, such blank known as the "Application for License Through Endorsement" blank. Such applicant shall have been in active practice for at least one (1) year in the state through which he seeks endorsement and shall not have failed in examination by this board of the other state. Whenever an eligible applicant shall have filed his application and complied with all other requirements of this law in the interim between

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<sup>53</sup> Statutes, op. cit., Sec. 51-505.







regular board meetings, the secretary of the board shall issue a temporary license to hold good until the next regular meeting of the board. The president and secretary of said board are empowered to administer oaths to applicants and all witnesses and others appearing before said board in any application or proceeding provided for in this law. And any person making a false oath or affidavit before such president or secretary in any such proceeding shall be deemed guilty of perjury and shall be subject to the punishment provided for that crime. Whenever any applicant for license shall have been examined as hereinbefore provided, and shall have failed to reach the required percentage in not more than two (2) of any of the subjects hereinbefore designated, the board may, in its discretion, allow such applicant another examination without further fee on the subjects in which he shall have so failed, at its next regular meeting, and may, in its discretion, issue him a temporary license authorizing him to practice medicine in the State of New Mexico until such next meeting and until his second examination shall have been passed upon and decided by such board.

54

Recording of License. Every person holding a license certificate of said Board of Medical Examiners shall have the



regular board meetings, the members of the board shall  
issue a temporary license to any person who is unable to attend  
meeting of the board. The person so licensed shall be deemed  
board are empowered to administer oaths to witnesses and all  
witnesses and others appearing before the board in any  
application or proceeding provided that in no case shall any  
person making a false statement or affidavit before such  
or secretary in any such proceeding shall be deemed guilty of  
perjury and shall be subject to the punishment provided for  
that crime. Whenever any applicant for a license shall have  
been examined as hereinbefore provided, and shall have failed  
to reach the required percentage in any case, the board may  
any of the subjects hereinbefore mentioned, the board may  
in its discretion, allow such applicant a second examination  
without further fee on the subject or subjects in which he failed,  
no failed, at its next regular meeting, and if he fails a  
second time, issue him a temporary license and permit him to  
practice medicine in the state of New York until the next  
meeting and until his second examination shall have been  
passed upon and decided by such board.

Recording of License. Every person who is licensed to practice  
medicine in the state of New York shall be required to file a  
certificate of said board of medical examining officers.



same recorded in a book provided for that purpose in the office of the county clerk of the county wherein the practitioner resides. Such recording must be made within thirty (30) days after said certificate is issued, and the date of the recording shall be endorsed on said certificate. Said certificate, or copy of the registration, must be again recorded in any county to which the practitioner may remove permanently. The fact that no such certificate shall be found recorded in the county where any person practicing or offering to practice medicine resides shall be accepted by the court as prima facie evidence that no such certificate has been issued, and shall throw the burden of proving that he has a certificate upon the defendant in any suit or prosecution begun against him for the violations of the provisions of this law.

Penalty for Practice after Revocation. The board shall refuse to license any person guilty of immoral, dishonorable, or unprofessional conduct, and said board shall also revoke and annul any license which has been issued by said board, or any previous board, upon satisfactory evidence being presented to said board that the holder of said certificate or diploma has been guilty of immoral, dishonorable,



shall be recorded in a book provided for that purpose in the  
 office of the county clerk of the county wherein the practice  
 is to be conducted. Such recording shall be made within thirty  
 (30) days after said certificate is issued, and the date of  
 the recording shall be endorsed on said certificate. Said  
 certificate, or copy of the registration, must be a true  
 record in any county to which the practitioner may remove  
 permanently. The fact that no such certificate shall be  
 found recorded in the county where any person practicing or  
 offering to practice medicine resides shall be deemed  
 the best evidence that no such certificate  
 has been issued, and shall throw the burden of proving that  
 he has a certificate upon the defendant in any suit or pro-  
 ceedings begun against him for the violation of the provisions  
 of this law.

Section 17. Practice After Suspension. The board  
 shall refuse to license any person guilty of immorality, dis-  
 honorable, or unprofessional conduct, and said board shall  
 also revoke and annul any license which has been issued by  
 said board, or any previous board, upon satisfactory evidence  
 being presented to said board that the holder of said cer-  
 tificate or diploma has been guilty of immorality, dishonorable,



or unprofessional conduct. Twenty (20) days' notice shall be given in writing to the person accused of improper conduct, named to appear before the board and show cause why his license should not be revoked or canceled. When any such license has been revoked or canceled by said board, the board shall send notice in writing under the hand of the secretary, which notice shall be filed for record and recorded in the book in which the physicians' licenses are recorded, in the office of the county clerk of the county in which the person, whose license has been revoked, resides. Any person whose certificate has been revoked or canceled by said board, under the provisions of this law, who shall thereafter practice or attempt or offer to practice medicine in New Mexico shall be deemed guilty of a misdemeanor and shall be punished as provided by this law.<sup>56</sup>

Penalty for Violation. Any person who shall practice medicine, or who shall attempt to practice, without first complying with the provisions of this law, and without being the holder of a license entitling him to practice medicine in New Mexico, shall be, upon conviction, punished by a fine not to exceed one hundred dollars (\$100.00), or imprisonment in the county jail not to exceed ninety (90) days, or by both such

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<sup>56</sup> Statutes, op. cit., 51-507.



or professional association. The license shall be  
given in writing by the board of health and shall be  
annexed to a copy of the laws of the State of New York  
which shall be a condition of the license. The  
licensee has been informed of the provisions of the  
law and shall send notice of the same to the  
which notice shall be filed in the office of the  
board in which the licensee is licensed. The  
office of the board of health is located at the  
where the licensee has been licensed. The  
certificate has been issued to the licensee and the  
the provisions of the law. The licensee shall  
attempt or offer to practice medicine or  
be deemed guilty of a misdemeanor and shall be  
punished by this law.

Transfer of License  
The licensee, or the board of health, or the  
physician with the license, may transfer the  
holder of a license to another State or Territory,  
Mexico, Spain, or any other foreign country,  
except one hundred dollars. The licensee shall  
county jail not exceeding ninety days.



fine and imprisonment in the discretion of the court.<sup>57</sup> That the state has authority to punish one who engages in the practice of medicine without a license has been upheld by the Supreme Court of New Mexico in 1940.<sup>58</sup> But this remedy is not exclusive and does not preclude injunction to protect the public health, morals, safety, and welfare from irreparable injury.

### E. Nursing

The thirteenth legislature of the State of New Mexico in 1937 passed the law regulating professional nursing in this state, and it established a board of examiners to examine and register graduate nurses in this state.<sup>59</sup>

The State Board of Nurse Examiners, Appointment and Tenure of Office. This board consists of five (5) members who are appointed by the governor for five (5) year terms. Each member of the board must file with the secretary of the board an affidavit that she is a resident of New Mexico, at

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<sup>57</sup> Statutes, op. cit., 51-510.

<sup>58</sup> State ex. rel. Marron v. Compere, 44 N. M. 414, 103 Pac. (2d) 273, (1940).

<sup>59</sup> "An Act to Regulate Professional Nursing in New Mexico," (Santa Fe: The State Board of Nurse Examiners, 1937).



fine and imprisonment in the discretion of the court.  
 the state has authority to punish one who acts in the  
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Nursing

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Terms of Office. This board consists of five (5) members  
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 Each member of the board must file with the secretary of the  
 board an affidavit that she is a resident of New Mexico, at

27 Statutes, ch. 51-510.

28 State ex. rel. Norton v. Governor, 41 N.M. 244, 103  
 Pac. (2d) 275, (1940).

29 "An Act to Regulate Professional Nursing in New  
 Mexico," (Stats. 1937: The State Board of Nurse Examiners,  
 1937).



least twenty-four (24) years of age, of good moral character, a graduate from a school of nursing connected with a general hospital or sanitarium of good standing, wherein a systematic course of instruction is given which meets the requirements set up by the board, and in addition she shall have had not less than five (5) years experience in nursing.

Organization and Duties of the Board. The members of the board shall, annually, within thirty (30) days after the appointment of the new member, elect from their members a president and a secretary-treasurer. Three (3) members of this board shall constitute a quorum, and special meetings of said board shall be called by the secretary-treasurer upon the written request of any two (2) members. The board is authorized to make such by-laws and rules as are necessary to govern its proceedings and to carry into effect the purpose of this law. It is the duty of the board to meet not less than once each year, notice of which meeting shall be published in not less than six (6) newspapers of the state, and in at least one (1) nursing journal thirty (30) days previous to the date of such meeting. At each meeting it shall be the duty of the board to examine all applicants seeking registration under the provisions of this law. The



least twenty-four (24) hours before the date of the meeting of the board of directors of the corporation from a school of business or hospital or institution of instruction in which the student has been enrolled and set up by the board, and in addition the student shall have less than five (5) years of experience in the business of the corporation.

General meeting of the board of directors.

The board shall, annually, elect a president and a secretary and a treasurer and such other officers and directors as it may deem proper. This board shall have the right to call special meetings of said board and to adjourn from time to time and to change the place of its meetings. Upon the written request of a majority of the board, it is authorized to make and alter its bylaws, subject to the approval of the voters in the next general election. The bylaws shall be in force from the date of their adoption and shall remain in force until they are amended or repealed. The board shall have the right to publish in newspapers, magazines, and in at least one (1) newspaper of general circulation in the state, views on the date of the election, and to be the day of the election. The board shall have the right to register voters.



examinations shall be of such character as to determine the fitness of the applicant to practice nursing as contemplated by this law. The board shall prepare questions for examinations and shall examine the applicant on all subjects which it shall deem necessary.

61

Duties and Bond of the Secretary-Treasurer. The secretary-treasurer of the board shall within thirty (30) days of her election by the board execute a bond in the penal sum of one thousand dollars (\$1,000.00) conditioned on her faithful performance of the duties of her office, and shall account for all funds coming into her hands as secretary-treasurer; said bond shall be signed by two (2) or more good and sufficient sureties or by a surety company authorized to do business in this state, and approved by the president of the board. The salary of the secretary-treasurer shall be paid by the board out of the receipts of the board. The president and the secretary-treasurer shall make a biennial report to the governor immediately preceding the convening of the legislature, together with a statement of the receipts and disbursements of the board.

62

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<sup>61</sup> Statutes, op. cit., Sec. 51-602.

<sup>62</sup> Statutes, op. cit., Sec. 51-603.



examination shall be made of the  
fitness of the applicant to hold the position  
by this law. The board shall have the right to  
these and shall except a person from the  
list shall deem necessary.

Section 10. The board of the  
secretary-treasurer of the board shall be  
days of his election by the board and shall  
sum of one thousand dollars.  
faithful performance of his duties and shall  
account for all funds received by him and shall  
treasurer; and shall be subject to the audit  
and sufficient supplies for the board to  
do business in this state. The board shall  
the board. The salary of the board shall be  
paid by the board and the secretary-treasurer  
president and the secretary-treasurer shall  
report to the governor and the board shall  
the legislature, together with the  
and disbursements of the board.



Compensation of the Board. All members of the board shall receive per diem, such as may be fixed by the board, not to exceed eight dollars (\$8.00) per day for each day they are actually engaged in the work of the board, and the board shall defray all the necessary traveling expenses incurred by its members in attending meetings.<sup>63</sup>

Nurse Examiners' Fund. All fees received by the Board of Nurse Examiners, and all fines collected under this law shall be paid to the secretary-treasurer of the board, who shall deposit the same with the State Treasurer who, in turn, shall place this money in a special fund to be known as the Nurse Examiners' Fund.<sup>64</sup>

Appointment of Educational Secretary. The board may appoint an educational secretary who shall be at least thirty (30) years of age and shall have had at least five (5) years' experience in educational work among nurses, and who shall be registered in New Mexico under the provisions of this law. The duty of said educational secretary shall be to visit all schools of nursing in the state at least once a year to confer with the superintendents of hospitals and superintendents

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<sup>63</sup> Statutes, op. cit., Sec. 51-607.

<sup>64</sup> Ibid.



compensation of the board. The board shall receive per diem, which may be fixed by the board, not to exceed eight dollars (\$8.00) per day and shall be paid to the board members engaged in the work of the board, and the board shall defray all the necessary traveling expenses incurred by its members in attending meetings.

Nurse Examiners' Fund. All fees received by the board of Nurse Examiners, and all fines collected under this law shall be paid to the treasury of the board, and the board shall deposit the same with the State Treasurer and shall place this money in a special fund to be known as the Nurse Examiners' Fund.

Appointment of Educational Secretary. The board may appoint an educational secretary who shall be at least thirty (30) years of age and shall have had at least five (5) years experience in educational work and shall be a native-born citizen of the United States and shall have been registered in New Mexico under the provisions of this law. The duty of said educational secretary shall be to assist the board of nursing in the state at least once a year to confer with the superintendents of hospitals and institutions.



of schools of nursing as to the system of instruction and services given in such hospitals and schools, and as to the accommodations afforded their students in training, and as to their rules of conduct.

65

Application and Fee. Upon filing application for examination and registration, each applicant shall deposit a fee of ten dollars (\$10.00), which in no case shall be returned should the applicant fail in his or her examination, but in case the applicant successfully passes the examination and meets the professional test as provided, he or she shall then be entitled to receive the prescribed certificate of registration, and no further fee from such applicant shall be required during the current calendar year.

66

Qualifications of Applicants. The applicant shall furnish evidence satisfactory to the board that he or she is twenty-one (21) years of age, is of good moral character, has graduated from an accredited high school, or has the credits required for entrance to the University of New Mexico, and has graduated from a school of nursing connected with a general hospital maintaining the reasonable educational

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<sup>65</sup> Statutes, op. cit., Sec. 51-604.

<sup>66</sup> Statutes, op. cit., Sec. 51-605.



of schools of nursing as in the cases of hospitals and  
nurses given in such hospitals and schools, and as to the  
accommodations allotted their students in the hospital, and as to  
their rules of conduct.

Application and Fee. Upon filing application for  
examination and registration, each applicant shall deposit  
a fee of ten dollars (\$10.00), which is on exam and is  
returned should the applicant fail in his or her examination,  
but in case the applicant successfully passes the examination  
and meets the professional test as provided, he or she shall  
then be entitled to receive the prescribed certificate of  
registration, and no further fee from such applicant shall be  
required during the current calendar year.

Qualifications of Applicants. The applicant shall  
furnish evidence satisfactory to the board that he or she is  
twenty-one (21) years of age, is of good moral character, has  
graduated from an accredited high school, or has the equivalent  
required for entrance to the University of New Mexico, and  
has graduated from a school of nursing connected with a gen-  
eral hospital maintaining the recognized educational



standards required by the board, and where at least three (3) years of training in a hospital is required and where systematic courses of instruction are given under such reasonable educational rules and regulations as the board may prescribe from time to time. Such school, if located in New Mexico, must be presided over by a nurse registered in New Mexico and who meets all the requirements as recommended by this law. All schools of nursing in this state which desire to be approved by the board shall submit to inspection and shall furnish satisfactory proof of compliance with the reasonable requirements of the board as to the preliminary education of students, and as to the maintenance of standards of training and instructions as prescribed in this law.

67

Examinations. Schools of nursing are required to give such systematic training as will meet the requirements of the Board of Nurse Examiners. Candidates who take the board examination and make seventy (70%) per cent in each subject and a general average of seventy-five (75%) per cent shall be entitled to a certificate of registration. If applicants fall below seventy (70%) per cent in any subject, they shall be given credit on all subjects passed, and shall have the right, after six (6) months and within a year, to take a



standards required by the Board, and the minimum  
years of training in the field of the  
radio courses of instruction and the  
educational value of the courses shall be  
from time to time, and the Board  
must be provided with a list of the  
who meets all the requirements of the  
All schools of radio engineering  
approved by the Board shall be  
furnished with a copy of the  
requirements of the Board and the  
students, and as to the  
and instructions in the field of

Examinations.

such systematic training as the  
Board of Radio Engineering, and the  
examination and the results of the  
a general average of the results of the  
entitled to a certificate of  
fall below average level, and  
be given credit for the  
right, after six months



second examination in those subjects wherein he or she has failed to make a grade of seventy (70%) per cent. If the applicant fails to pass the second examination, before he or she is permitted to attempt a third examination it will be necessary for such applicant to take an additional course in nursing of not less than four (4) months, either in the school from which he or she graduated, or one suggested and approved by the board. When applicant has completed this course and upon the payment of a fee of five dollars (\$5.00),<sup>68</sup> he or she may take the third examination.

Temporary Permits. No person may be admitted to take examination who has not previously filed an application for registration on blanks furnished by the board. In the discretion of the board, applicants who have made application for a certificate of registration more than one (1) month in advance of a meeting of the board, may be furnished with temporary permits authorizing them to practice until the next meeting of the board, after which meeting such permit will be void.<sup>69</sup>

Recording of Certificates. Every nurse receiving a

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<sup>68</sup> Statutes, op. cit., Sec. 51-606.

<sup>69</sup> Ibid.



second examination in those subjects wherein he or she has failed to make a grade of seventy (70%) or better. If the applicant fails to pass the second examination, he or she is permitted to attempt a third examination at a date to be determined by the board. It is necessary for such applicant to take a written contract in writing of not less than four (4) months, either in the school from which he or she graduated, or one recommended and approved by the board. When applicant has completed this course and upon the payment of a fee of five dollars (\$5.00) he or she may take the third examination.

Temporary Permit. No person may be admitted to the examination who has not previously filed an application for registration on blank forms furnished by the board. In the discretion of the board, applicants who have not applied for a certificate of registration may be given a temporary permit to advance of a meeting of the board. Any person so permitted will be given a temporary permit authorizing them to proceed with the next meeting of the board, after which meeting their permit will be void.

Recording of Certificate.

88  
Statutes, ch. 21, Sec. 21-102  
89  
Ibid.



certificate from the board shall within thirty (30) days thereafter cause the same to be recorded in the county wherein such applicant resides. The county clerk shall be entitled to a fee of one dollar (\$1.00) for each certificate recorded. On December first of each year, the secretary of the board shall mail to each nurse registered in the state a blank application for re-registration, addressing the same to the post-office address as shown by the records of the board. Upon receipt of such application blank, which shall contain space for such information as the board shall deem necessary, each nurse renewing her registration shall sign and swear to the accuracy of the same before a notary public, or other officer authorized to administer oaths, after which he or she shall forward such sworn statements and application for renewal of his or her registration certificate to the secretary of the board, together with a fee of one dollar (\$1.00). Upon receipt of such an application and fee, and having verified the accuracy of the same by comparison with the applicant's initial registration statements, the secretary of the board shall issue a license of registration which shall render the holder thereof a legally qualified registered nurse for the ensuing year. Failure of any nurse to obtain a license annually, by January first, shall automatically forfeit his or her right to practice nursing in this state. Reinstatement may be obtained only by showing good cause for



certificates from the board shall be valid for the year 1911.  
Thereafter unless the same be renewed in the year 1912.  
In such applicant register. The board shall be  
liable to a fee of one dollar (\$1.00) for each certificate  
received. On December first of each year, the secretary of  
the board shall mail to each member a copy of the  
blank application for re-visit, and also a copy of  
the post-office address as shown on the records of the board.  
Upon receipt of such application blank, the board shall  
space for each information as the board shall determine.  
Each member receiving his registration shall file and answer to  
the secretary of the board before a regular meeting of the  
board authorized to administer oaths, either written or oral.  
The board shall forward such sworn statements and registration  
newspaper of his or her registration certificate to the secretary  
of the board, together with a fee of one dollar (\$1.00).  
Upon receipt of such an application and fee, the board  
verified the accuracy of the same by comparison with the  
applicant's initial registration statement. The secretary of  
the board shall issue a license of registration which shall  
render the holder thereof a legally qualified registered voter  
for the ensuing year. Failure to pay makes a person a  
cessant annually, by January first, shall automatically forfeit  
his or her right to practice nursing in this state, unless  
statement may be obtained only by paying good cause for



failure to comply with the law, and the payment of a reinstatement fee of five dollars (\$5.00), and thereupon such nurse shall be re-registered for the remainder of the current<sup>70</sup> year.

Temporary Retirement. Where a nurse, registered under the provisions of this law, desires to retire from practice temporarily, the board shall be given written notice to that effect. Such nurse may then be placed upon the non-practicing list and while remaining thereon shall not be subject to the payment of any annual renewal fees. When such nurse desires to resume practice, notice in writing shall be given to the board of such intention and the current renewal fee<sup>71</sup> shall be paid.

Refusal or Revocation of Certificate. The Board of Nurse Examiners may refuse to grant a certificate to a person guilty of fraud in passing the examination, or any time guilty of gross incompetency, dishonesty, immorality, unprofessional conduct, or addicted to the liquor or drug habit to such a degree as to render such person unfit to practice nursing as a registered nurse. Upon notice and

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<sup>70</sup> Statutes, op. cit., Sec. 51-612.

<sup>71</sup> Statutes, op. cit., Sec. 51-613.



to comply with the law, and the amount of the fine.

statement of the law, and the amount of the fine.

shall be re-registered for the purpose of the law.

VI

year.

Temporary Registration. There is a nurse, registered under

the provisions of this law, and who is not a nurse.

temporarily, the board shall be deemed to be a nurse.

effect. Such nurse may then be deemed to be a nurse.

the law and while remaining in the state, shall be deemed to

the payment of any annual fee, and shall be deemed to

be deemed to be a nurse, and shall be deemed to be a nurse.

to the board of such persons, and the board shall be deemed to

VI

shall be paid.

Refusal of Registration of a Nurse. The board of

nurses may refuse to register a nurse for the purpose of the law.

guilty of fraud in passing the examination, or guilty of

guilty of gross incompetency, or guilty of any other

professional conduct, or guilty of any other

habit to such a degree as to render such nurse unfit to

practice nursing as a registered nurse, upon notice and

VI Statutes, ch. 211, Sec. 211.

VI Statutes, ch. 211, Sec. 211.



hearing, the board by a vote of not less than three (3) of its members, may revoke or suspend a certificate for like  
<sup>72</sup>  
 cause or causes.

Exemptions. This law shall not be construed to affect or apply to the gratuitous nursing of the sick by friends or mother or other members of the family, or any person nursing the sick for hire who does not in any way assume or profess  
<sup>73</sup>  
 to practice as a graduate or registered nurse.

Penalty for Violation. It is unlawful for any person to practice nursing within the State of New Mexico as a graduate nurse, or to designate, describe, or advertise himself or herself as "registered nurse" or use the initials "R. N." or similar abbreviations for designation, description, or advertisement, without first having obtained a certificate of registration as provided under this law; and any person who shall violate any of the provisions of this law shall be subject to a fine of not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00). The board shall assist the proper legal authorities in the prosecuting of all persons violating any of the provisions of this

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<sup>72</sup> Statutes, op. cit., Sec. 51-614.

<sup>73</sup> Statutes, op. cit., Sec. 51-610.







law, and to this end shall furnish the prosecuting officers of the various counties such information as it may have in its possession.<sup>74</sup>

#### F. Optometry

The practice of optometry, within the meaning and intent of the New Mexico law, is defined as the employment of any subjective or objective means or methods, other than the use of drugs or surgery, for the purpose determining the refractive condition of the human eye or any muscular or visual anomalies thereof; or the employment, adapting, or prescribing of lenses, prisms, or other optical appliances, or other means, modalities, or methods, not including drugs, medicines, or surgery for the correction or relief of disturbances in, and anomalies of, the human visual system and its supportive functions.<sup>1</sup>

The Practice of Optometry. (A) A person shall be deemed as practicing optometry within the meaning of this law who, by any means or methods other than the use of drugs, diagnoses any optical deformity or deficiency, or visual or muscular anomaly of the human eye, or prescribes lenses,

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<sup>1</sup> Statutes, op. cit., Chapter 51, Article 7, Sec. 51-701.

<sup>74</sup> Statutes, op. cit., Sec. 51-609.



law, and to this end, well established, and the  
of the various countries and in various of the  
its possession.

## 1. The Practice

The practice of medicine, which is the subject of  
intent of the New Mexico law, is defined as the use of  
any subjective or objective means to determine the  
use of drugs or surgery, for the purpose of restoring the  
relative condition of the human body to the normal  
visual condition thereof, or the restoration, maintenance,  
preservation of function, or the relief of pain,  
or other means, medicinal, mechanical, or electrical, or  
medicines, or surgery, for the purpose of restoring the  
condition of the human body to the normal visual condition,  
the supportive function.

## The Practice of Medicine - (a) A person shall be

considered as practicing medicine within the State of New Mexico  
who, by any means or methods other than the use of drugs,  
diagnosis and general treatment or maintenance, or the  
muscular activity of the human body, or the restoration of function.

Statutes, ch. 21, Sec. 21-201.  
Statutes, ch. 21, Sec. 21-202.



or ocular exercises for the correction or relief of the same, or who represents himself or offers his services as being able to do so.<sup>2</sup> (B) The replacement or duplication of an ophthalmic lens, frame, or mounting without a prescription or written authority from a person authorized under the laws of New Mexico to practice optometry or medicine shall be unlawful<sup>3</sup> and contrary to this law.

The State Board of Optometry, Appointment and Tenure of Office. This board is composed of three (3) members, who are appointed by the governor of the state, each of whom shall have been engaged in the actual practice of optometry in this state for not less than three (3) years prior to such appointment, and must be bona fide residents of this state for a like period. Each member serves for a term of four (4) years. All appointments to fill vacancies on the board due to retirement of members whose term shall be unexpired shall be made for the unexpired term only. The governor is empowered to remove from office at any time any member guilty of gross neglect of duty, incompetency, improper or unprofessional conduct, or for any reason which would justify revocation of his certificate. Each member of the board, before entering

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<sup>2</sup> Statutes, op. cit., Sec. 51-702.

<sup>3</sup> Ibid.



or certain expenses for the correction or relief of the same.  
or who represents himself or offers his services as being the  
to do so. (5) The replacement or duplication of an original  
the same, or amounting without a prescription or writ-  
ten authority from a person authorized under the laws of the  
Mexico to practice optometry or medicine shall be a violation  
and contrary to this law.

The State Board of Optometry, Ophthalmology and Otorhinolaryngology  
of Illinois. This board is composed of three (3) members, who  
are appointed by the governor of the state, each of whom shall  
have been engaged in the actual practice of optometry or ophthalmology  
for not less than three (3) years prior to their appoint-  
ment, and must be bona fide residents of this state for a  
like period. Each member serves for a term of four (4) years.  
All appointments to fill vacancies on the board due to re-  
tirement of members whose term shall be unexpired shall be  
made for the unexpired term only. The governor is authorized  
to remove from office at any time any member guilty of gross  
neglect of duty, incompetency, incapacity or unprofessional  
conduct, or for any reason which would justify removal from  
his certificate. Each member of the board, before entering



upon the duties of his office, shall be required to take the oath required to be taken by other officers of the state and same shall be filed with the office of the secretary of state.<sup>4</sup>

Organization and Meetings. On the first Monday in July of each year the members of the board shall meet in the capitol building in the state capital, or in such other city within the state as may be agreed upon at least thirty (30) days before said date. They shall organize by electing one member as president, one as vice-president, and one as secretary-treasurer, each to serve for one (1) year or until his successor shall have been elected and qualified. They shall formulate rules of procedure in the examination of applicants for certificates of registration and for the conduct of all the duties of their office consistent with the provisions of this law and shall adopt a common seal. The secretary-treasurer shall receive all fees and moneys paid to the board and shall keep all accounts and records of the board.<sup>5</sup>

Compensation of the Board. Each member of the board

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<sup>4</sup> Statutes, op. cit., Sec. 51-704.

<sup>5</sup> Statutes, op. cit., Sec. 51-705.



upon the duties of his office, which is subject to the  
case required to be taken by other officers of the state and  
same shall be filed with the office of the secretary of  
state.

#### Organization and Meetings.

July of each year the members of the board shall meet at the  
capitol building in the state capital, or in some other place  
within the state as may be agreed upon by board of directors.  
They shall organize by electing one  
member as president, one as vice-president, and one as  
secretary-treasurer, each to serve for one year and until his  
successor shall have been elected and qualified. They  
shall formulate rules of procedure in the transaction of  
business for certification of registration and for the con-  
duct of all the duties of their office. They shall be the  
provisions of this law and shall make a report each year  
secretary-treasurer shall receive all fees and moneys paid  
to the board and shall keep all accounts and records of the  
board.

#### Compensation of the Board.

Statutes, ch. 211, sec. 21-704.

Statutes, ch. 211, sec. 21-705.



shall receive a per diem of ten dollars (\$10.00) for each day actually spent on the performance of the duties of his office, and shall be reimbursed at the rate of five cents (5¢) per mile for all distance necessarily traveled in going to and from meetings of the board. All money coming into the possession of the board from fees and renewals from all other sources shall be held by the secretary-treasurer of the board as a special fund for the defraying of the expenses incurred in administering the affairs of the board. No part of such expenses shall ever be paid out of the state treasury of New Mexico.<sup>6</sup>

Special Meetings. Special meetings may be called by the secretary upon authorization of the president, such meetings to be at such time and place as the board may designate. If a special meeting shall be called for the examination of less than five (5) applicants at that meeting, all expenses incurred by reason of holding such meeting over and above the amount of examination fees received at such meeting shall be borne pro-rata by the applicants. Before such meeting a written notice shall be mailed by the secretary to each of the other members in which notice the purposes of the meeting shall be fully stated. A majority of the

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<sup>6</sup> Ibid.



shall receive a per diem of \$100.00 for each day actually spent on the business of the corporation and shall be reimbursed at the rate of \$100.00 per mile for all distance necessarily traveled in the performance of the duties of the board. All money coming into the treasury of the board from fees and assessments from all other sources shall be held by the corporation treasurer as a special fund for the carrying of the expenses incurred in administering the affairs of the board. The same of such expenses shall never be paid out of the special fund.

Mexico.

Special Meetings.

The necessary upon authorization of the president, may be called to be at such time and place as the board may determine. If a special meeting shall be called, the president shall give notice of less than five (5) days to each member of the board. All expenses incurred by reason of such meeting shall be paid by the corporation and above the amount of examination fees and other expenses meeting shall be borne equally by the stockholders. Before such meeting a written notice shall be mailed to each of the other members of the board. A meeting of the board shall be fully stated.



members shall at all times constitute a quorum for the transaction of business, but a lesser number may meet and adjourn to some fixed date. At the close of the fiscal year (June 30) the secretary shall make an annual report to the governor which report shall contain an account of all moneys<sup>7</sup> received and disbursed by the board pursuant to this law.

Qualifications of Applicants. A person shall be deemed qualified to receive a certificate of registration as an optometrist who is at least twenty-one (21) years of age, of good moral character and temperate habits, who has graduated from a high school or secondary school approved by the State Board of Optometry, or who has completed an equivalent course of study, as determined by an examination conducted by the New Mexico State Department of Education. He must be a citizen of the United States or shall have taken out first naturalization papers. The applicant must be a graduate of a school or college of optometry approved and accredited by the State Board of Optometry, which has a minimum requirement of four thousand (4,000) clock hours of instruction and distributed over four (4) school years of eight (8) months each and embracing the following subjects: General anatomy, general physiology, general mathematics,

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<sup>7</sup> Ibid.



transmission of business, but a few days later the  
adjoin to some extent. (June 30) The  
government shall receive and distribute the  
received and distributed by the

desired quality. The quality of the  
as an official. The quality of the  
age, of good work. The quality of the  
produced. The quality of the  
by the State. The quality of the  
equivalent. The quality of the  
conducted by the State. The quality of the  
the kind of a better. The quality of the  
on and first. The quality of the  
graduate of a school. The quality of the  
accredited by the State. The quality of the  
law. The quality of the  
attention and of the  
eight (8) months. The quality of the  
General. The quality of the



general physics, general optics, ocular anatomy, ocular pathology, ocular myology, neurology, theoretical optics, practical optics, theoretical optometry, practical optometry, optical mathematics, hygiene, psychology, optical laboratory, clinical work, and such additional studies and subjects as the board of optometry may prescribe; provided, that such additional studies and subjects shall be within the curricula taught by Class A optometrical colleges. The applicant must successfully pass the examination given by this board.<sup>8</sup>

Application for Examination. Any person meeting the requirements as provided in this law, who desires to engage in the practice of optometry in New Mexico may file his application, under oath on blanks furnished by the Board of Optometry, for an examination before the board. An applicant may be required to furnish evidence by diploma, certificate, or otherwise, satisfactory to the board that his preliminary and professional education shall not have been less than the standard required under this law, and may be required to furnish references as to character and moral fitness. Such application shall be accompanied by the required application fee of twenty dollars (\$20.00). The fee for the certificate of registration if the applicant has successfully

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<sup>8</sup> Statutes, op. cit., Sec. 51-706.







passed the examination shall be five dollars (\$5.00).<sup>9</sup> The annual renewal fee is five dollars (\$5.00). Examinations shall be held at least once a year at the time and place of the annual meeting of the board; special examinations may be held in addition thereto at such time and place as the board may designate. No applicant may be passed by the board who fails to obtain a grade of seventy-five (75%) per cent on each subject upon which he is examined. Examinations may include both practical demonstration and written tests, and oral tests when all members of the board are present.<sup>10</sup>

Recording of Certificate. Each registered optometrist shall, before beginning the practice of optometry, present his certificate for record to the county recorder in the county in which he proposes to practice optometry. Any failure, neglect, or refusal on the part of any person holding such a certificate, or the certified copy of such certificate, to file the same for record as herein provided shall automatically cancel such certificate and the same shall not be restored to him except upon making written application to the board,<sup>11</sup> accompanied by the sum of twenty-five dollars (\$25.00).

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<sup>9</sup> Statutes, op. cit., Secs. 51-707 and 51-711.

<sup>10</sup> Statutes, op. cit., Sec. 51-707.

<sup>11</sup> Ibid.



passed the examination shall be five dollars (\$5.00). The  
annual renewal fee is five dollars (\$5.00).  
shall be held at least once a year at such time and place as  
the annual meeting of the board; special examinations may be  
held in addition thereto at such time and place as the board  
may designate. No applicant may be passed by the board who  
fails to obtain a grade of seventy-five (75%) or count on  
each subject upon which he is examined. Written tests shall  
include both practical demonstration and written tests, and  
oral tests when all members of the board are present.  
Recording of Certificate. Each registered operator shall  
shall, before beginning the practice of operating, present  
his certificate for record to the county recorder in the county  
in which he proposes to practice operating. Any failure  
neglect, or refusal on the part of any person holding such a  
certificate, or the certified copy of such certificate, to  
file the same for record as herein provided shall constitute  
a cause for annulment and the same shall not be recorded  
so his excuse upon making written application to the board,  
accompanied by the sum of twenty-five dollars (\$25.00).

3 Statutes, op. cit., Secs. 51-50V and 51-VII.  
10 Statutes, op. cit., Sec. 51-50V.  
11 Id.



Non-Resident Practitioners. Any person holding a certificate of registration, but who is not a bona fide resident of the State of New Mexico, and who does not maintain a permanent office in the state, and who desires to practice in the State of New Mexico shall apply to the State Board of Optometry in writing for a special permit, setting forth the towns and counties in which he proposes to practice. The board shall consider such application, and may grant or refuse to grant such permit. If granted, the applicant shall pay to the secretary-treasurer of the board the sum of twenty-five dollars (\$25.00) for each county in the State of New Mexico for which such permit is granted.

Retirement and Resumption of Practice. Any optometrist who intends to retire from the practice of optometry shall so notify the secretary of the board in writing before the expiration of his certificate; and the secretary shall acknowledge receipt of said notice in writing and make a record of the same. If, within a period of five (5) years thereafter, such optometrist desires to resume practice he shall pay to the board an amount equivalent to all lapsed renewal fees and his certificate shall be restored to him in full force and effect, provided, that if such optometrist



Non-Resident Practitioners.

certificate of registration, but who is not a bona fide resident of the State of New Mexico, and who desires to practice in permanent office in the State, and who desires to practice in the State of New Mexico shall apply to the State Board of Optometry in writing for a special permit, setting forth the reasons and grounds in which he proposes to practice. The board shall consider such application, and may, in its discretion, grant such permit. It further, the application shall pay to the secretary-treasurer of the board the sum of twenty-five dollars (\$25.00) for each year in the State of New Mexico for which such permit is granted.

Retirement and Resumption of Practice.

that who intends to retire from the practice of optometry shall so notify the secretary of the board in writing, and the expiration of his certificate, and the secretary shall acknowledge receipt of said notice in writing and shall record of the same. If, within a period of five (5) years thereafter, such optometrist desires to resume practice, he shall pay to the board an amount equivalent to the renewal fees and his certificate shall be renewed as if full force and effect, provided, that if such optometrist



practice optometry in this state during the period of such suspension of his certificate he shall be subject to the penalties provided for violation of this law.<sup>13</sup>

Refusal or Revocation of Certificate. The State Board of Optometry may either refuse to issue, or may refuse to renew, or may suspend, or may revoke any certificate of registration for any of the following causes on the part of the holder thereof: Gross malpractice, gross incompetency, continued practice by the optometrist knowingly having an infectious or contagious disease, for attempts to mislead, deceive, or defraud the public, for habitual drunkenness or habitual addiction to the use of habit-forming drugs, or for any conduct deemed unprofessional by the Board of Optometry.<sup>14</sup>

Applicants from Other States. An applicant for a certificate of registration who has been admitted to practice in another state in which the requirements for such registration were, at the time he was granted his certificate, substantially the same as the requirements embodied in this law may, at the discretion of the New Mexico Board of Optometry, be granted a certificate to practice in New Mexico upon the payment to the board of the sum of fifty dollars (\$50.00),

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<sup>13</sup> Statutes, op. cit., Sec. 51-708.

<sup>14</sup> Statutes, op. cit., Sec. 51-709.



practiced optometry in this state during the period of years  
suspension of his certificate he shall be subject to the  
penalties provided for violation of this law.

Refusal or Revocation of Certificate.

of optometry may either refuse to issue, or may refuse to  
renew, or may suspend, or may revoke any certificate of  
registration for any of the following causes on the part of  
the holder thereof: Gross malpractice, gross negligence,  
continued practice by the optometrist knowingly having an  
infectious or contagious disease, for attempts to mislead,  
deceive, or defraud the public, for habitual dishonesty or  
habitual addition to the use of habit-forming drugs, or for  
any conduct deemed unprofessional by the board of optometry.

Applicants from Other States.

certificate of registration who has been admitted to practice  
in another state in which the requirements for such registra-  
tion were, at the time he was granted the certificate, essen-  
tially the same as the requirements established in this law  
may, at the discretion of the New Mexico board of optometry,  
be granted a certificate to practice in New Mexico upon the  
payment to the board of the sum of Fifty Dollars (\$50.00).

15 Statutes, op. cit., Sec. 51-708.

16 Statutes, op. cit., Sec. 51-709.



provided that his certificate granted by such other state was secured by a standard examination and not by exemption, and that he shall be qualified under the provisions of this law other than the requirement that he submit to an examination as to his educational fitness; and provided that the state in which he holds a certificate of registration grants equal privileges to applicants for certificates of registration from New Mexico.

Enforcement of the Law. The New Mexico Board of Optometry may adopt reasonable rules and regulations relating to the enforcement of the provisions of this law, and may appropriate, from the treasury of the board, money to be used for the purpose of apprehending violators of this law and for enforcing the provisions thereof.

Penalty for Violation. Any one of the following acts on the part of any person shall constitute a misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00), or imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months, or both such fine and imprisonment at the discretion of the court: The practice of

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<sup>15</sup> Statutes, op. cit., Sec. 51-710.

<sup>16</sup> Statutes, op. cit., Sec. 51-712.



provided that his certificate, when issued, shall be subject to the provisions of this act and that he shall be subject to the provisions of this act in all other respects as to his educational, financial and professional qualifications in which he holds a certificate of registration and special privileges to applicants for certificates of registration.

Enforcement of the act. The board of registration may adopt such rules and regulations as may be necessary for the enforcement of the provisions of this act and may appropriate, from the funds of the board, money to be used for the purpose of enforcing the provisions of this law and for enforcing the provisions thereof.

Penalty for violation. Any person who violates any provision of this act shall be punished by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county jail for not less than 30 days nor more than six (6) months, or both, at the discretion of the court in the event of a conviction.



optometry without having first obtained a certificate of registration from the Board of Optometry; attempting to obtain the certificate of registration by deceitful means; the making of wilfully false statements, oaths, or affirmations to the board; fraudulently obtaining any diploma, license, or certificate; continued practice of optometry when certificate is suspended or revoked; attempting to mislead or defraud the public; peddling of eyeglasses, spectacles, or lenses; false or unethical advertising, or any other violation of any of the provisions of this law for which the penalty has not been provided elsewhere in this law.<sup>17</sup> A fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00), or imprisonment in the county jail for not less than ninety (90) days nor more than one (1) year, or both, fine and imprisonment, shall be imposed for a second offense.<sup>18</sup>

Exceptions from this Law. Nothing in this law shall be construed as applying to physicians and surgeons duly authorized to practice medicine in the State of New Mexico, nor to persons selling spectacles or eyeglasses who do not represent themselves as being qualified to detect and correct

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<sup>17</sup> Statutes, op. cit., Sec. 51-713.

<sup>18</sup> Ibid.



optometry without having first obtained a certificate of  
registration from the board of optometry; and who  
tain the certificate of registration or certificate of  
making of willfully false statements, or who, in violation  
to the board; fraudulently obtaining any license, license  
certificate; continued practice of optometry and certificate  
is suspended or revoked; attempting to obtain or obtain the  
public; peddling of eyeglasses, spectacles, or lenses; false  
or unethical advertising, or any other violation of the  
the provisions of this law for which the penalty has not been  
provided elsewhere in this law. A fine of not more than  
two hundred dollars (\$200.00) nor more than five hundred dol-  
lars (\$500.00), or imprisonment in the county jail for not  
less than ninety (90) days nor more than six (6) months, or  
both, fine and imprisonment, shall be imposed for a person  
guilty of an offense.

#### Exceptions from this law.

be construed as applying to physicians and dentists who  
authorized to practice medicine in the State of California  
nor to persons selling appliances or appliances who do not  
represent themselves as being qualified to detect and



ocular anomalies, and who do not traffic upon assumed skill<sup>19</sup>  
in adapting lenses to the human eyes.

### G. Osteopathy

Osteopathy or osteopathic medicine, as referred to in<sup>1</sup>  
the osteopathic practice law in New Mexico, is the name of  
that system or school of medicine which is taught and prac-  
ticed in the standard colleges of osteopathy and surgery. It  
is unlawful for any person to practice as an osteopathic  
physician in this state without a license so to do issued by  
the State Board of Osteopathic Examiners. This law does not  
in any way affect the practice of allopathy, homeopathy,  
electric, and chiropractic by those duly licensed to practice  
those branches of the healing art under the laws of the State  
of New Mexico.

The State Board of Osteopathic Examiners, Appointment  
and Tenure of Office. The governor of the state appoints  
five (5) examiners to this board, and said examiners shall be  
regularly licensed osteopathic physicians in good standing in  
this state, and who have been so engaged for a period of at  
least two (2) years immediately prior to their appointment

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<sup>19</sup> Statutes, op. cit., Sec. 51-714.

<sup>1</sup> "Osteopathic Practice Act," (Santa Fe: The New Mex-  
ico Association of Osteopathic Physicians and Surgeons, 1945).



ocular anomalies, and also the fact that the human eye is  
in adapting lenses to the human eye.

## 2. Osteopathy

Osteopathy or osteopathic medicine, as known in  
the osteopathic practice law in New Mexico, is the name of  
that system or school of medicine which is taught and prac-  
ticed in the standard colleges of osteopathy and osteopaths.  
It is unlawful for any person to practice as an osteopath  
physician in this state without a license so to be issued by  
the State Board of Osteopathic Examiners. This law does not  
in any way affect the practice of allopathy, homeopathy,  
electric, and chiropractic by those duly licensed to practice  
those branches of the healing art under the laws of this state  
of New Mexico.

### The State Board of Osteopathic Examiners and its duties

and Terms of Office. The Governor of the state shall  
five (5) examiners to this board, and said examiners shall be  
regularly licensed osteopathic physicians in good standing in  
this state, and who have been so engaged for a period of at  
least two (2) years immediately prior to their appointment.

12 Statutes, pp. 415, Sec. 11-14.

1 "Osteopathic Practice Law" in the Statutes of New Mexico, 1917, p. 415.  
See Association of Osteopathic Physicians and Surgeons.



and who are possessed of all the qualifications of applicants for licenses. One (1) examiner is appointed each year for a term of five (5) years. No person is eligible for appointment on the board who is not a graduate of a college of osteopathy and surgery that is legally incorporated and chartered.<sup>2</sup>

Organization and Meetings. The board is organized by the election of a president, a vice-president, and a secretary-treasurer. Annually, on a date fixed by the board, the board shall meet and elect officers for the ensuing year. Three (3) members of the board constitute a quorum. Examinations shall be conducted at least twice each year at the time and place fixed by the board, of which examination all applicants are notified in writing. The compensation of the examiners shall be fixed by the by-laws of the board but in no case shall it exceed the fees collected from the applicants.<sup>3</sup>

Qualifications of Applicants. Each applicant for a license to practice as provided in this law must make application for examination on blank forms prepared and furnished by the Board of Osteopathic Examiners. The applicant must

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<sup>2</sup> Statutes, op. cit., Chapter 51, Article 8, Section 51-804.

<sup>3</sup> Ibid.



and who are possessed of all the qualifications of a duly qualified person for the examination of applicants for licenses. The examination is to be held for a term of five (5) years. The person or persons appointed to the position on the board who do not have a certificate of competency in osteopathy and surgery shall be ineligible for reappointment.

Organization and Election. The board shall consist of the election of a president, a vice-president, and a secretary-treasurer. Annually, on a date fixed by the board, the board shall meet and elect officers for the ensuing year. Three (3) members of the board shall constitute a quorum. Meetings shall be conducted at least twice a year at the time and place fixed by the board, or until adjournment. The board shall be notified in writing. The board shall have the right to examine all cases and shall be fixed by law by law of a state and no case shall be excepted and the board shall have the right to examine all cases.

Qualifications of Applicants. Any person who is licensed to practice as provided in this act and who is qualified for examination on behalf of the board of osteopathic physicians by the board of osteopathic physicians.



submit evidence, verified on oath and satisfactory to the board, that he or she is twenty-one (21) years of age or over, is of good moral character, and is a graduate of a legally incorporated college of osteopathy and surgery of standard acceptable to the board. The applicant must pay in advance to the board the following fees: (a) For examination of an osteopathic physician and surgeon, thirty-five dollars (\$35.00); for issuance of the license if the applicant successfully passes the examination, five dollars (\$5.00); the total amount for examination and license is forty dollars<sup>4</sup> (\$40.00).

Professional Education. Standards of professional education to practice as an osteopathic physician and surgeon are fixed as follows: The applicant shall be a graduate of a school or college of osteopathy and surgery which requires as a prerequisite to graduation a four- (4) year course of nine- (9) month school years, covering the standard curriculum, and giving instruction in all the subjects necessary to educate a thoroughly competent general osteopathic physician and surgeon, including obstetrics and surgery, and embodying instruction in anesthetics, antiseptics, germicides, parasiticides, narcotics and antidotes, principles of

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<sup>4</sup> Statutes, op. cit., Sec. 51-805.



and all evidence, verified on oath and satisfactory to the  
 board, that he or she is twenty-one (21) years of age or  
 over, is of good moral character, and is a graduate of a  
 legally incorporated college of osteopathy and surgery of  
 standards acceptable to the board. The applicant must be in  
 advance to the board the following fees: (a) for examination  
 of an osteopathic physician and surgeon, thirty-five (35) dollars  
 (\$35.00); for issuance of the license if the applicant suc-  
 cessfully passes the examination, five dollars (\$5.00); the  
 total amount for examination and license is forty dollars  
 (\$40.00).

Professional Education. Standards of professional  
 education to practice as an osteopathic physician and sur-  
 geon are fixed as follows: The applicant shall be a gradu-  
 ate of a school or college of osteopathy and surgery which  
 requires as a prerequisite to graduation a four (4) year  
 course of nine (9) month school years, covering the standard  
 curriculum, and giving instruction in all the subjects neces-  
 sary to educate a thoroughly competent general osteopathic  
 physician and surgeon, including chemistry and physics, and  
 embodying instruction in anesthesia, obstetrics, gynecology,  
 parasitology, pediatrics and endocrinology, orthopedics



surgery and surgical diagnosis leading to the degree of  
<sup>5</sup>  
 Doctor of Osteopathy.

Acceptable Colleges. To be of a standard acceptable to the board a college of osteopathy and surgery must be one that is legally incorporated and chartered, that requires before granting the degree of Doctor of Osteopathy an actual attendance at such osteopathic college of at least thirty-six (36) months of four (4) terms of nine (9) months each. and its course of study to include the following subjects: Anatomy in all its branches, descriptive and surgical, including dissection, embryology and histology; chemistry, including toxicology; physiology pathology, bacteriology, preventive medicine, dietetics, hydro-therapy, physio-therapy, corrective gymnastics, electro-therapy including X-radiance and radiology; principles of osteopathic medicine, osteopathic technique, practice of osteopathic medicine, therapeutics including diseases of the nervous system; gastro-intestinal, heart, and vascular systems; genito-urinary diseases, endocrinology and respiratory tract, acute and infectious diseases, pediatrics, dermatology, syphilis, psychiatry, psychology, bone and joint diseases, gynecology, obstetrics; diagnosis including physical, laboratory, clinical, and surgical; surgery in all its branches, eye, ear,

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<sup>5</sup> Statutes, op. cit., Sec. 51-806.







nose, and throat; medical jurisprudence, and all such other subjects as may be required and taught by such standard colleges of osteopathy and surgery.<sup>6</sup>

Examination. All applicants for examination to practice osteopathic medicine and surgery must first successfully pass the basic science examination administered by the New Mexico Board of Examiners in the Basic Sciences, and then proceed to the examination given by the Board of Osteopathic Examiners. The fee for examination by the basic science examiners is twenty-five dollars (\$25.00).<sup>7</sup>

Display of Licenses and Renewal. Every person holding a license authorizing him to practice osteopathy in New Mexico must have the same recorded in the office of the county clerk of the county of his residence. Every such person upon a change of residence must have his license recorded in like manner in the county to which he may have changed his residence, and such license must be displayed in his office as an evidence of having complied with the law. Every person holding such license, who shall practice or attempt to practice osteopathy or surgery without first having recorded the same, as provided, shall be deemed guilty of a misdemeanor,

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<sup>6</sup> Statutes, op. cit., Sec. 51-807.

<sup>7</sup> "Basic Science Act," (Santa Fe: The State Board of Examiners in the Basic Sciences, 1945).



nose, and throat; medical jurisprudence, and all such other subjects as may be required and taught by such standards; and of osteopathy and surgery.

Examination. All applicants for examination to become osteopaths in medicine and surgery must first successfully pass the basic science examination administered by the Medical Board of Examiners in the Basic Sciences, and then proceed to the examination given by the Board of Osteopathy Examiners. The fee for examination by the Basic Sciences Examiners is twenty-five dollars (\$25.00).

Display of License and Renewal. Every person holding a license authorizing him to practice osteopathy in New York must have the same recorded in the office of the county clerk of the county of his residence. Every such person, upon a change of residence must have his license recorded in the manner in the county to which he has moved changed in the same manner. Such license must be displayed in his office as an evidence of having complied with the law. Every person holding such license, who shall practice or attempt to practice osteopathy or surgery without first having recorded the same, as provided, shall be deemed guilty of a misdemeanor.

<sup>c</sup> Statutes, op. cit., Sec. 51-53.

<sup>v</sup> "Basic Science Act," (enacted by the State Board of Examiners in the Basic Sciences, 1945).



and, upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200.00).<sup>8</sup>

Every resident person holding a license shall be required annually to obtain a renewal thereof from the board, and for such renewal shall pay to the board a fee of three dollars (\$3.00). Every person, who, having been granted a license, shall remove his residence from the state shall be required annually to obtain a renewal thereof from the board, and for such renewals shall pay to the board a fee of three dollars (\$3.00) per year.<sup>9</sup> Each licensee applying for renewal must furnish proof, before his license is renewed, that he has attended at least three (3) days of the annual educational program conducted by the New Mexico Association of Osteopathic Physicians and Surgeons during such annual licensing period, or equivalent, as determined by the osteopathic examiners.

Privileges and Obligations. Osteopathic physicians and surgeons shall observe and be subject to all state and municipal regulations relative to reporting births and deaths and all matters pertaining to the public health with equal rights and obligations as physicians of other schools of

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<sup>8</sup> Statutes, op. cit., Sec. 51-811.

<sup>9</sup> Ibid.



and, upon conviction, shall be punished by a fine of not less than two hundred dollars (\$200.00).

Every resident person holding a license shall be required annually to obtain a renewal thereof from the board, and for such renewal shall pay to the board a fee of ten dollars (\$10.00). Every person who, having been granted a license, shall remove his residence from the state shall be required annually to obtain a renewal thereof from the board, and for such renewal shall pay to the board a fee of ten dollars (\$10.00) per year. Each license applying for renewal must furnish proof, before the board, that he has attended at least three (3) days of the annual educational program conducted by the board, and that he is of good moral character, and is not addicted to the use of alcoholic liquors, or is not suffering from any physical or mental defect which would render him incompetent to practice his profession.

Privileges and Obligations. Osteopathic physicians and surgeons shall observe and be subject to all laws and municipal regulations relative to registration, license and fees, and all matters pertaining to the public health and safety, rights and obligations as physicians or other persons of



medicine, and such reports shall be accepted by the officers<sup>10</sup> of the departments to which the same are made. Osteopathic physicians and surgeons licensed under this law shall have the same general rights as physicians or surgeons of other schools of medicine with respect to the handling of cases, and including the right to register under the laws of the United States governing narcotics. It is the intent and purpose of this law to grant osteopathic physicians the right to practice as taught and practiced in the standard colleges<sup>11</sup> of osteopathy.

Reciprocity. The Board of Osteopathic Examiners may, in its discretion, issue a license without examination to an osteopathic physician who has been licensed in any country, state, territory, or province, and who is a graduate of a standard college of osteopathy, upon the following conditions: (a) That the applicant is of good moral character; (b) that the requirements to practice in the jurisdiction in which the applicant is already licensed be equal to those of this state; (c) that the applicant shall be required to pay the<sup>12</sup> fee designated for such license.

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<sup>10</sup> Statutes, op. cit., Sec. 51-812.

<sup>11</sup> Ibid.

<sup>12</sup> Statutes, op. cit., Sec. 51-810.



...and such reports shall be accepted by the officers  
 of the department to which the same are made.  
 ...shall  
 ...have the same general rights as physicians of ...  
 ...other schools of medicine with respect to the practice of  
 ...and including the right to register under the laws of  
 ...the United States governing corporations. It is the intent and  
 purpose of this law to grant osteopathic physicians the right  
 to practice as surgeons and physicians in the standard colleges  
 of osteopathy.

Section 10. The Board of Osteopathic Examiners may  
 in the discretion, issue a license without examination to an  
 osteopathic physician who has been licensed in any country,  
 state, territory, or province, and who is a graduate of a  
 standard college of osteopathy, upon the following conditions:  
 (a) that the applicant is of good moral character; (b) that  
 the requirements for practice in the jurisdiction in which the  
 applicant is licensed have been met; and (c) that the applicant shall be required to pay the  
 fee designated for such license.

10 Statutes, op. cit., Sec. 51-512.  
 II Ibid.  
 12 Statutes, op. cit., Sec. 51-510.



The board may also, in its discretion, issue a license without examination to an osteopathic physician who is a graduate of a standard college of osteopathy and who has passed an examination for admission into the medical corps of the United States Army, Navy, or Public Health Service.<sup>13</sup>

Refusal or Revocation of License. The State Board of Osteopathic Examiners may either refuse to issue or may suspend or revoke any license for any one or any combination of the following causes: (a) Conviction of a felony, as shown by a certified copy of the record of the court of conviction; (b) the obtaining of, or an attempt to obtain, a license for money or any other thing of value by fraudulent misrepresentation, or practice for money or any other thing of value by fraudulent misrepresentation; (c) gross malpractice; (d) advertising, practicing, or attempting to practice under a name other than one's own; (e) advertising by means of knowingly false or deceptive statements; (f) habitual drunkenness, or habitual addiction to the use of habit-forming drugs.<sup>14</sup> The board may neither refuse to issue nor to renew, nor suspend, nor revoke any license, however,

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<sup>13</sup> Ibid.

<sup>14</sup> Statutes, op. cit., Sec. 51-813.







for any of these causes unless the person accused has been given at least twenty (20) days' notice in writing of the charge against him. In such case a public hearing shall be held by the board, and the accused licensee shall have the right of review of the board's decision by the district court for the district in which he resides, by certiorari, on petition of the accused licensee against whom the board's decision is rendered. The board shall have the power to compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before them; and the presiding officer of the board may administer the requisite oaths, and the board shall have the same authority to compel the giving of testimony as is conferred on courts of justice.<sup>15</sup>

Penalty for Violation. Each of the following acts constitutes a misdemeanor punishable, upon conviction, by a fine of not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200.00): (a) The practice of osteopathy, or an attempt to practice osteopathy without a license; (b) the obtaining of, or attempting to obtain a license, or practice in the profession, for money or any other thing of value by fraudulent misrepresentation; (c) the

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<sup>15</sup> Ibid.



for any of these causes unless the person concerned has been  
given at least twenty (20) days' notice in writing of the  
charge against him. In such case a public hearing shall be  
held by the board, and the accused licensee shall have the  
right of review of the board's decision by the district court  
for the district in which he resides, by certiorari, or by  
writ of the accused licensee against whom the board's de-  
cision is rendered. The board shall have the right to re-  
pel the attendance of witnesses and the production of  
relevant books and papers for the investigation of a licensee  
that may come before them; and the production of books and  
board may administer the requisite oaths, and the board shall  
have the same authority to compel the giving of testimony as  
is conferred on courts of justice.

Penalty for Violation. Each of the following shall be  
considered a misdemeanor punishable by imprisonment for a  
term of not less than twenty-five dollars (\$25.00) nor more  
than two hundred dollars (\$200.00): (a) For practicing  
osteopathy, or an attempt to practice osteopathy without a  
license; (b) the obtaining of, or attempting to obtain a  
license, or practice in the profession, for money or any  
other thing of value by fraudulent misrepresentation; (c) the



making of any wilfully false oath, or affirmation, when an oath or affirmation is required by this law; (d) advertising, practicing, or attempting to practice under a name other than one's own.<sup>16</sup>

Any money paid out by any person as compensation for services rendered by a practitioner not validly licensed by this board may be recovered by such person by a suit instituted within two (2) years from the date such compensation was paid.<sup>17</sup>

Records. The State Board of Osteopathic Examiners shall keep a record which shall be open to all proper parties for inspection at all reasonable times. Such record shall contain the proceedings relating to the issuance, refusal, renewal, suspension, or revocation or licenses to practice in accordance with this law. This record shall also contain the name, place of business and residence, the date and number of license of every osteopathic physician licensed under this law.<sup>18</sup>

#### H. Pharmacy

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<sup>16</sup> Statutes, op. cit., Sec. 51-814.

<sup>17</sup> Statutes, op. cit., Chapter 51, Article 1, Section 51-117.

<sup>18</sup> Statutes, op. cit., Sec. 51-815.



making of any willfully false entry, or omission, or  
such or omission is deemed to be a violation of this law.  
provision, or otherwise, to violate any law, or  
order, or

any money paid and by any person or corporation, or  
services rendered by a practitioner and validly received  
this board may be recovered by such person or corporation  
within two (2) years from the date of completion of  
IV  
was paid.

Records. The state board of osteopathic physicians  
shall keep a record which shall be open to all persons  
for inspection of all reasonable persons. Such record shall  
contain the proceedings relating to the issuance, renewal,  
renewal, suspension, or revocation of licenses or permits in  
accordance with this law. This record shall also contain the  
name, place of business and residence, the date and number of  
license of every osteopathic physician licensed under this  
law.

II. PENALTY

10 Statutes, op. cit., sec. 21-22.  
IV Statutes, op. cit., chapter 11, section 1.  
21-117.  
12 Statutes, op. cit., sec. 21-22.



It shall be unlawful for any person or persons not registered pharmacists within the meaning of the pharmacy law in New Mexico to conduct any drugstore, pharmacy, apothecary shop, or store for the purpose of retailing, compounding or dispensing medicines, physicians' prescriptions, selling, retailing or compounding poisons of any kind in the State of New Mexico, except as provided by this law.<sup>1</sup>

The State Board of Pharmacy, Appointment and Tenure of Office. The governor shall appoint five (5) persons, by and with the advice and consent of the State Senate, all of whom shall have been residents of the state and actively engaged in the drug business for three (3) or more years, and of at least eight (8) years' practical experience as druggists or pharmacists, who shall be known and styled as the Board of Pharmacy of New Mexico. Each member serves a five (5) year term. The State Pharmaceutical Association of New Mexico shall annually submit to the governor a list containing the names of five (5) persons possessing the qualifications above provided, and each member of the said board shall be appointed by the governor from that list.<sup>2</sup>

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<sup>1</sup> "New Mexico Pharmacy Law," (Santa Fe: The State Board of Pharmacy, 1942).

<sup>2</sup> Statutes, op. cit., Chap. 51, Art. 9, Sec. 51-903.







Organization of the Board. The board shall organize by meeting within thirty (30) days from and after their appointment, and annually thereafter, and by the election of a president and a treasurer from its membership. The board may appoint a secretary who may or may not be a member of the board. The secretary shall receive a salary to be fixed by the board and all necessary expenses in the performance of his duties. The secretary, if not a member of the board, shall have the same power to inspect and to enforce this law as is granted to members of the board. He shall give receipts for all moneys received by him as such secretary and shall pay such moneys to the treasurer of the board. The secretary and treasurer shall each be required to execute a bond in a surety company, in an amount to be fixed by the board, for the faithful performance of their duties, the premiums to be paid out of the treasury of the board as a necessary expense thereof. A majority of the board shall constitute a quorum. The board has the power to make by-laws and all necessary regulations for the proper fulfillment of their duties under this law, without expense to the state.<sup>3</sup>

Compensation of the Board. Each member of the board shall be entitled to receive as compensation for his services

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<sup>3</sup>  
Ibid.



### Organization of the Board.

by meeting within thirty (30) days from and after the expiration of the term, and annually thereafter, and the meeting of the board shall be held at the residence of the president and a treasurer from the members. The board may appoint a secretary who may or may not be a member of the board. The secretary shall receive a salary to be fixed by the board and all necessary expenses in the performance of his duties. The secretary, if not a member of the board, shall have the same power to inspect and to enforce the law as is granted to members of the board. He shall also be eligible for all moneys received by the association and shall pay such moneys to the treasurer of the board. The secretary and treasurer shall each be required to execute a bond in a surety company, in an amount to be fixed by the board, for the faithful performance of their duties, the premium to be paid out of the treasury of the board and necessary expenses thereof. A committee of three members shall constitute a quorum. The board may also have the power to make by-laws and all necessary regulations for the proper management of their duties under this law, without expense to the association.

### Compensation of the Board.

shall be entitled to receive no compensation for his services



the sum of five dollars (\$5.00) per day while in actual session and for such time as is actually consumed in going to and returning from sessions of the board to his place of business, and also his actual expenses while attending such sessions. All such salary and expense shall be paid out of the treasury of the board.<sup>4</sup>

Meetings and Temporary Certificates. The Board of Pharmacy shall hold semi-annual sessions at such times and places as the board may determine, and other sessions of the board may also be held upon call of the president whenever and wherever a quorum of the board is present. In the interim of the sessions of the board, and upon satisfactory evidence of the fitness of an applicant, any one member of the board may, in his discretion, grant a temporary certificate which shall authorize the holder to conduct a drug store or pharmacy. Such temporary certificate must be signed by the secretary and have the imprint of the seal of the board affixed and shall expire and terminate at the date of the next succeeding session of the board.<sup>5</sup>

Annual Report. The meetings of the board shall be open to registered pharmacists, who shall be permitted to be

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<sup>4</sup> Ibid.

<sup>5</sup> Statutes, op. cit., Sec. 51-905.



the sum of five dollars (\$5.00) per day while in actual session and for such time as is actually consumed in going to and returning from sessions of the board for the purpose of business, and also his actual expenses while attending such sessions. All such salary and expense shall be paid out of the treasury of the board.

Meetings and Temporary Certifications. The board of Pharmacy shall hold semi-annual sessions at such times and places as the board may determine, and other sessions of the board may also be held upon call of the president, and whenever a quorum of the board is present. The business of the sessions of the board, and any action taken, shall be evidence of the fitness of an applicant, and the board may, in its discretion, grant a temporary certificate which shall authorize the holder to conduct a pharmacy or pharmacy. Such temporary certificates shall be issued to the secretary and have the imprint of the seal of the board affixed and shall expire and terminate on the day of the next succeeding session of the board.

Annual Report. The secretary of the board shall prepare an annual report of the board, which shall be submitted to the board for its approval.



present at the examination of applicants for registration, and the secretary of the board shall render an accurate annual statement to the governor of the state, of all moneys received and expended by said board during each year, and he shall also report upon the general condition of pharmacy throughout the state.<sup>6</sup>

Qualifications of Applicants. Every applicant for examination by the State Board of Pharmacy shall be not less than twenty-one (21) of age, shall have good moral character, and shall not be addicted to the use of narcotic drugs or alcoholic liquor; and he must be a graduate of a college of pharmacy recognized by the Board of Pharmacy. Every applicant who is a graduate of a college of pharmacy recognized by the board shall have had not less than one (1) year of experience under the direction of a qualified pharmacist. Such experience is to be exclusive of time spent in a college of pharmacy, and is to consist mainly of practical experience in retail pharmacy, in compounding pharmaceutical preparations, physicians' prescriptions, and in making reports required by state and Federal laws. The Board of Pharmacy shall issue an appropriate certificate to each person registered, which certificate must be conspicuously displayed in every store or

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<sup>6</sup> Statutes, op. cit., Sec. 51-906.



present at the examination of applicants for admission  
and the secretary of the board shall render an account an-  
nual statement to the governor of the state, of all receipts  
received and expended by said board during each year, and he  
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#### Qualifications of Applicants.

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perience under the direction of a qualified pharmacist. Such  
experience is to be exclusive of time spent in a college of  
pharmacy, and is to consist mainly of practical experience in  
retail pharmacy, in compounding pharmaceutical preparations,  
physicians' prescriptions, and in making responses to questions  
state and Federal laws. The Board of Pharmacy shall issue an  
appropriate certificate to each person registered, when  
certificate must be conspicuously displayed in every pharmacy



place of business of the registrant. Said certificate must be renewed on or before the first day of May in each and every year, and the board is entitled to demand and receive the sum of three dollars (\$3.00) for every certificate of renewal. Anyone failing or refusing to pay said renewal fee within sixty (60) days after the first day of May in each and every year shall have his certificate as a registered pharmacist revoked and shall not be reinstated except on a new application accompanied by a fee of ten dollars (\$10.00),<sup>7</sup> payable to said board.

Application Fee. The Board of Pharmacy, shall be entitled to demand and receive from each person whom they register upon lawful application made, the sum of fifteen dollars (\$15.00) which shall be in full for all services, including two examinations. In case the applicant shall prove defective and his examination unsatisfactory in the first instance, he shall be permitted to present himself for re-examination at the next regular meeting of the board, and no additional charge shall be made for said second examination; but should the applicant fail and a third examination be required, the board shall be entitled to demand and receive an additional fee of ten dollars (\$10.00).<sup>8</sup>

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<sup>7</sup> Statutes, op. cit., Sec. 51-908.

<sup>8</sup> Statutes, op. cit., Sec. 51-909.



place of business of the registrant. This certificate shall  
 be renewed on or before the first day of January in each year  
 every year, and the board is entitled to demand and receive  
 the sum of three dollars (\$3.00) for every certificate of  
 renewal. Anyone failing to renewing is not entitled to the  
 within sixty (60) days after the first day of January (each)  
 and every year shall have his certificate as a registrant  
 pharmacist revoked and shall not be reinstated except on a  
 new application accompanied by a fee of ten dollars (\$10.00),  
 payable to said board.

Application Fee. The Board of Pharmacy shall be  
 entitled to demand and receive from each person who they  
 register upon initial application made, the sum of fifteen  
 dollars (\$15.00) which shall be in full for all  
 including two examinations. In case the applicant shall  
 prove defective and his examination must be repeated, the  
 first instance, he shall be permitted to present himself for  
 re-examination at the next regular meeting of the board, and  
 no additional charge shall be made for said second examina-  
 tion; but should the applicant fail a third examination  
 he forfeits, the board shall be entitled to demand and re-  
 ceive an additional fee of ten dollars (\$10.00).



Penalty for Adulteration. Every owner of a drug store in the State of New Mexico shall be held responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense, with the exception of those sold in the original package of the manufacturer, or by wholesale dealers, in original packages, and also those known as proprietary or patent medicines; and should he knowingly, intentionally, or fraudulently adulterate, or cause to be adulterated, such drug, chemical, or medicinal preparations, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, his license as a registered pharmacist shall be revoked and he shall be liable, in addition to the revocation of the license, to a fine of not less than one hundred dollars (\$100.00) nor<sup>9</sup> more than five hundred dollars (\$500.00).

Unlawful Conducting of Drug Stores. Any person not a registered pharmacist, as provided by this law, who shall conduct a store, or a pharmacy, or a place for retailing, compounding, or dispensing drugs, medicines, poisons, or chemicals for medical use, or for compounding or dispensing physicians' prescriptions in the State of New Mexico, or who shall take, use, or exhibit the title of registered pharmacist, shall be deemed guilty of a misdemeanor and, upon

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<sup>9</sup> Statutes, op. cit., Sec. 51-912.



Punish for adulteration. Every person who, in the State of New Jersey, shall be held responsible for the quality of all drugs, chemicals, and medicines, and who, with the exception of those sold in the original packages of the manufacturer, or in wholesale quantities, original packages, and also those found in original packages, patent medicines, and those he knows to be adulterated, fraudulently adulterated, or liable to be adulterated, drugs, chemical, or medicinal preparations, shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable, in addition to the forfeiture of the license as a registered pharmacist shall be liable, to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

Voluntary Surrender of Drug License. Any person who, registered pharmacist, as provided in this law, who, in the conduct of a store, or a pharmacy, or a place for the compounding, or dispensing drugs, medicines, or chemicals for medical use, or the compounding or dispensing of prescriptions in the State of New Jersey, or who shall take, use, or exhibit the title of registered pharmacist, shall be deemed guilty of a misdemeanor and, upon



conviction thereof, be liable to a penalty of not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00), or imprisonment in the county jail for not less than one (1) month nor more than three (3) months, or both fine and imprisonment, in the discretion of the court. Upon second conviction or proof thereof, such violator shall be fined in a sum of not less than two hundred dollars (\$200.00) nor more than four hundred dollars (\$400.00), or imprisonment in the county jail for not less than three (3) months nor more than six (6) months, or both fine and imprisonment. Any member of the Board of Pharmacy is empowered and authorized to demand and inspect any prescription, prescription file, or poison register in any drug store, pharmacy, or other store in the state. This ruling does not apply to any practitioner of medicine who does not keep open shop for retailing, dispensing, or compounding medicines, nor prevent him from administering or supplying to his patients such articles as he may deem proper.

Itinerant Vendors. Any itinerant vendor of any drug, medicine, nostrum, ointment, lotion, or preparation, or appliance of any kind for the treatment of any disease, injury, or bodily defect, or for toilet purposes, shall pay to the

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<sup>10</sup> Statutes, op. cit., Sec. 51-914.



convicted thereof, be liable to a penalty of not less than  
one hundred dollars (\$100.00) nor more than two hundred dol-  
lars (\$200.00), or imprisonment in the county jail for a term  
less than one (1) month nor more than three (3) months, or  
both fine and imprisonment, in the discretion of the court.  
Upon second conviction or proof thereof, such violator shall  
be fined in a sum of not less than two hundred dollars  
(\$200.00) nor more than four hundred dollars (\$400.00), or  
imprisonment in the county jail for not less than three (3)  
months nor more than six (6) months, or both fine and im-  
prisonment. Any member of the Board of Pharmacy is authorized  
and authorized to demand and inspect any prescription, pre-  
scription file, or poison register in any drug store, phar-  
macy, or other place in the state. This rule shall not  
apply to any practitioner of medicine who does not keep such  
shop for retailing, dispensing, or compounding medicines, and  
prevent him from administering or supplying to the public  
such articles as he may deem proper.

Itinerary Vendors. Any itinerant vendor of any drug,  
medicine, nostrum, ointment, lotion, or preparation, or ad-  
vance of any kind for the treatment of any disease, or for  
or bodily defect, or for toilet purposes, shall not be



county clerk of the county in which he or she wishes to pursue his or her occupation as itinerant vendor an annual license fee of one hundred dollars (\$100.00), upon receipt of which the county clerk shall issue a license for one (1) year from its date, authorizing such itinerant vendor to pursue his or her occupation within said county, and such license shall be non-transferable. Failure to produce such license when demanded by any officer of the law shall subject the violator, upon conviction thereof, to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or imprisonment for a term of not less than fifty (50) days nor more than one hundred (100) days, or both, at the discretion of the court. All sums received by the county clerk for itinerant vendors' licenses or fines, shall by him be deposited with the county treasurer and covered into the general fund for the use of the county.

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False Representation. Any person who shall procure or attempt to procure registration for himself or for another person under this law by making or causing to be made false representations shall be deemed guilty of a misdemeanor and shall, upon conviction, be subject to a penalty of not less than one hundred dollars (\$100.00) nor more than two hundred

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Ibid.



county clerk of the county in which he is a resident, and  
and his or her occupation shall be stated in the license  
license fee of one hundred dollars (\$100.00) and a fee  
which the county clerk shall receive a license for each  
from the date, authorizing such license holder to engage  
his or her occupation shall be stated in the license  
shall be non-transferable. License to be valid and binding  
when demanded by any officer of the law shall be subject to  
violation, upon conviction thereof, to a fine of not less than  
fifty dollars (\$50.00) nor more than one hundred dollars  
(\$100.00), or imprisonment for a term of not less than  
(50) days nor more than one hundred (100) days, at the  
discretion of the court. All such license fees shall be  
clerk for delinquent vendors' license on license holder's name  
be deposited with the county treasurer and not less than  
General Fund for the use of the county.

False Representation. Any person who shall attempt  
attempt to procure registration for himself or for another  
person under this law by making or causing to be made a false  
representation shall be deemed guilty of a misdemeanor and  
shall, upon conviction, be subject to a penalty of not less  
than one hundred dollars (\$100.00) nor more than one hundred



dollars (\$200.00), or imprisonment in the county jail for not less than one (1) month nor more than three (3) months, or both fine and imprisonment, in the discretion of the court. In addition, his name, together with the name of the person<sup>12</sup> so registered, shall be stricken from the board register.

Retirement from Business. If any registered pharmacist shall go out of the drug business and remain out for a period of twelve (12) months, his certificate as registered pharmacist shall thereupon expire, and he shall not be reinstated without examination unless that he has been continuously engaged as a registered pharmacist and that his original certificate was granted after examination by the State Board of<sup>13</sup> Pharmacy.

Prosecutions. All suits for recovery of the several penalties prescribed by this law shall be prosecuted in the name of the State of New Mexico, in any court having jurisdiction; and it shall be the duty of the district attorney of the district in which such offense is committed, to prosecute<sup>14</sup> all persons violating the provisions of this law.

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<sup>12</sup> Statutes, op. cit., Sec. 51-913.

<sup>13</sup> Statutes, op. cit., Sec. 51-910.

<sup>14</sup> Statutes, op. cit., Sec. 51-915.



dollars (\$200.00), or imprisonment in the county jail for not

less than one (1) month nor more than three (3) months, or

both fine and imprisonment, in the discretion of the court.

In addition, his name, together with the name of the person

so registered, shall be stricken from the local register.

Registration from Business. If any registered pharmacist

shall go out of the drug business and remain out for a period

of twelve (12) months, his certificate as registered pharmacist

shall thereupon expire, and he shall not be reinstated

without examination unless that he has been continuously em-

ployed as a registered pharmacist and that his original certificate

was granted after examination by the State Board of

13

Pharmacy.

Prosecutions. All suits for recovery of the several

penalties prescribed by this law shall be prosecuted in the

name of the State of New Mexico, in any court having juris-

diction; and it shall be the duty of the district attorney of

the district in which such offense is committed, to prosecute

all persons violating the provisions of this law.

12 Statutes, op. cit., Sec. 51-913.

13 Statutes, op. cit., Sec. 51-919.

14 Statutes, op. cit., Sec. 51-915.



Pharmacists Addicted to Drugs. The State Board of Pharmacy is authorized to refuse to register any otherwise qualified pharmacist upon sufficient evidence that the said applicant is addicted to the use of morphine, cocaine, or narcotic of any kind, or that he is an habitual drunkard; and the board shall revoke the certificate of any registered pharmacist upon satisfactory evidence that the said pharmacist is addicted to the use of said drug or has become an habitual drunkard. However, no such certificate shall be revoked except upon ten (10) days' written notice to the person whose certificate is sought to be revoked, and any person whose certificate is thus revoked shall have the right to appeal from such action by the board to the district court.<sup>15</sup>

Removal of Board Members. Any member of the State Board of Pharmacy who shall violate any of the provisions of this law, or who shall neglect or refuse to report any of the violations of the provisions of this law that may be within his knowledge, without delay, shall be removed from office by the governor of the state upon such showing as may be deemed satisfactory by the executive, and such vacancies shall be

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<sup>15</sup> Statutes, op. cit., Sec. 51-911.







filled by the governor as provided by this law.<sup>16</sup>

### I. Veterinary

Any person shall be regarded as practicing veterinary medicine and surgery within the meaning of the New Mexico veterinary law who professes publicly to be a veterinarian or who appends any initials or title implying qualifications to practice; or who shall treat, operate on, or prescribe for any physical ailment in, or any physical injury to or deformity of any domestic animal, including the use of live viruses, for which he shall receive any compensation either directly or indirectly, but nothing in this law shall be construed to prohibit veterinary students from prescribing under the immediate supervision of preceptors; and castrating animals and dehorning cattle shall not be regarded as practicing veterinary surgery within the meaning of this law.<sup>1</sup>

The State Board of Veterinary Examiners, Appointment and Tenure of Office. This board is composed of three (3) veterinarians who must be graduates of legally chartered veterinary colleges. They are appointed by the governor and

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<sup>16</sup> Statutes, op. cit., Sec. 51-904.

<sup>1</sup> "Veterinary Practice Act," (Santa Fe: The State Board of Veterinary Examiners, 1946).



filled by the Governor as provided in this law.

### Section 1.

Any person shall be considered as practicing veterinary medicine and surgery within the meaning of this law who practices or who shall treat, prescribe or administer any medicine or who shall perform any surgical or other medical or veterinary procedure upon any animal, including the use of any chemical, for which he shall receive any compensation, whether directly or indirectly, but nothing in this law shall be construed to prohibit veterinary students from practicing under the immediate supervision of a practitioner, and no person shall be considered as practicing veterinary medicine who shall not be considered as practicing veterinary medicine within the meaning of this law.

### The State Board of Veterinary Medicine and Surgery

and Terms of Office. This board is composed of seven members, five of whom shall be veterinarians who must be graduates of a college of veterinary medicine, and two who shall be laymen. They are appointed by the Governor.

18 Statutes, pp. 511, 512, 513.

1 "Veterinary Practice Act," (Chapter 154),  
Board of Veterinary Medicine, 1945.



serve at his pleasure. Any vacancy on the board is filled by appointment of the governor, and such successor must be a veterinarian who is a graduate of a legally chartered veterinary college. The board shall meet at such times and places as may be deemed necessary by the board or at the call of the governor, for the purpose of examining diplomas and credentials, and conducting such examinations of applicants for license to practice veterinary medicine and surgery in the State of New Mexico as may be required by this law.<sup>2</sup>

Duties of the Board. It is the duty of the Board of Veterinary Examiners, when called to meet, to examine the applications, diplomas, and affidavits of all applicants who are graduates or practitioners under the terms of this law, and, when satisfied of the genuineness of the same, shall license such applicants under the terms of this law. However, the board may defer acting upon an application, if deemed necessary, and may require additional statements or affidavits, or the personal attendance before it of any applicant.<sup>3</sup>

Compensation of the Board, and Appointment of the Treasurer. Each member of the board shall receive four

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<sup>2</sup> Statutes, op. cit., Chapter 51, Article 10, Section 51-1002.

<sup>3</sup> Statutes, op. cit., Sec. 51-1005.



...of his pleasure. ...the board is ...  
...of the Governor, and such ...  
...who is a graduate of a ...  
...The board shall ...  
...as may be deemed necessary by the board or ...  
...for the purpose of examining ...  
...and conducting such examinations ...  
...license to practice veterinary medicine and surgery in the  
State of New Mexico as may be required by this law.

Duties of the Board. It is the duty of the board of  
Veterinary Examiners, when called to meet, to examine the  
applications, diplomas, and certificates of all applicants who  
are graduates or practitioners under the laws of this state,  
and, when satisfied of the genuineness of the same, shall  
license such applicants under the terms of this law. How-  
ever, the board may refuse to issue an application, if  
deemed necessary, and may require additional information or  
affidavits, or the personal appearance of the applicant,  
if deemed necessary.

Composition of the Board, and Appointment of the  
Treasurer. Each member of the board shall receive four



dollars (\$4.00) per day and six cents (6¢) per mile as traveling expense while actually engaged in the discharge of his official duties. A member of the board may receive ten dollars (\$10.00) per day, provided he is authorized by the board to conduct official business. The board shall designate a treasurer who shall keep and account for all moneys received by the board. The treasurer of the board shall deposit all such moneys with the State Treasurer.<sup>4</sup> A full report of the proceedings of the board shall be filed at the close of each year with the governor of the state, which report shall include a statement of the number of days employed in the discharge of its duties, and of the traveling and necessary incidental expenses of the members thereof,<sup>5</sup> and of the secretary.

Application and Fee. Graduates of legally chartered veterinary colleges desiring to obtain license to practice veterinary medicine and surgery in this state shall make application in writing to the Board of Veterinary Examiners, through its secretary, upon blanks prescribed and furnished by said board, which application shall set forth the grounds upon which the application is based, and shall be accompanied by the diploma of the applicant, with his affidavit,

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<sup>4</sup> Statutes, op. cit., Sec. 51-1006.

<sup>5</sup> Statutes, op. cit., Sec. 51-1005.



... (25.00) per day and ...  
... expenses while ...  
... official ...  
... (25.00) per day, ...  
... board to conduct ...  
... a treasurer who shall keep and account for all ...  
... received by the board. The treasurer of the board shall ...  
... deposit all such money with the ...  
... report of the proceedings of the board shall be ...  
... close of each year with the governor of the state, ...  
... report shall include a statement of the number of ...  
... played in the discharge of its duties, and of the ...  
... and necessary incidental expenses of the board ...  
... and of the secretary.

Application and Fee. Any person desiring to ...  
... veterinary colleges desiring to obtain license to practice ...  
... veterinary medicine and surgery in this state shall ...  
... application is written to the Board of Veterinary Medicine ...  
... through its secretary, upon blanks furnished and ...  
... by said board, which application shall set forth the ...  
... upon which the application is based, and shall be ...  
... passed by the diploma of the applicant, and shall be ...

<sup>1</sup> Statutes, Ch. 21, Sec. 21-1005.  
<sup>2</sup> Statutes, Ch. 21, Sec. 21-1006.



setting forth that the applicant is a graduate of the legally chartered veterinary college mentioned in the diploma, and that he is the person to whom the diploma was originally issued, and shall be accompanied by an initial license fee of twenty-five dollars (\$25.00). The applicant must be over twenty-one (21) years of age, and of good moral character. Any person granted license to practice veterinary medicine and surgery in New Mexico under the provisions of this law shall thereafter, in addition to the license fee paid at time of registration, pay an annual license fee of fifteen dollars (\$15.00) to the board for annual renewal of a certificate to practice, such yearly fee to become due and payable on the first day of each calendar year.<sup>6</sup>

Non-Recognized Colleges. Graduates of veterinary colleges not recognized by the Board of Veterinary Examiners and persons not included in the provisions of this law, desiring to obtain license to practice veterinary medicine and surgery in this state, may make application as already stated for examination before the board. Said examination shall be in writing and shall include the following subjects: Veterinary anatomy, surgery, practice of medicine, obstetrics, pathology, chemistry, veterinary diagnosis, materia medica,

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<sup>6</sup> Statutes, op. cit., 51-1004.







therapeutics, physiology, sanitary medicine, meat and milk inspection, veterinary dentistry, and such other branches as the board may prescribe. The fee for examination in all cases shall be fifty dollars (\$50.00) which shall accompany the application.<sup>7</sup>

Recording of License. Every person qualified as required by this law shall, upon receipt of license to practice, have said license recorded in the office of the county clerk of the county in which the licensee resides, and the record shall be endorsed therein. Any person removing to another county shall procure an endorsement to the effect upon his license from the county clerk and shall record the license in like manner in the county to which he removed, and shall, at the time of removal, notify the secretary of the Board of Veterinary Examiners of the fact of his removal and of his new post-office address. Any failure, neglect, or refusal on the part of any person holding such license to register same in the office of the county clerk as above directed shall forfeit his license for a period of three (3) months and no license, when forfeited, shall be restored except upon the payment to said Board of Veterinary Examiners of the sum of fifty dollars (\$50.00) as a penalty for such failure, neglect,

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<sup>7</sup> Ibid.



pharmacists, physicians, dentists, veterinarians, and other persons in inspection, veterinary assistants, and other persons in the board may prescribe. The fee for examination is \$1.00. The fee shall be fifty dollars (\$50.00) which shall be paid by the applicant.

Recording of license. Every person entitled to a license by this law shall, upon receipt of his license, be required to have said license recorded in the office of the county clerk of the county in which the license was issued. The person recording the license shall be endorsed thereon. The person recording the license shall provide an endorsement to the effect that this license from the county clerk and shall record the license in like manner in the county in which he resides, and shall, at the time of removal, notify the secretary of the county of the removal. Veterinary Examiners of the State of the National Association of new post-office addresses. Any failure, neglect, or refusal on the part of any person holding such license to pay such sum in the office of the county clerk or to have the license recorded shall forfeit his license for a period of three (3) months and he shall, when forfeited, shall be required to pay the sum of fifty dollars (\$50.00) as a penalty for such failure, neglect, or refusal.



8  
or refusal.

Refusal or Revocation of License. The State Board of Veterinary Examiners has the power to refuse a license to any applicant on the ground of his having been guilty of gross immorality or gross malpractice, and it shall have the power to revoke a license on said grounds; provided, that before taking such action the party charged with such immorality or malpractice shall be cited by the Board of Veterinary Examiners to appear for hearing before said board. All veterinarians licensed by the board shall be exempt from jury service in this state.

Exemptions. The terms of this law shall not apply to commissioned veterinarians in the United States Army or Federal Bureau of Animal Industry, nor to any lawfully qualified veterinarians residing in other states or counties meeting registered veterinarians in this state in consultation.

Temporary Permits. Temporary permits to practice may

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8 Statutes, op. cit., Sec. 51-1007.

9 Statutes, op. cit., Sec. 51-1005.

10 Statutes, op. cit., Sec. 51-1008.



Refusal of Recession of License. The State Board of Veterinary Examiners has the honor to inform a licensee in any applicant on the ground of his having been found to be immoral or grossly negligent, and to refuse to issue a license to such applicant, provided that the applicant such action the State Board of Veterinary Examiners shall be stated by the State Board of Veterinary Examiners to appear for hearing before the State Board of Veterinary Examiners licensed by the State Board of Veterinary Examiners in this State.

Examinations. The terms of this law shall apply to all examinations for license in the United States and in the Federal Bureau of Animal Industry, and to any other examination for license in other States or Territories. The State Board of Veterinary Examiners shall be authorized to receive and accept of any license issued by any other State or Territory, and to issue a license to any person who has received a license from any other State or Territory, and to receive and accept of any license issued by any other State or Territory, and to issue a license to any person who has received a license from any other State or Territory.

Temporary License. The State Board of Veterinary Examiners shall be authorized to issue a temporary license to any person who has received a license from any other State or Territory, and to receive and accept of any license issued by any other State or Territory, and to issue a license to any person who has received a license from any other State or Territory.

Statutes, op. cit., Sec. 51-100.

Statutes, op. cit., Sec. 51-100.

Statutes, op. cit., Sec. 51-100.



be issued by the secretary of the board under such regulations as may be prescribed by the board to graduates of<sup>11</sup> legally chartered veterinary colleges.

Penalty for Violation. Any person practicing veterinary medicine or surgery or dentistry in this state without a license or a temporary permit, or who shall fail to comply with any of the terms of this law, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisonment for not less than thirty (30) days nor more than six (6) months, for each and every offense, and it shall be the duty of the district attorney of the county where such offense is committed to prosecute all persons violating the provisions of this<sup>12</sup> law, upon proper complaint being made.

Penalty for Misuse or Forgery of Diploma. Any person filing or attempting to file as his own, the diploma of another, or a forged or fictitious or fraudulently obtained diploma or certificate, upon conviction shall be subject to such fine and imprisonment as are made and provided by the

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<sup>11</sup> Statutes, op. cit., Sec. 51-1009.

<sup>12</sup> Statutes, op. cit., Sec. 51-1010.



be issued by the secretary of the board, and such license  
shall be as may be prescribed by the board, and shall be  
legally entered upon the records of the board.

Penalty for Violation. Any person who shall  
knowingly violate or attempt to violate any provision of  
this act, or who shall be guilty of any offense under  
this act, shall be deemed to be guilty of a misdemeanor,  
and upon conviction shall be fined not less than one  
hundred dollars (\$100.00) nor more than five hundred  
dollars (\$500.00), or imprisoned not less than thirty  
days nor more than six months, or both, in the  
discretion of the court, and if he shall be found guilty  
of a second offense, and if he shall be found guilty  
of a third offense, of the same or of a different  
offense, he shall be deemed to be guilty of a felony,  
and upon conviction shall be fined not less than  
one hundred dollars (\$100.00) nor more than five  
hundred dollars (\$500.00), or imprisoned not less  
than thirty days nor more than six months, or both,  
in the discretion of the court, and if he shall be  
found guilty of a fourth offense, and if he shall be  
found guilty of a fifth offense, of the same or of a  
different offense, he shall be deemed to be guilty of a  
felony, and upon conviction shall be fined not less  
than one hundred dollars (\$100.00) nor more than five  
hundred dollars (\$500.00), or imprisoned not less  
than thirty days nor more than six months, or both,  
in the discretion of the court.

Penalty for Abuse of License or Power of Officer. Any person  
who shall abuse his license or power as an officer,  
or who shall attempt to do so, shall be deemed to be  
guilty of a misdemeanor, and upon conviction shall be  
fined not less than one hundred dollars (\$100.00) nor  
more than five hundred dollars (\$500.00), or imprisoned  
not less than thirty days nor more than six months,  
or both, in the discretion of the court.



statutes of this state for the crime of forgery. All fines collected under this law shall be paid into the county treasury of the county in which the prosecution is held.<sup>13</sup>

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<sup>13</sup> Statutes, op. cit., Sec. 51-1011.



statutes of this state for the state of Tennessee. All taxes  
collected under this law shall be paid into the county treas-  
ury of the county in which the assessment is made.



## CHAPTER V

### MISCELLANEOUS OCCUPATIONS

#### A. Barbers

According to the New Mexico law, any one or any combination of the following practices (when done upon the upper part of the human body for cosmetic purposes and not for the treatment of diseases or physical or mental ailments, and when done for payment, either directly or indirectly, or without payment, for the public generally upon male or female) constitutes the practice of barbering: shaving or trimming the beard or cutting the hair; giving facial and scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or mechanical appliances; singeing, shampooing or dyeing the hair, or applying tonics; applying cosmetic preparations, antiseptics, powders, oils, clays, or lotions to the scalp, face, neck, or upper part of the body.<sup>1</sup>

The State Board of Barber Examiners, Appointment and Tenure of Office. This board consists of three (3) members

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<sup>1</sup> "New Mexico State Barber Laws," (Santa Fe: The State Board of Barber Examiners, 1946).



CHAPTER V

MISCELLANEOUS OCCURRENCES

A. Barber

According to the New Mexico law, any person who performs the following practices upon the hair and scalp of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments, and when done for payment, either directly or indirectly, or without payment, for the public generally upon sale or for sale, constitutes the practice of barbering: shaving or trimming the beard or cutting the hair; plucking, waxing, or scalp massage or treatments with oils, creams, lotions, or other preparations, either by hand or mechanical appliances; singeing, shampooing or dyeing the hair, or applying lotions; applying cosmetic preparations, antiseptics, powders, oils, dyes, or lotions to the scalp, face, neck, or upper part of the body.

The State Board of Barber Examiners, Appointment and License of Office. This board consists of three (3) members.

I, New Mexico State Barber Law, (Chapter 101) The State Board of Barber Examiners, 1930.



who are appointed by the governor. Each member appointed must be a practical barber who has followed this occupation for at least five (5) years immediately prior to his appointment. Each one serves a three (3) year term. The board is to be non-partisan, and not more than two (2) are to be members of any one political party, and the board at all times must consist of one (1) journeyman barber and two (2) master barbers. The governor has the power to remove any member for incompetency, gross immorality, disability, for any abuse of his official power or for any other good cause, and may fill any vacancy thus occasioned by appointment within thirty (30) days after it occurs. Members appointed to fill vacancies caused by death, resignation, or removal, serve only for the unexpired term.<sup>2</sup>

Board Organization. The board is organized by electing a president, a vice-president, and a secretary from the membership. A majority shall constitute a quorum. The headquarters are in the state capital. The secretary keeps a record of all proceedings, a register of persons registered as barbers and apprentices, showing the name, place of business and residence of each and the date and number of his or

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<sup>2</sup> New Mexico Statutes, Annotated, 1941, (Indianapolis: The Bobbs-Merrill Company, 1942), Chap. 51, Art. 16, Sec. 51-1618.



who are appointed by the governor. Each member must be a practical barber who has followed this occupation for at least five (5) years immediately prior to his appointment. Each one serves a term of (3) years. The board is to be non-partisan, and not more than two (2) may be members of any one political party, and the board as all times must consist of one (1) journeyman barber and two (2) master barbers. The governor has the power to remove a member for incompetency, gross immorality, disability, or any cause which deprives him of his official power or for any other good cause, and may fill any vacancy thus occasioned by appointment within thirty (30) days after it occurs. Members appointed to fill vacancies caused by death, resignation, or removal, serve only for the unexpired term.

Board Organization. The board is organized by electing a president, a vice-president, and a secretary from its membership. A majority shall constitute a quorum. The headquarters are in the state capital. The members keep a record of all proceedings, a register of members, signatures of members and apprentices, showing the name, place of residence and residence of each and the date and number of his appointment.



her certificate, and a record of all licenses or certificates issued, refused, renewed, suspended, or revoked. The board makes an annual report to the governor of all its official acts, receipts, and disbursements during the preceding year, and makes such recommendations as it deems expedient.

Bond of Members. Before entering upon the discharge of the duties of his office, each member of the board must execute, in the name of the state, an undertaking in the sum of one thousand dollars (\$1,000.00), except the secretary whose bond is for five thousand dollars (\$5,000.00). The bonds are executed by a surety company and the expense thereof is paid out of the funds of the board. The bonds must be approved by the governor and filed with the State Auditor, and are conditioned for the faithful performance of their duties as members of the board. All moneys received by the board are paid to the secretary. The moneys are placed by the State Treasurer to the credit of the Barber Examiners Fund.

Compensation of Board. Each member of this board receives six dollars (\$6.00) per day for each day actually employed in the discharge of his official duties; eight cents

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<sup>3</sup> Statutes, op. cit., Sec. 51-1619.

<sup>4</sup> Statutes, op. cit., Sec. 51-1620.



her certificate, and a report of all business of said office  
issued, returned, renewed, corrected, or amended. The board  
makes an annual report to the governor of all the affairs  
acts, receipts, and disbursements during the preceding year,  
and makes such recommendations as it deems expedient.

Board of Members. The board consists of nine members  
of the duties of his office, each member of the board shall  
execute, in the name of the state, all business relating to the  
of one thousand dollars (\$1,000.00), except the necessary  
whose bond is for five thousand dollars (\$5,000.00). The  
bonds are executed by a surety company and the amount thereof  
of is paid out of the funds of the board. The bonds shall be  
approved by the governor and filed with the state auditor,  
and are cashed for the benefit of the members of the  
duties as members of said board. All money received for the  
board are paid to the auditor. The expenses incurred by  
the state treasurer to the benefit of the board members  
and.

Compensation of Board. Each member of the board shall re-  
ceive six dollars (\$6.00) per day for each day actually em-  
ployed in the discharge of his official duties; and no more.

<sup>3</sup> Statutes, ch. 11, sec. 11-11.  
<sup>4</sup> Statutes, ch. 11, sec. 11-12.



(8¢) per mile for transportation while in the discharge of his official duties, and the necessary expenses that he incurs. The board may, in their discretion, place the secretary on a salary of not more than twelve hundred dollars<sup>5</sup> (\$1200.00) per year in lieu of all other emoluments.

Powers of Board. The board has the authority to make reasonable rules and regulations for the administration of the provisions of the law. They may prescribe sanitary requirements for barber shops, barber schools, and barber colleges. Any member of the board, or its agents or assistants, has the authority to enter upon and to inspect any barber shop, barber school or barber college, and the records and books of such establishments. The board may require registrants to keep records of all their business and account for the same for any one period of time. As a controlling body for the barbering business in the state, the board has the power to fix prices for all barber shop services.<sup>6</sup> This power has been upheld by the Supreme Court of New Mexico in 1941,<sup>7</sup> when the question arose whether this statute is not

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<sup>6</sup> Statutes, op. cit., Sec. 51-1623 and 51-1631.

<sup>7</sup> Arnold v. Board of Barber Examiners, 45 N. M. 57, 109 Pac. (2d) 779, (1941).



(34) per mile for transportation while in the discharge of his official duties, and the necessary expenses that he incurs. The board may, in their discretion, allow the board a salary of not more than twelve hundred dollars (\$1200.00) per year in lieu of all other compensation.

Power of Board. The board has the authority to make reasonable rules and regulations for the management of the provisions of the law. They may prescribe rules and regulations for barber shops, barber colleges, and barber colleges. Any member of the board, or its agents or representatives, has the authority to enter upon and to inspect any barber shop, barber school or barber college, and the records and books of such establishments. The board may require persons to keep records of all their business and accounts for the same for any one period of time, as may be determined for the barbering business in the state. The board has power to fix prices for all barber shop services. This power has been upheld by the Supreme Court of the United States, 1941, when the question arose whether this power is not

<sup>6</sup> Statutes, pp. 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.



an unlawful delegation of legislative power to the board. The court held it was not an unlawful delegation of power because the fixing of minimum prices for barber work has a direct relation to the fulfillment of sanitary conditions required in barber shops for the health of the public, and does not violate the due process clauses of either the New Mexico or the Federal constitutions.<sup>8</sup>

Qualifications for Registration. To qualify for a certificate of registration to practice barbering in New Mexico, the applicant must be a citizen of the United States, at least eighteen (18) years of age, must be of good moral character and temperate habits, must have practiced as a registered apprentice for a period of eighteen months under the immediate personal supervision of a registered barber, and must pass a satisfactory examination conducted by the board to determine his fitness in barbering. Any apprentice, registered under the provisions of this law, who fails to pass a satisfactory examination conducted by the board must continue to practice as an apprentice for an additional six (6) months before he is again entitled to take the examination for a registered barber, and should he fail to pass the second examination he must cease to practice barbering in

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<sup>8</sup> Statutes, op. cit., 51-1636.



an unlawful delegation of legislative power to the board.  
The court held it was not an unlawful delegation of power  
because the fixing of minimum prices for barber work was a  
direct relation to the fulfillment of sanitary conditions  
required in barber shops for the health of the public, and  
does not violate the due process clause of either the law  
8  
Mexico or the Federal Constitution.

Qualifications for Registration. To qualify for a

certificate of registration to practice barbering in New  
Mexico, the applicant must be a citizen of the United States,  
at least eighteen (18) years of age, must be of good moral  
character and temperate habits, must have practiced as a  
registered apprentice for a period of eighteen months under  
the immediate personal supervision of a registered barber,  
and must pass a satisfactory examination conducted by the  
board to determine his fitness to practice. Any applicant  
registered under the provisions of this law, who fails to  
pass a satisfactory examination conducted by the board, may  
continue to practice as an apprentice for an additional six  
(6) months before he is again entitled to take the examination  
for a registered barber, and should he fail to pass the  
second examination he must cease to practice barbering in



this state until such time as he has passed a satisfactory examination conducted by the board.<sup>9</sup>

Any person is qualified to receive a certificate of registration as a registered apprentice who is a citizen of the United States, at least, sixteen (16) and one-half years of age and of good moral character and temperate habits. He must also pass a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice. A registered apprentice may not independently practice barbering, but he may, as an apprentice, do any and all acts constituting the practice of barbering under the immediate supervision of a registered barber. Only one such apprentice may be employed in any shop.<sup>10</sup>

Barbers from other States. Barbers from other states must be at least eighteen (18) years of age, of good moral character, and citizens of the United States. Such a barber must have a license or certificate of registration as a practicing barber from another state or country for at least five (5) years prior to making application in this state and may, upon payment of the required fee, be granted permission

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<sup>9</sup> Statutes, op. cit., 51-1604.

<sup>10</sup> Statutes, op. cit., 51-1605.



this state until such time as he has passed a written examination conducted by the board.

Any person is qualified to receive a certificate of registration as a registered apprentice only if he is at least 18 years of age, at least 181 and not over 25 years of age and of good moral character and temperate habits. He must also pass a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice. A registered apprentice may not independently practice dentistry, but he may, as an assistant, do so in all acts constituting the practice of dentistry. He shall be under the immediate supervision of a registered dentist. A registered apprentice may be employed in any shop.

Barbers from other States. Barbers from other States must be at least eighteen (18) years of age, of good moral character, and citizens of the United States. They must have a license or certificate of registration as a practicing barber from another state or country for at least five (5) years prior to making application in this state. They, upon payment of the required fee, be granted a license.



to take an examination to determine his fitness to receive a certificate to practice barbering in New Mexico. Should he fail to pass the examination, he may file a new application accompanied by the required fee and take another examination if he desires. In no event will he be permitted to practice barbering until such time as he has passed a satisfactory examination and has received a certificate of registration as a registered barber. Any apprentice who is at least sixteen (16) and one-half years of age, has good moral character, and is a citizen of the United States and has a valid apprenticeship certificate is granted permission to take the examination upon payment of the fee. The time spent as an apprentice in another state or country is credited toward the time required by the New Mexico law for a registered barber's certificate.<sup>11</sup>

Physician's Affidavit. An applicant for examination must furnish the board with a physician's certificate showing that the applicant is free from any contagious, infectious, or communicable disease, and must include tubercular and Wasserman tests dated not more than ten (10) days prior to the date of application.<sup>12</sup>

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<sup>11</sup> Statutes, op. cit., Sec. 51-1606.

<sup>12</sup> Statutes, op. cit., Sec. 51-1608.







Examination. The board conducts examinations for both barbers and apprentices at least twice each year at times and places designated by the board. Such examinations include both a practical demonstration and a written and oral test of the applicant's knowledge of hygiene and fundamentals of the vocation. The practical examination counts for sixty (60%) per cent, and the written and oral examination for forty (40%) per cent. The passing grade is seventy-five (75%) per cent. The fee for a barber's examination and certificate is twenty-five dollars (\$25.00), and the renewal fee each year is five dollars (\$5.00). For an apprentice barber's examination and certificate the fee is fifteen dollars (\$15.00). The annual establishment fee to be paid by each shop owner in advance is five dollars (\$5.00). A fee of one hundred dollars (\$100.00) is charged for the opening or establishment of a barber shop in this state, and the fee for the opening of a barber school is one thousand dollars (\$1,000.00), and these licenses must be renewed each year. Certificates of registration must be displayed in conspicuous places on the barber shop or barber school premises.

13

Refusal or Revocation of Certificate. The board may refuse to issue or renew or suspend or revoke any certificate

13

Statutes, op. cit., Sec. 51-1609 and 51-1611.



Examination. The board conducts examinations for barbers and apprentices at least twice each year at places designated by the board. Such examinations include both a practical demonstration and a written and oral examination. The applicant's knowledge of hygiene and fundamentals of the vocation. The practical examination consists for apprentices (40%) per cent. The passing grade is seventy-five (75%) per cent. The fee for a barber's examination and certificate is twenty-five dollars (\$25.00), and the renewal for each year is five dollars (\$5.00). For an apprentice barber's examination and certificate the fee is fifteen dollars (\$15.00). The annual establishment fee to be paid by each shop owner in advance is five dollars (\$5.00). A fee of one hundred dollars (\$100.00) is charged for the opening or establishment of a barber shop in this state, and the fee for the renewal of a barber school is one thousand dollars (\$1,000.00). All licenses must be renewed each year. Certificates of apprenticeship must be displayed in conspicuous places in the barber shop or barber school premises.

Renewal or Revocation of Certificate. The board may refuse to issue or renew or suspend or revoke any certificate



for malpractice, incompetency, immoral conduct or any other irregularity on the part of the registrant. Habitual drunkenness or addiction to the use of habit-forming drugs is a serious reason for suspension, as is the incurring of infectious or communicable diseases on the part of the registrant. The sanitation factor in shops and schools must be<sup>14</sup> strictly observed at all times.

Hearings. In cases of suspension the board may not act on any registrant unless he has been given at least twenty (20) days' notice, in writing, of the charges submitted against him, and has been accorded a public hearing by the board. Upon hearing of any such proceeding, the board may administer oaths and may procure by its subpoena, the attendance of witnesses and the production of relevant books and papers. Any district court, or any judge of the district court, either in term time or in vacation, upon application either of the accused registrant or of the board, may, by order duly entered, require the attendance of witnesses and the production of relevant papers before the board, in any<sup>15</sup> hearing relating to revocation or suspension of certificates.

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<sup>14</sup> Statutes, op. cit., Sec. 51-1614.

<sup>15</sup> Statutes, op. cit., Sec. 51-1615.



for malpractice, the...  
irregularity on the part of the respondent...  
awkwardness or addition to the use of...  
is a serious reason for suspension, as is the...  
infection or communicable disease of the...  
event. The respondent...  
strictly observed at his trial.

Hearings. In cases of suspension, the...  
act on any respondent unless he has been...  
twenty (20) days, unless, in writing, of...  
mitted against him, and has been...  
the board. Upon hearing of any...  
may administer oaths and may...  
attendance of witnesses and the...  
and papers. Any district...  
court, either in form or in...  
either of the accused respondent...  
order duly entered, require the...  
the production of relevant...  
hearing relating to revocation or suspension...



Penalty for Violation. The violation of any of the provisions of this law is punishable upon conviction by a fine of not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than ten (10) days nor more than ninety (90) days, or both.

16

Exemptions. The following persons are exempt from the provisions of this law while in the discharge of their professional duties: (a) Licensed physicians and surgeons and chiropractors; (b) commissioned medical or surgical officers of the United States Army, Navy, or Marine Hospital Service; (c) registered nurses; (d) undertakers; (e) beauticians and hairdressing shop operators; and (f) barber schools operated and conducted by any state institution of learning as a part of their regular curriculum.

17

#### B. Cosmetology.

Any person, according to the cosmetology law in New Mexico, who engages in any one or any combination of the following practices shall be construed to be practicing the occupation of hairdresser: Arranging, dressing, curling,

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<sup>16</sup> Statutes, op. cit., Sec. 51-1616.

<sup>17</sup> Statutes, op. cit., Sec. 51-1610.



Penalty for Violation.

Provisions of this law is punishable when convicted by a fine of not less than ten dollars (\$10.00) and not more than one hundred dollars (\$100.00), or by imprisonment in the county jail not less than ten (10) days nor more than ninety (90) days, or both.

Exemptions. The following persons are exempt from the

provisions of this law while in the discharge of their professional duties: (a) Licensed physicians and surgeons and chiropractors; (b) commissioned medical or surgical officers of the United States Army, Navy, or Marine Corps; (c) registered nurses; (d) undertakers; (e) beauticians and hairdressing shop operators; and (f) barber schools operated and conducted by any state institution of learning as a part of their regular curriculum.

B. Cosmetology.

Any person, according to the present laws of the State of Mexico, who engages in any one or any combination of the following practices shall be deemed to be practicing the occupation of hairdresser: Arranging, dressing, or styling the hair of any person.

16 Statutes, op. cit., sec. 51-101a.

17 Statutes, op. cit., sec. 51-101b.



waving, bobbing with shears, cleansing, clipping, bleaching, coloring or similar work, upon the hair of a male or female person by any means. And any person who with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetics, preparations, antiseptics, tonics, lotions or creams, engages for compensation in any one or any combination of the following practices shall be construed to be practicing the occupation of a beauty culturist: Massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work, the scalp, face, neck, arms, bust or upper part of the body, or manicuring the nails, or removing superfluous hair about the body or about any male or female person.

<sup>18</sup> Electrologists, operators, junior operators, manicurists, and beauty culture instructors must be licensed by the cosmetology board before they can lawfully practice their occupations.

The State Board of Cosmetologists. The governor of the state appoints three (3) practitioners of this occupation as members of this board. They must have at least five (5) years of practical experience in their respective occupation,

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<sup>18</sup> "Hairdressers' and Beauty Culturists' Law," (Santa Fe: The State Board of Cosmetology, 1946).







must be citizens of the state, and should not be members of, or affiliated with, any school teaching any of the classified occupations, nor with any establishment, firm, or corporation that manufactures or sells any article or merchandise commonly used in hairdressing or beauty shops. The members, while they hold office, are not to teach any of the classified occupations regulated by this law. The board regulates hairdressers, beauty culturists, manicurists, electrologists, and beauty culture instructors, as well as the related operators and junior operators. The members of the board serve<sup>19</sup> three- (3) year terms.

Organization of the Board. The board organizes by electing a president, a vice-president, and a secretary from its members, and the first and last named officers are authorized to administer oaths. The two highest officers receive ten dollars (\$10.00) per diem, while in official duty, and his or her necessary expenses. The secretary receives an annual salary, fixed by the board, and his or her necessary expenses. Each member of the board must give a surety bond of one thousand dollars (\$1,000.00) payable to<sup>20</sup> the board.

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<sup>19</sup> Statutes, op. cit., Chapter 51, Article 20, Section 51-2020.

<sup>20</sup> Statutes, op. cit., Secs. 51-2021, 51-2022, and 51-2024.



must be citizens of the State and must be at least 21 years of age at the time of election. They shall be elected for a term of four years, and shall be eligible for re-election. They shall be organized into a board of trustees, and shall elect a president and a vice-president. The board of trustees shall have the right to elect and remove members of the board of directors, and to elect and remove the president and vice-president. The board of trustees shall also have the right to elect and remove the members of the board of directors, and to elect and remove the president and vice-president. The board of trustees shall also have the right to elect and remove the members of the board of directors, and to elect and remove the president and vice-president.

Organization of the Board of Trustees. The board of trustees shall be organized into a board of trustees, and shall elect a president and a vice-president. The board of trustees shall have the right to elect and remove members of the board of directors, and to elect and remove the president and vice-president. The board of trustees shall also have the right to elect and remove the members of the board of directors, and to elect and remove the president and vice-president. The board of trustees shall also have the right to elect and remove the members of the board of directors, and to elect and remove the president and vice-president.

18 Statutes, pp. 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.



Meetings and Powers of the Board. The Board of Cosmetologists conducts examinations for applicants at the state capital the second Tuesday in January and July of each year. Any member may call a special meeting of the board at any time; all three (3) members shall constitute a quorum. The board promulgates rules and regulations for the administration of the cosmetology law. Any member of the board, or its agents, has the authority to enter upon and to inspect any cosmetological establishment or school, together with books and records, at any time during business hours. A copy of the rules and regulations and sanitary requirements adopted by the board are furnished to the owner or manager of each cosmetological establishment or school, and should be posted<sup>21</sup> in a conspicuous place on the premises. The board may call to its aid any person or persons of established reputation and known ability as provided in this law for the purpose of conducting examinations, inspections, and investigations of any person, firm, or corporation affected by this law. However, the board must pay not more than ten dollars (\$10.00) per day to each person for such aid and also necessary expenses.<sup>22</sup> The board may require the licensee or owner of a

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Statutes, op. cit., Secs. 51-2025, 51-2026.

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Statutes, op. cit., Sec. 51-2027.



metologists conduct examinations for admission to the class  
 capital the second Tuesday in January and the first Tuesday  
 any member may call a special meeting of the board at any  
 time; all three (3) members shall constitute a quorum. The  
 board promulgates rules and regulations for the and within  
 time of the cosmological law. Any member of the board, or his  
 agents, has the authority to enter upon and to search any  
 cosmological establishment or person, regardless of the person  
 and records, at any time during business hours. A copy of  
 the rules and regulations and any other reports required  
 by the board are furnished to the owner or manager of each  
 cosmological establishment or person, and should be posted  
 in a conspicuous place on the premises. The board may call  
 to its aid any person or persons of established reputation  
 and known ability as provided in this law for the purpose of  
 conducting examinations, inspections, and investigations of  
 any person, firm, or corporation licensed under this law. How-  
 ever, the board must pay not more than \$100 per day for each  
 person for each person for each day and for each person for  
 person. The board may regulate the license or licenses of



beauty shop to keep a record of all beauty culture work performed and the prices thereof, and a record of all expenses incurred and net profit derived from the business. It may require reports from shop owners for any period of time. It may, as a control body, order the fixing of prices for all cosmetology and beauty culture services.<sup>23</sup> This ruling, sustained by the court, contemplates the fixing of such minimum prices as will provide revenue sufficient to provide healthful services to the public and keep the shops sanitary. This view was set forth by the Supreme Court of New Mexico in 1940,<sup>24</sup> and thus the power of the board in this respect was upheld.

Qualifications for Registration. Any person of either sex may be eligible to be registered as a practitioner and qualified to receive a certificate of registration as a registered hairdresser and/or beauty culturist who is at least eighteen (18) years of age and has a good moral character. An education equivalent to the completion of the second year of an approved high school is required. The occupational training must be completion of a course in a

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<sup>23</sup> Statutes, op. cit., Sec. 2042.

<sup>24</sup> Nissen v. Miller, 44 N. M. 487, 105 Pac. (2d) 324, (1940).



beauty shop to keep a record of all beauty salons and beauty  
 salons and the prices thereof, and a record of all salons  
 licensed and not licensed from the Department of Health  
 require reports from shop owners for any person or persons  
 may, as a control body, enter the listing of salons  
 cosmetology and beauty salons. This will be  
 taken by the court, contemplated the listing of salons  
 prices as will provide revenue for the Department of Health  
 for services to the public and keep the public informed  
 view was set forth by the Department of Health in  
 1940, and thus the power of the board in this respect was  
 upheld.

Qualifications for Registration. Any person of legal  
 age may be eligible to be registered as a cosmetologist and  
 qualified to receive a certificate of registration as a  
 registered hairdresser and/or beauty cosmetologist and  
 least eighteen (18) years of age and has a good moral  
 character. An education equivalent to the completion of the  
 second year of an approved high school is required. The  
 practical training must be completed at a school of

23 Statutes, ch. 411, Sec. 3042.  
 24 Wasson v. Miller, 44 W. N. 287, 100 Pac. 224 (1940).



cosmetology school approved by the board. The applicant then must pass a satisfactory examination conducted by the board to determine fitness for registration as a hairdresser and/or beauty culturist. A limited certificate or license as an electrologist only may be applied for under the above terms; a limited manicurist's certificate may be applied for under the above terms. For a junior operator's certificate a person not only must fulfill the requirements mentioned for hairdressers and manicurists, but must also have completed an additional course of study of not less than three hundred (300) hours, or approximately six (6) months, in a registered cosmetology school. Such a license issued to a junior operator is effective only until the date of the next examination<sup>25</sup> conducted by the board.

An applicant who fails to pass the examination for any of the above classifications must complete a course of study of approximately six (6) months in the requirements for hairdressers and/or beauty culturists, and approximately three (3) months in the requirements for manicurists. A junior operator who fails in the examination must complete both the six- (6) month and three- (3) month courses, respectively.<sup>26</sup>

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<sup>25</sup> Statutes, op. cit., Secs. 51-2003 and 51-2004.

<sup>26</sup> Ibid.







Fees. The fees for examinations and certificates is as follows: For hairdresser and/or beauty culturist's certificate, fifteen dollars (\$15.00); for a manicurist's certificate, ten dollars (\$10.00); and for an electrologist's certificate, ten dollars (\$10.00). The yearly renewal fee is approximately five dollars (\$5.00).<sup>27</sup>

School and Shop Certificates. The Board of Cosmetologists shall pass over applications for shop and school certificates and shall fix the amounts required as surety bonds. It conducts inspections to enforce sanitation, equipment, record, and school regulations.<sup>28</sup>

Matriculation in Beauty Schools. Students applying for matriculation in beauty schools must first be registered with the Board of Cosmetologists, and such registration must be accompanied by proof that the student is at least seventeen (17) years of age, is of good moral character, is in good health as evidenced by a physician's affidavit and by evidence that the student has read and understands the law concerning the licensing of hairdressers and cosmeticians, and the rules prescribed by the board with respect to

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<sup>27</sup> Statutes, op. cit., Sec. 51-2016.

<sup>28</sup> Statutes, op. cit., Sec. 51-2009.



...The fees for examinations and certification are as follows: For hairdressers and/or beauty culturists, \$10.00; for manicurists, \$10.00; for estheticians, \$10.00; and for an electrician, \$10.00. The yearly renewal fee is approximately five dollars (\$5.00).

School and Shop Certificates. The Board of Cosmetology shall pass over applications for school and shop certificates and shall fix the amounts required for bonds. It conducts inspections to enforce compliance with laws, rules, and school regulations.

Matriculation in Beauty Schools. No person applying for matriculation in beauty schools shall first be registered with the Board of Cosmetology, and such registration shall be accompanied by proof that the student is at least seventeen (17) years of age, is of good moral character, is in good health as evidenced by a physician's affidavit and by evidence that the student has read and understands the law concerning the licensing of hairdressers and cosmeticians and the rules prescribed by the board with respect to



29  
sanitation.

Refusal or Revocation of Certificate. The board shall refuse to issue or renew, or shall suspend or revoke a certificate for any one or more of the following causes: (a) Conviction of a felony as shown by a certified copy of the judgment of the court of conviction; (b) malpractice or incompetency; (c) when the applicant or registrant is or becomes afflicted with an infectious, contagious or communicable disease; (d) advertising by means of knowingly false or deceptive statements; (e) habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; (f) the violation of any of the sanitary regulations promulgated by the board; (g) to continue to be employed or to practice in a beauty culture chop wherein the sanitary regulations of the board of cosmetologists, the state board of health, or any other lawfully constituted board, promulgated for the regulation of beauty culture shops, beauty culture schools are known by the registrant to be violated; (h) fraud or misrepresentation in obtaining or attempting to obtain a certificate of registration.

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29 Statutes, op. cit., Sec. 51-2010.

30 Statutes, op. cit., Sec. 51-2017.







Hearings. Before taking any action on revocation proceedings the board shall give written notice thereof to such person, stating the specific reason for its adverse action, and such person shall be granted the opportunity to appear before said board for a public hearing within twenty (20) days from the date of said notice. At such hearing the defendant may be represented by counsel. The said board shall have the power to summon witnesses, and to require the production of books, records, and papers for the purpose of such hearing. In case of the revocation of a certificate by the said board, the registrant whose certificate shall have been revoked shall have the right to appeal from said revocation within thirty (30) days of the cancellation of said certificate of registration. Such appeal shall be to the district court in and for the district in which was held the meeting of the board in which such revocation was made. Either party may appeal from judgment of the district court to the Supreme Court of the state in the manner as civil actions may be appealed thereto.

31

Applicants from other States. Upon application to the board in due form, accompanied by a medical examiner's certificate and by the required fee, a person registered as a

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31Ibid.



Section 10.

and such person shall be entitled to be heard before said board for a public hearing within ten days from the date of such order. The board may be represented by counsel. The board shall have the power to summon witnesses, and to administer oaths of office, and to take such other action as may be necessary. In case of the refusal of a person to appear for a hearing, the board may, in its discretion, proceed to revoke the right of such person to be heard within thirty (30) days of the date of such order of revocation. Such order shall be a final order and for the purpose of appeal shall be treated as a final order of the board in which such revocation was made. Any appeal from judgment of the board shall be heard by the court of the state in the manner and to the effect provided herein.

31

passed January 1, 1931.

Appellate from other boards.

boards in the form, accompanied by a certified copy of the records and by the required fee, a person may appeal to



hairdresser and cosmetician, or in any branch of cosmetology, under the laws of another state or territory of the United States, or the District of Columbia, may, without examination (unless the board of cosmetologists, in its discretion, sees fit to require examination), be granted (a certificate of registration or license in the classification) in which such person was so previously registered, upon the following conditions: That the applicant is not less than eighteen (18) years of age, a resident of the State of New Mexico for at least three (3) months, of good moral character and temperate habits, and the requirements for registration or licensing of hairdressers and cosmeticians at the date of such previous registration or licensing were substantially equal to the requirements therefor then in force in this state.

Penalty for Violation. Any of the following acts shall constitute a misdemeanor, punishable upon conviction by a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or by imprisonment not to exceed ninety (90) days, or both: (a) obtaining or attempting to obtain a certificate of registration by the use of money other than the required fee, or for any other thing







of value, or by fraudulent misrepresentation; (b) wilful failure to display a certificate of registration as required by this law; (c) practicing or attempting to practice by fraudulent misrepresentation, or practicing during the pendency of an appeal; (d) the use for beauty culture, manicuring, or finger waving, of any room or quarters also used for residential purposes, unless said quarters have an outside entrance and are separated from the remainder of the building by solid walls reaching from floor to ceiling; (e) to practice cosmetology knowingly while having an infectious, contagious, or communicable disease; (f) to own, manage, operate or control any beauty culture shop without running hot and cold water, without displaying a sign that it is a beauty culture shop; (g) to practice cosmetic therapy without a certificate of registration as a registered cosmetician; (h) permitting any person in one's employ, or under one's supervision or control, to practice cosmetic therapy, unless such person has a certificate of registration as a registered cosmetician, or permitting any person in one's employ or under one's supervision or control to serve as an apprentice; (i) any violation of the reasonable sanitary regulations prescribed by the Board of Cosmetologists.







Exemptions. The following persons and services are exempted from the provisions of this law: (a) Schools of cosmetology or beauty culture operated and conducted by any state institution of learning as a part of their regular curriculum, provided that the hours of study completed in such an insitutional school shall be counted toward the hours of study required by this law which is at least twelve hundred (1200) hours of theoretical study and actual practice for each student of cosmetology; (b) services rendered in case of emergency, or domestic administration without compensation; (c) all merchants and persons licensed by law of this state to practice medicine, surgery, dentistry, or physiotherapy; (d) barber shops and barber shop operators and their employees.<sup>34</sup>

### C. Contractors

It is unlawful for any person, firm, co-partnership, corporation, association or other organization, or any combination of any thereof, to engage in the business, or act or offer to act in the capacity or purport to have the capacity of contractor within the State of New Mexico without having a







license therefor as provided by the contractors' law,<sup>1</sup> unless such person, firm, co-partnership, corporation, association or other organization is particularly exempt as provided by this law. Evidence of the securing of any permit from a government agency or the employment of any person on a construction project shall be accepted in any court as prima facie evidence of the existence of a contract. A contractor who is duly licensed by the Contractors' License Board and is operating unmolested under the law that created this board, can not question the constitutionality of this law in the absence of any claim that any proceeding is pending, threatened, or contemplated by members of the board concerning the revocation of his license, or concerning any other law thereunder which would injuriously affect such contractor. Thus ruling was set forth by the Supreme Court of New Mexico in 1944.<sup>2</sup> Thus, one whose rights are not directly affected by operation of a licensing statute may not question its constitutionality.

Contractor Defined. A contractor, within the meaning of the New Mexico law, is a person, firm, co-partnership,

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<sup>1</sup> "Provisions of Laws Relating to Contractors," Seventeenth Legislature, State of New Mexico, (Santa Fe: The State Contractors' License Board, 1946).

<sup>2</sup> Brockman v. Contractors' License Board, 48 N. M. 304, 150 Pac. (2d) 125, (1944).



license therefor as provided by the provisions of law, and  
such person, firm, or partnership, company, association,  
or other organization is not lawfully engaged in the exercise of  
this law. Evidence of the exercise of any power by a  
government agency or the employment of any person in a  
construction project shall be accepted as evidence of the  
false evidence of the exercise of a contract, and a contractor  
who is duly licensed by the Government, license holder and  
operating unlicensed under the law that is contrary to law,  
can not question the constitutionality of this law, and  
absence of any claim that any proceeding is illegal, license  
and, or contemplated by members of the board, or any other  
revocation of his license, or concerning any other law, and  
under which would injuriously affect such contractor, and  
nothing was set forth by the law, or by the law, or  
1944. Thus, one whose rights are not lawfully affected by  
operation of a licensing statute may not question the constitutionality  
of this law.

Contractor Defined. A contractor, within the meaning  
of the New Mexico law, is a person, firm, or partnership,

1 "Provisions of Law Relating to Contractors," New Mexico  
Legislature, State of New Mexico, Session 1944, 1945,  
State Contractors' License Law, 1944.

2 Proctor v. Contractors' License Law, 45 N.M. 204,  
150 Pac. (2d) 135, 1944.



corporation, association, or other organization, or any combination of any thereof, who for either a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes or offers to undertake, or purports to have the capacity to undertake to construct, alter, repair, add to or improve any building, highway, excavation, or other structure, project, development or improvement, or any part thereof; provided, that the term contractor as used in this law shall include sub-contractor but shall not include anyone who merely furnishes materials or supplies without fabricating the same into or consuming the same in the performance of the work of the contractor as provided by the law.<sup>3</sup> Nothing in this law shall be construed to apply to a public utility in the construction, reconstruction, operation or maintenance of its plant other than construction of buildings; or to the drilling, testing, abandoning or other operation of any petroleum or gas well, or to geophysical or similar exploration for oil or gas, and provided further that no railroad company shall be construed to be a contractor. This law shall not apply to farming, dairying, agriculture, viticulture, horticulture<sup>4</sup> or stock or poultry raising.

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<sup>3</sup> Statutes, 1941, op. cit., Chap. 51, Art. 19, Sec. 51-1903.

<sup>4</sup> Statutes, op. cit., Sec. 51-1902.



corporation, association, or other organization, or any  
 division of any thereof, who for either a fixed sum, price,  
 fee, percentage, or other compensation either then or  
 afterwards or offers to undertake, or purports to have  
 capacity to undertake to construct, alter, repair, or  
 improve any building, highway, excavation, or other structure,  
 project, development or improvement, or any such thing;  
 provided, that the term contractor as used in this law shall  
 include sub-contractor but shall not include anyone who  
 merely furnishes materials or supplies without preparing  
 the same into or assembling the same in the performance of the  
 work of the contractor as provided by the law. Nothing in  
 this law shall be construed to mean to include within  
 the construction, reconstruction, completion or maintenance of  
 its plant other than construction of buildings or to the  
 drilling, testing, abandoning or other operation of any well,  
 trough or gas well, or to geophysical or other exploration  
 for oil or gas, and provided further that no person shall  
 shall be construed to be a contractor. This law shall not  
 apply to farming, dairying, aquaculture, viticulture, or  
 culture or stock or poultry raising.

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3 Statutes, 1941, Ch. 51, Sec. 10, 1941  
 1902.  
 4 Statutes, Ch. 51, Sec. 10, 1902.



The State Contractors' License Board, Appointment and Tenure of Office. The governor of the state appoints to this board three (3) members, all of whom must be residents of the state engaged in the business of contracting, and they serve for a term of two (2) years. The membership of the board shall consist of one (1) building contractor, one (1) highway contractor, and one (1) contractor from some other classification of contractors covered by this law. They shall maintain an office at the state capital, and shall hold quarterly meetings for the transaction of the business of the board. Each member shall receive compensation for not more than thirty (30) days in any one year, at the rate of ten dollars (\$10.00) per day for each day spent in attendance at board meetings, plus necessary travel expense to and from such meetings.<sup>5</sup> The board appoints a registrar who shall furnish bond in the amount of five thousand dollars (\$5,000.00), and such registrar shall devote his entire time to the duties of his office, and shall receive a salary to be fixed by the board which shall not exceed thirty-six hundred dollars (\$3,600.00) per year, payable from the board fund.<sup>6</sup>

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<sup>5</sup> Statutes, op. cit., Sec. 51-1904.

<sup>6</sup> Loc. cit.



The State Comptroller, License Board, Department of  
 Finance of Office. The Governor of the State appoints to this  
 board three (3) members, all of whom must be residents of the  
 State engaged in the business of contracting, and the entire  
 for a term of two (2) years. The membership of the board  
 shall consist of one (1) building contractor, one (1) highway  
 contractor, and one (1) contractor from some other classifi-  
 cation of contractors covered by this law. The board shall main-  
 tain an office at the State capital, and shall hold quarterly  
 meetings for the transaction of the business of the board.  
 Each member shall receive compensation for not more than  
 thirty (30) days in any one year, at the rate of ten dollars  
 (\$10.00) per day for each day spent in attendance at board  
 meetings, plus necessary travel expense to and from such  
 meetings. The board appoints a registrar who shall maintain  
 bond in the amount of five thousand dollars (\$5,000.00), and  
 such registrar shall receive his entire time to the duties of  
 his office, and shall receive a salary to be fixed by the  
 board which shall not exceed thirty-six hundred dollars  
 (\$3,600.00) per year, payable from the board fund.

Statutes, op. cit., Sec. 21-1302.

loc. cit.



Qualifications for Holding License. To obtain a license under this law, the applicant must submit to the registrar a duly verified application, including a complete statement of the general nature of his contracting business, and if an individual, his name and address; if a co-partnership, the names and addresses of all the co-partners; and if a corporation, association, or other organization, the names of the president, vice-president, secretary, and chief construction managing officer or officers; and if a corporation not organized under the laws of this state, a statement showing that said corporation is qualified to do business by completing all the acts required for such qualification in this state and in each county in which the contract or any part thereof is to be performed. Such application shall contain the certification of two reputable citizens of the county in which the applicant resides, that he is of good reputation, and recommending that license be granted, and containing the statement that the applicant desires the issuance of a license under the terms of this law. No license shall be issued except by action of the board, nor until the board has satisfied itself upon evidence presented and recorded as to the integrity of the applicant, and upon a proper showing in an examination that may be given by the board, that said applicant is qualified in the following respects to hold a license:

- (a) That the applicant is of good reputation, and that he



Qualifications for holding office. No person shall be eligible for election or appointment to any office or position under this law, the applicant must submit to the board a duly verified application, including a declaration of the general nature of his business, and if an individual, his name and address; and if a corporation, association, or other organization, the name of the president, vice-president, secretary, and treasurer, and a statement of the managing officer or officers; and if a corporation not organized under the laws of this State, a statement showing that said corporation is qualified to do business in this State. All the facts required for such qualification shall be stated and in each county in which the corporation or association is to be performed. Such application shall be filed with the certification of the register of the county in which the applicant resides, and the board shall be notified thereof and recommending that license be granted, or a statement that the applicant declares the business of the corporation under the terms of this law. The board shall not take any action on the board, nor shall the board be bound by itself upon evidence presented and recorded as to the integrity of the applicant, and upon a proper showing examination that may be given by the board, and the board is qualified in the following respects to hold a license (a) That the applicant is of good reputation, and that he



must be experienced and qualified to do the kind of work he proposes to contract; (b) that the applicant has never been refused a license or had a license revoked for reasons that should preclude the granting of a license, or engaged in the contracting business without obtaining a license as required by the contractors' license law, within one (1) year prior to making said application; provided, that no license shall be refused by the board without providing an opportunity to the applicant to show that he is qualified to do the work he proposes to contract, in an examination, or without providing an opportunity to the applicant to be heard and produce evidence in support of his application, at a regular meeting of the board; and no license shall be refused upon ground of lack of experience in the kind of work that the applicant proposes to contract until all records and evidence in the case shall have been passed upon by the board, or submitted by the board to an advisory committee, appointed by the board, composed of three (3) reputable persons who are residents of the county in which the applicant resides, well versed in the kind of kindred work to which the applicant relates, who shall serve without remuneration. Their recommendations shall be certified to the board, who shall consider same in making its final decision. <sup>7</sup> The applicant must be familiar with the rules and regulations promulgated by the board pursuant to

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<sup>7</sup> Statutes, op. cit., Sec. 51-1905.



must be experienced and qualified to do the kind of work as  
 proposed in contract; (b) that the applicant has never been  
 refused a license or had a license revoked for reasons that  
 should preclude the granting of a license, and engaged in the  
 contracting business without obtaining a license as provided  
 by the contractor's license law, within one (1) year previous  
 making said application; provided, that no license shall be  
 refused by the board without providing an opportunity for the  
 applicant to show that he is qualified to do the work he pro-  
 poses to contract, in an examination, or without providing an  
 opportunity for the applicant to be heard and to cross-examine  
 in support of his application, at a hearing held on the  
 board; and no license shall be refused upon a finding of lack of  
 experience in the kind of work that the applicant proposes to  
 contract until all records and evidence in the case shall  
 have been passed upon by the board, or submitted to the board  
 to an advisory committee, appointed by the board, composed of  
 three (3) reputable persons who are residents of the county in  
 which the applicant resides, and a majority of the board of  
 the work to which the applicant resides, and shall give  
 without remuneration. Their recommendations shall be sub-  
 mitted to the board, who shall consider same in making the  
 final decision. The applicant must be familiar with the  
 rules and regulations promulgated by the board, and to



this law, concerning the kind of work the applicant proposes to contract.

No license shall be issued to a foreign corporation which has not complied with the state laws requiring qualifications to do business in this state, nor to any foreign corporation which has not maintained an office in this state for at least ninety (90) days preceding the making of an application for a license, and no license shall be issued to any individual, firm, partnership, or company, that is not a resident of the State of New Mexico for ninety (90) days, unless such person firm, partnership, or company has maintained an office in the State of New Mexico for at least ninety (90) days preceding the filing of an application for a license; provided, that the board may issue a license at any regular or special meeting, to specialty contractors, without regard to residence qualifications, whenever a showing is made that there are less than ten (10) contractors operating in the State of New Mexico licensed to do the type of specialty contracting involved in a particular application.

Fees. The application shall be accompanied by a fee as follows: (a) Resident contractors of this state, whose

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<sup>8</sup> Statutes, op. cit., Sec. 51-1905.



this law, concerning the kind of work the applicant performs to contract.

No license shall be issued to a foreign corporation

which has not complied with the state laws regarding

actions to do business in this state, nor to any foreign

corporation which has not maintained an office in this state

for at least ninety (90) days preceding the making of an ap-

plication for a license, and no license shall be issued to

any individual, firm, partnership, or company, that is not a

resident of the State of New Mexico for ninety (90) days.

unless such person firm, partnership, or company has main-

tained an office in the State of New Mexico for at least

ninety (90) days preceding the filing of an application for a

license; provided, that the board may issue a license to any

regular or special meeting, to specialty contractors, without

regard to residence qualifications, whenever a license is made

that there are less than ten (10) contractors contracting in

the State of New Mexico licensed to do the type of contracting

contracting involved in a particular application.

Fee. The application shall be accompanied by a fee

as follows: (a) Resident contractors of this state, whose



gross annual contract amounts to more than twelve thousand dollars (\$12,000.00), and all non-resident contractors shall pay a license fee of thirty dollars (\$30.00); (b) resident contractors of this state whose gross annual contract exceeds twelve hundred dollars (\$1,200.00), shall pay a license fee of fifteen dollars (\$15.00); (c) resident contractors in this state whose gross annual contract amounts to twelve hundred dollars (\$1,200.00) shall pay a fee of one dollar (\$1.00). The fees received under this law shall be paid to the registrar of the board, who in turn deposits such moneys with the State Treasurer who places all such amounts in a special fund known as the "Contractors' License Fund."<sup>9</sup> All licenses issued under the provisions of this law shall be signed by the licensee, shall be non-transferable, and satisfactory evidence of the possession thereof shall be exhibited by him upon demand.

Expiration of Licenses. All licenses issued under the provisions of this law shall elapse and expire on June thirtieth of each year. Applications for renewal of a current license accompanied by the same fees hereinbefore stated for an original license, before the expiration date, shall authorize operation as a contractor by such license until



gross annual contract amounts to more than twelve hundred  
dollars (\$12,000.00), and all persons who contract shall  
pay a license fee of thirty dollars (\$30.00); (b) contract  
recipients of this state shall gross annual contract amounts  
twelve hundred dollars (\$1,200.00), shall pay a license fee  
of fifteen dollars (\$15.00); (c) contract recipients of  
this state shall gross annual contract amounts of twelve  
hundred dollars (\$1,200.00) shall pay a fee of ten dollars  
(\$10.00). The fees received under this law shall be paid to  
the registrar of the board, who in turn deposits such amounts  
with the State Treasurer who places all such amounts in a  
special fund known as the "Contractors' License Fund."  
Licenses issued under the provisions of this law shall be  
signed by the licensee, shall be non-transferable, and shall  
be evidence of the person's right to contract and shall be  
by his own demand.

Expiration of License. All licenses issued under the  
provisions of this law shall expire on the first day of  
January of each year. Applications for renewal of  
new license accompanied by the same fees shall be filed  
for an original license, before the expiration date, and  
authorized operation as a contractor by such license holder.



actual issuance of such renewal license for the ensuing fiscal year. All applications for renewal of licenses shall be filed with the registrar of the board not later than July thirtieth of each year; otherwise such licenses shall be ipso facto suspended, and shall be renewable only on the payment of a fee of twice the amount of the regular license fee of such contractor, and unless so renewed shall remain suspended during the remainder of the fiscal year.<sup>10</sup> After a license has been suspended for a period of one or more fiscal years, a new application for license must be made and a new license issued in accordance with the rules governing new applicants. All licensees shall report all changes of personnel and addresses under this law within thirty (30) days after the same shall occur, on such forms as the registrar of the board shall provide in such cases.<sup>11</sup> The registrar of the board shall maintain an office at the state capital, open to public inspection during office hours. Said registrar shall maintain a complete record of all applications and all licenses issued and of all renewed licenses under this law, and of all terminations, cancellations, and suspensions thereof.<sup>12</sup>

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<sup>10</sup> Statutes, op. cit., Sec. 51-1907.

<sup>11</sup> Ibid.

<sup>12</sup> Statutes, op. cit., Sec. 51-1908.



actual issuance of such license. License for the calendar year  
of year. All applications for renewal of license shall be  
filed with the registrar of the board on or before the  
thirtieth of each year; otherwise, such license shall be  
ipso facto suspended, and shall be renewable only after the  
payment of a fee of twice the amount of the regular license fee  
of such character, and unless a renewed shall remain sus-  
pended during the remainder of the fiscal year.  
License has been suspended for a period of one or more years,  
years, a new application for license shall be made and a new  
license issued in accordance with the rules governing the  
applicant. All licensed shall report all changes of ad-  
dress and address under this law within thirty (30) days  
after the same shall occur, on such form as the registrar of  
the board shall provide in such cases. The registrar of  
the board shall maintain an office at the state capitol, and  
to public inspection during office hours. The registrar shall  
shall maintain a complete record of all applications and all  
licenses issued and of all renewed licenses under this law,  
and of all terminations, cancellations, and suspensions  
thereof.

10 Statutes, ch. 211, Sec. 21-1207.  
11 Ibid.  
12 Statutes, ch. 211, Sec. 21-1208.



Grounds for Revocation of License. The Contractors'

License Board may upon its own motion, and shall upon the verified complaint, in writing, or any person, investigate the actions of any contractor within the state, and shall have power to temporarily suspend, or permanently revoke, a license issued under the provisions of this law, if the holder, while a licensee under this law, is guilty of or commits any one or more of the following acts or omissions: (a) abandonment of any contract without legal excuse; (b) diversion of funds or property received for prosecution or completion of a specific contract, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract, obligation, or purpose; (c) fraudulent gross or negligent departure from or disregard of plans or specifications in any material respect, without consent of the owner or his duly authorized representative; (d) wilful and deliberate disregard and violations of the rules and regulations promulgated by the State Contractors' License Board, pertaining to plumbing or the construction of buildings; (e) failure to keep records showing all receipts and disbursements of the licensee in all of his transactions as a contractor as that term is defined in this law; (f) misrepresentation of a material fact by the applicant in obtaining a license; (g) the doing of any wilful, fraudulent act by the licensee as a contractor in consequence of



# Grounds for Revocation of License.

Licensee shall not open its own action, and shall upon the  
 verified complaint, in writing, or any person, lawfully  
 the action of any contractor within the state, and shall  
 have power to temporarily suspend, or permanently revoke,  
 license issued under the provisions of this law, if the  
 holder, while a licensee under this law, is guilty of or  
 commits any one or more of the following acts or omissions:  
 (a) abandonment of any contract without legal excuse; (b)  
 diversion of funds or property received for prosecution of  
 completion of a specific contract, or for a specified purpose  
 in the prosecution or completion of any contract, and (c)  
 application or use for any other contract, obligation, or  
 purpose; (d) fraudulent gross or negligent departure from or  
 disregard of plans or specifications in any material respect,  
 without consent of the owner or his duly authorized repre-  
 sentative; (e) willful and deliberate disregard and violation  
 of the rules and regulations promulgated by the State Con-  
 tractor's License Board, pertaining to planning or the con-  
 struction of buildings; (f) failure to keep records showing  
 all receipts and disbursements of the licensee in all of his  
 transactions as a contractor as that term is defined in this  
 law; (g) misrepresentation of a material fact by the licensee  
 in obtaining a license; (h) the doing of any willful, fraudu-  
 lent act by the licensee as a contractor in connection of



which another is substantially injured.

Procedure for Revocation of License. (A) Whenever any person shall lodge any signed, written complaint with the Contractors' License Board at the state capital, that any contractor has done any of the things, or neglected to do any of the things, or violated any of the provisions of this law, which are herein declared to be grounds for suspension or revocation of a contractor's license, as soon as practicable thereafter, the Contractors' License Board shall assign an inspector or agent to investigate such complaint. (B) The inspector or agent so assigned shall immediately proceed to investigate such complaint, and shall, if possible, interview the person lodging the complaint, and as many of the prospective witnesses named by such person as practicable, and shall make a diligent effort to find and interview any other witnesses by which the violation or violations complained of can be proved, and shall immediately make a written report to the Contractors' License Board of his interview with each of such witnesses stating the names and addresses of such witnesses and what such witnesses have revealed, and what competent evidence they are able to give of, the alleged violation or violations, and shall state to

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<sup>13</sup> Statutes, op. cit., Sec. 51-1909.



which another is authorized to make.

Procedure for Revocation of License

person shall lodge any objection, or that applicant with a  
Contractors' license shall be the same as that of any  
contractor has been any of the things, or matters of the  
of the things, or matters of the things, or matters of the things,  
which are herein declared to be necessary for a contractor  
revocation of a contractor's license, and shall be the same as  
thereafter, the Contractor's license shall be the same as  
Inspector or agent to investigate and compile a report for  
Inspector or agent to seal and shall be the same as that of the  
investigate such complaint, and shall be the same as that of the  
view the person lodging the complaint, and shall be the same as that of the  
prospective witnesses named by such person as prospective  
and shall make a diligent effort to obtain the same, and shall  
other witnesses by whom the complaint is made, and shall be the same as that of the  
plaintiff of can be proved, and shall be the same as that of the  
written report to the Department of Public Safety, and shall be the same as that of the  
interview with each of such witnesses, and shall be the same as that of the  
addresses of such witnesses and the names of such witnesses, and shall be the same as that of the  
revealed, and what consistent evidence there may be, and shall be the same as that of the  
of, the alleged violation or violations, and shall be the same as that of the



the board whether or not in his opinion probable cause exists for filing charges for the revocation or suspension of the license of the licensee under investigation. (C) If the Contractors' License Board shall believe from any such reports that probable cause exists for filing charges against the licensee for the revocation or suspension of his license on any grounds shown upon any such report, they shall thereupon make out and file with the board a charge against such licensee in the name of the State of New Mexico, by them as the State Contractors' License Board, stating generally the nature of the ground or grounds relied upon for such revocation or suspension of license, and the approximate date, as close as possible of the alleged act, neglect, or violation and the names and addresses of the witnesses who are expected to give testimony or evidence against the licensee. (D) The board shall then issue an order for the licensee to be and appear before them at a certain day and hour, at a designated place in this state, then and there to show cause, if any the licensee has, why his license should not be revoked or suspended on any ground or grounds set out in the charge, and shall attach the original of such order to show cause to the original of the charge and keep it therewith permanently on file in the registrar's office. <sup>14</sup> The chairman of the



the board whether or not it is in the public interest to  
for lifting charges for the purpose of suspension of the  
license of the licensee under a suspension of the license  
Contractors' license board shall be held liable for the  
facts that probable cause exists for lifting charges against  
the licensee for the suspension or suspension of the license  
on any grounds shown upon any such report, that shall then  
upon make out and file with the board a report of the facts  
licensee in the name of the State of New Jersey, the State of  
the State Contractors' license board, stating the nature of the  
nature of the ground of grounds relied upon for the suspen-  
sion or suspension of license, and the reasons therefor, as  
far as possible of the alleged act, omission or violation  
and the names and addresses of the witnesses who are expected  
to give testimony or evidence against the licensee. (b) The  
board shall then issue an order for the licensee to be and  
appear before them at a certain day and hour, as a defendant  
in this case, then and there to show cause why the  
licensee has, why the licensee should not be suspended or  
suspended on any ground or grounds set out in the charge, and  
shall attach the original of such order to and return to the  
original of the charge and keep it in the file of the  
file in the registrar's office. The cost of such



Contractors' License Board shall administer oaths to all witnesses and shall cause all of the testimony and evidence in support of the grounds alleged in the charge to be presented in the presence of the licensee, allowing the licensee or his legal counsel to cross-examine all witnesses. The licensee shall be allowed to present any and all testimony and evidence he may have at the place of the hearing in denial or disproof or in mitigation of the grounds in support of which evidence has been introduced. The members of the board or attorney representing them shall have the right to cross-examine the licensee or any witnesses testifying in his

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favor. If the licensee shall be found guilty on any ground alleged and proved, the Contractors' License Board shall thereupon make their order of revocation or suspension of the licensee's license.

Appeal from Board Decision. Any licensee aggrieved by any finding or findings of guilt or order of suspension shall have the right within thirty (30) days after the entry of such finding to appeal to the district court in Santa Fe County for a review of such finding, findings, and/or order of suspension or revocation of license. No order of suspension or revocation shall have the effect of prohibiting a



Contrast, license shall be administered only to the  
witness and shall remain all of the evidence in the case  
in support of the grounds alleged in the license to be  
sented in the presence of the license, and the license  
or his legal counsel to cross-examine and to impeach  
license shall be allowed to present any and all evidence  
and evidence he may have at the time of the hearing in order  
to disprove or in mitigation of the grounds alleged in the  
which evidence has been introduced. The license or his counsel  
or attorney representing him shall have the right to cross-  
examine the license or any witness testifying in his  
favor. If the license shall be found guilty on any ground  
alleged and proved, the Contrasting License shall  
thereupon upon their order of revocation or suspension of the  
license's license.

Appeal from Board Decision. Any licensee aggrieved by  
any finding or findings of guilt or order of suspension or  
have the right within thirty (30) days after the date of  
such finding to appeal to the District Court in the County  
County for a review of such finding, the facts and the grounds  
of suspension or revocation of license. The order of  
also or revocation shall have the effect of permanent



licensee from completing his existing contracts.<sup>16</sup> Appeals from the decision of the court to the Supreme Court of the State of New Mexico may be made in accordance with the rules of said Supreme Court.

Rights After Suspension of License. After suspension of the license upon any of the grounds set forth in this law, the Contractors' License Board shall renew the same upon proof of the compliance by the contractor with any provisions of the judgment as to renewal of such license, or in the absence of such judgment or any provisions therein as to renewal, in the sound discretion of the board. After cancellation of a license upon any of the grounds set forth in this law, such license shall not be renewed or reissued within a period of one (1) year after final determination of cancellation, and then only in proper showing that all loss caused by the act or omission for which the license was cancelled<sup>17</sup> has been fully satisfied.

Penalty for Violation. Any person who acts in the capacity of a contractor within the meaning of this law without a license as provided in this law, and any person who conspires with another person to violate any of the provisions

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<sup>16</sup> Ibid.

<sup>17</sup> Statutes, op. cit., Sec. 51-1913.



licensee from completing his existing contract.  
 from the decision of the court in the case of the  
 State of New Mexico and the State of New Mexico  
 of said Supreme Court.

Right After Suspension of License.  
 of the license upon any of the grounds set forth in this law,  
 the Contractor's license board shall remove the same and  
 proof of the completion by the contractor of any contract  
 of the judgment as to removal of such license, or in the  
 absence of such judgment or any provision therefor in the  
 law, in the sound discretion of the board. When removal  
 of a license upon any of the grounds set forth in this  
 law, such license shall not be renewed or replaced until a  
 period of one (1) year after final determination of the  
 board, and then only in proper accordance with the law  
 by the set or relation for which the license was granted.  
 has been fully satisfied.

Penalty for Violation. Any person who violates the  
 capacity of a contractor within the meaning of this law  
 without a license as provided in this law, and who is  
 complicit with another person to violate any of the provisions

18. 1918.

IV. Statutes, pp. 243, 244, 245, 246.



of this law is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100.00), nor to exceed five hundred dollars (\$500.00), or by imprisonment in the county jail for a term not to exceed six (6) months, or by both fine and imprisonment, in the discretion of the court. No contractor as defined in this law shall act as agent or bring or maintain any action in any court of the state for the collection of compensation for the performance of any act for which a license is required by this law without alleging and proving that such contractor was a duly licensed contractor at the time the alleged cause of action arose. The word "person" includes an individual, a firm, a co-partnership, a corporation,<sup>18</sup> association or other organization.

Municipal Tax or License. Nothing contained in this law shall be construed as preventing any municipality from collecting local occupation taxes or license fees under the provisions of any local ordinance, but the same may be assessed and collected from contractors licensed under this law, in addition to the license fees herein provided, by any municipality in which construction work is carried on by any contractor licensed under this law.<sup>19</sup>

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<sup>18</sup> Statutes, op. cit., Sec. 51-1914.

<sup>19</sup> Statutes, op. cit., Sec. 51-1915.



of this law is guilty of a misdemeanor, and shall, upon conviction thereof, be punished by a fine of not less than one hundred dollars (\$100.00), nor be exceed five hundred dollars (\$500.00), or by imprisonment in the county jail for a term not to exceed six (6) months, or by both together in the discretion of the court. No person shall be licensed as defined in this law shall not be held responsible for any action in any court of the state for the collection of compensation for the performance of any act or thing which license is required by this law without liability and provided that such contractor was a duly licensed contractor at the time the alleged cause of action arose. The word "person" includes an individual, a firm, a co-partnership, a corporation, association or other organization.

#### Municipal Tax on License.

It shall be construed as preventing any municipality from collecting local occupation taxes or license fees under the provisions of any local ordinance, but the same may be assessed and collected from contractors licensed under this law, in addition to the license fees herein provided, by any municipality in which construction work is carried on by any contractor licensed under this law.

18 Statutes, op. cit., sec. 37-1914.

18 Statutes, op. cit., sec. 37-1915.



Unlicensed Contractor Barred from Filing or Claiming Mechanic's Lien. Any contractor operating without a license as provided by the contractors' law shall have no right to file or claim any mechanic's lien as now provided by law, but otherwise. Neither this entire law, nor any part thereof is enacted for the purpose of aiding, conflicting with, or amending or repealing the present mechanic's lien law of the State of New Mexico, or any part thereof.

#### D. Electricians

The New Mexico electricians' law defines "electrical contractor" as meaning and including any person, firm, partnership, or corporation engaged in the business of installing or repairing, or contracting to install or repair any electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for carrying, using, or consuming electrical energy for which a permit is required. Before any electrical wiring is installed within or on any building, structure, or premises, publicly or privately owned, or before any alteration or addition is made in any such existing

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<sup>20</sup> Statutes, op. cit., Sec. 51-1916.

<sup>1</sup> Statutes, op. cit., Chapter 51, Article 22, Sec. 51-2202.



# Unlicensed Contractor Penalties

Nebraska's law. Any contractor operating without a license as provided by the contractor's law shall be liable for this or other any Nebraska's law as provided by law, but otherwise. Neither this entire law, nor any part thereof, enacted for the purpose of aiding, assisting with, or assisting or repealing the present Nebraska's law or the State of Nebraska, or any part thereof.

## 1. Definitions

The New Mexico electrical law defines electrical contractor as meaning and including any person, firm, partnership, or corporation engaged in the business of installing or repairing, or contracting to install or repair any electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for any building, room, or any electrical energy for which a permit is required. Any electrical wiring is installed within or on any building, structure, or premises, publicly or privately owned, for any alteration or addition to existing electrical wiring.

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Statutes, op. cit., Sec. 61-120.

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Statutes, op. cit., Chapter 61, Article 12, Sec. 61-120.

2202



installation, a permit must be secured from the electrical inspector in whose jurisdiction such installation, alteration, or addition is to be made.

"Journeyman electrician" means and includes any person doing any work of installing, repairing, or maintaining any electrical wiring or equipment subject to the provisions of this law. "Electrical wiring" means and includes all wiring, conductors, fixtures, devices, conduits, appliances or other equipment, including generating equipment of not over ten kilowatt capacity, used in connection with the general distribution or utilization of electrical energy with a potential of twenty-four volts or more between conductors.<sup>2</sup>

The State Electrical Administrative Board. This board is composed of five (5) members appointed by the governor of the state, and includes one (1) representative of an electrical public service corporation operating in this state; one (1) representative of persons, firms, partnerships, or corporations engaged in the business of electrical contractor; one (1) representative of a nationally recognized journeymen electrical workers' organization; one (1) representative who is a graduate electrical engineer; and one (1) person who is an electrical inspector for an incorporated municipality in

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<sup>2</sup>

Loc. cit.



Installation, a permit must be secured from the electrical  
 inspector in whose jurisdiction such installation is to be  
 made, or addition is to be made.  
 "Journeyman electrician" means and includes any person  
 doing any work of installing, repairing, or maintaining any  
 electrical wiring or equipment subject to the provisions of  
 this law. "Electrical wiring" means any installed wiring,  
 conductors, fixtures, devices, or appliances of electric  
 equipment, including generating equipment, or any other  
 electrical device, used in connection with the power, dis-  
 tribution or utilization of electrical energy within a build-  
 ing of twenty-four volts or more between conductors.

The State Electrical Administrative Board. This board  
 is composed of five (5) members appointed by the governor of  
 the state, and includes one (1) representative of an electri-  
 cal public service corporation operating in this state; one  
 (1) representative of persons, firms, partnerships, or cor-  
 porations engaged in the business of electrical contracting;  
 one (1) representative of a nationally recognized organization  
 of electrical workers' organization; one (1) representative who  
 is a graduate electrical engineer; and one (1) person who is  
 an electrical inspector for an incorporated municipality.



this state. Each member must be a citizen of the United States and a resident of this state for a period of at least five (5) years prior to his appointment. Members serve overlapping terms of five (5) years. Any member may for cause, after a hearing, be removed from office by the governor. Members of the board are allowed ten dollars (\$10.00) per day for each day of attendance at board meetings, and are reimbursed for all legitimate expenses incurred in attending such meetings, provided they must not receive per diem allowance for more than sixty (60) days during any fiscal year. All per diem and other expenses incurred are paid from the "Electrical Administrative Fund."<sup>3</sup>

Duties and Authority of the Board. The board holds regular meetings quarterly and may hold special meetings at the call of the chairman. It is the duty of the board to administer and enforce the provisions of this law and all orders of the board issued in conformity to this law; to adopt and issue necessary orders, rules, and regulations for the enforcement of the provisions of this law; to examine applicants for licenses, grant licenses to qualified applicants, revoke or suspend any license on the grounds set forth in this law. The board may delegate to the electrical engineer

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<sup>3</sup>

Statutes, op. cit., Sec. 51-2203.



This state. Each member must be a citizen of this state and a resident of this state for a period of at least five (5) years prior to his appointment. Members shall receive a salary of five (5) years. Any member may be removed after a hearing, be removed from office by the governor. Members of the board are allowed ten dollars (\$10.00) per day for each day of attendance at board meetings, and are reimbursed for all legitimate expenses incurred in attending such meetings, provided they must not receive pay from any other source. For more than sixty (60) days during any fiscal year. All per diem and other expenses incurred are paid from the special Administrative Fund."

Rules and Authority of the Board. The board shall regular meetings quarterly and may hold special meetings at the call of the chairman. It is the duty of the board to administer and enforce the provisions of this law and all orders of the board issued in conformity to this law; to adopt and issue necessary orders, rules, and regulations for the enforcement of the provisions of this law; to examine and grant licenses to qualified persons; to suspend or revoke any license on the grounds set forth in this law. The board may delegate to the electrical engineer



of the board the power to conduct examinations and to grant licenses and certificates. Three (3) members of the board present at any meeting constitutes a quorum for the transaction of business, but any action taken at any meeting requires the affirmative vote of at least three (3) members.<sup>4</sup> The board shall issue orders prescribing the minimum standards for the installation of electrical wiring, which orders shall embody the requirements prescribed by the National Electrical Code as approved by the American Standards Association and the National Electrical Safety Code as approved by that same Association; provided, that the board may by order prescribe standards higher than those prescribed by said codes. All orders, rules, and regulations issued by the board shall be available for general distribution at the office of the board in the state capital.<sup>5</sup> Records of the meetings of the board shall be open for inspection at all times.<sup>6</sup> The board shall deposit all moneys received by it from fees, in accordance with the provisions of this law, with the State Treasurer who shall keep such money in a separate fund known as the "Electrical Administrative Fund."<sup>7</sup>

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<sup>4</sup> Statutes, op. cit., Sec. 51-2204.

<sup>5</sup> Ibid.

<sup>6</sup> Statutes, op. cit., Sec. 51-2217.

<sup>7</sup> Statutes, op. cit., Sec. 51-2218.



of the board the power to conduct examinations and to issue  
licenses and certificates. There shall be members of the board  
present at any meeting constituted a quorum for the trans-  
action of business, but any action taken at any meeting re-  
quires the affirmative vote of at least three (3) members.  
The board shall issue orders prescribing the standards and  
tests for the installation of electrical wiring, which orders  
shall embody the requirements prescribed by the National  
Electrical Code as approved by the American Standards Ass-  
ociation and the National Electrical Safety Code as approved  
by that same Association; provided, that the board may by  
order prescribe standards higher than those prescribed by  
said codes. All orders, rules, and regulations issued by the  
board shall be available for general distribution at the of-  
fice of the board in the state capital.  
meetings of the board shall be open for inspection at all  
times. The board shall deposit all moneys received by it  
from fees, in accordance with the provisions of this law,  
with the State Treasurer who shall keep such money in a  
separate fund known as the "Electrical Administrative Fund."

<sup>4</sup> Statutes, op. cit., Sec. 21-2501.  
<sup>5</sup> Ibid.  
<sup>6</sup> Statutes, op. cit., Sec. 21-2517.  
<sup>7</sup> Statutes, op. cit., Sec. 21-2518.



Duties of the Electrical Engineer. It shall be the duty of the electrical engineer, under the direction of the board, to administer and enforce the provisions of this law and the orders, rules, and regulations issued by the board, and to supervise the work of all deputy state electrical inspectors and to perform such other duties as are assigned to him by the board. He may hold membership in the National Fire Protective Association and the International Association of Electrical Inspectors, and, with the consent of the board, may serve on any electrical committee of these associations to which he may be appointed and shall be allowed all necessary expenses in connection with such activities.<sup>8</sup> The electrical engineer shall file with the secretary of state of the State of New Mexico a bond in the amount of five thousand dollars (\$5,000.00), said bond to be approved by the secretary of state and conditioned upon the faithful performance of his duties. He shall be removed from office for cause only, after a full hearing by the board, at which he shall be entitled to appear and produce evidence in his behalf. He shall receive a salary of three thousand dollars (\$3,000.00)<sup>9</sup> per year.

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<sup>8</sup> Statutes, op. cit., Sec. 51-2205.

<sup>9</sup> Ibid.



Public of the Electrical Engineers, and shall be the  
duty of the electrical engineer, named and designated in  
board, to administer and enforce the provisions of this law  
and the orders, rules, and regulations issued by the board,  
and to supervise the work of all agents, assistants,  
inspectors and to perform such other duties as may be assigned  
to him by the board. He may hold membership in the National  
Wire Protective Association and the National Electrical  
of Electrical Insulators, and, with the consent of the board,  
may serve on any electrical committee of the National Board  
to which he may be appointed and shall be entitled to receive  
any expenses in connection with such activities. The elec-  
trical engineer shall file with the board a statement of the  
State of New Mexico a bond in the amount of \$10,000.00  
exclusive (\$5,000.00), said bond to be approved by the board  
and shall be retained until the electrical engineer has  
of his duties. He shall be removed from office by the board  
only, after a full hearing by the board, and shall be  
entitled to appear and produce evidence in his defense. He  
shall receive a salary of three thousand dollars (\$3,000.00)  
per year.

Statutes, Ch. 21, Sec. 2305

1915



Appointment of Deputy State Electrical Inspectors.

The board is authorized to appoint such full-time deputy state electrical inspectors, with the same qualifications required of the electrical engineer, as may be necessary to enforce the provisions of this law, at a salary not to exceed twenty-four hundred dollars (\$2,400.00) per year, provided the board shall not appoint more than five (5) such full-time inspectors.<sup>10</sup> The qualifications are that they must be citizens of the United States, residents of this state for a period of not less than five (5) years immediately preceding the time of their appointment, and shall be competent electricians of good moral character, and shall have at least ten (10) years' practical experience at the trade. A degree from an accredited school of electrical engineering shall be considered as two years' practical experience.<sup>11</sup>

Authority of Inspectors. The electrical engineer and every municipal and deputy state electrical inspector shall have the right, during reasonable hours, to enter any building or go upon any premises, in the discharge of their official duties, for the purpose of making any inspection, re-inspection, or test of the electrical wiring, devices, appliances,

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<sup>10</sup> Statutes, op. cit., Sec. 51-2206.

<sup>11</sup> Statutes, op. cit., Sec. 51-2205.



Department of Safety State Electrical Inspectors

The board is authorized to appoint such full-time deputy state electrical inspectors, with the same qualifications required of the electrical engineer, as may be necessary to enforce the provisions of this law, at a salary not to exceed twenty-four hundred dollars (\$2,400.00) per year, provided the board shall not appoint more than five (5) such full-time inspectors. The qualifications and duties of such must be citizens of the United States, residents of this state for a period of not less than five (5) years immediately preceding the time of their appointment, and shall have patent electricals of good moral character, and shall have at least ten (10) years' practical experience in the trade. A degree from an accredited school of electrical engineering shall be considered as two years' practical experience.

Authority of Inspectors. The electrical engineer and

every municipal and deputy state electrical inspector shall have the right, during reasonable hours, to enter any building or go upon any premises, in the discharge of their official duties, for the purpose of making any inspection, examination, or test of the electrical wiring, fixtures, appliances,

10 Statutes, ch. 411, Sec. 51-5205.

11 Statutes, ch. 411, Sec. 51-5205.



and equipment, and shall have the authority to cut or disconnect, or to have cut or disconnected in cases of emergency, any wire or connection or device when necessary for safety to life or property, or where such wiring may interfere with the work of a fire department.

12

Examination and Licensure of Electrical Contractors and Journeymen Electricians. (A) Each application for an electrical contractor's license shall be made in writing on forms prescribed and furnished by the board, stating the names and addresses and places of business of the applicant, the name of the representative of the applicant that will supervise the work to be done under said license, and shall be accompanied by the prescribed examination fee. The designated representative of each such applicant shall be examined by the board to determine his knowledge of the orders, rules, and regulations governing the installations of electrical wiring issued under authority of this law. Each license issued in accordance with the provisions of this law shall state the name of the person, firm, partnership or corporation licensed, who shall be known as the holder of the license, and shall also state the name of the person who has passed the examination and is designated as supervisor of the







work to be done under the license. The person designated as supervisor may be a person in the employ of the holder of the license; or, if the holder is a person, may be the holder himself; or, if the holder is a firm or partnership, may be a member of the firm or partnership; or, if the holder is a corporation, may be an officer of the corporation. The same person shall not be designated as supervisor in more than one (1) electrical contractor's license issued to different persons, firms, partnerships or corporations. In event the business association of the supervisor shall terminate with any electrical contractor granted a license under this law, the holder of such license shall immediately notify the board of such termination and said license shall become null and void within sixty (60) days after such termination, unless another supervisor is qualified in accordance with the above requirements. Before any license shall be granted, or any expiring license renewed, the applicant shall pay to the board a fee in the amount specified in the law. <sup>13</sup> (B) Before any person shall be granted a license as a journeyman electrician, such person shall be examined by the board as to his knowledge of the orders, rules, and regulations governing the installation of electrical wiring issued under authority of



work to be done under the license. The person designated as  
supervisor may be a person in the employ of the holder of the  
license; or, if the holder is a corporation, may be an officer or  
member of the firm or partnership; or, if the holder is an  
individual, may be an officer of the corporation. The name  
person shall not be designated as supervisor in any other  
one (1) electrical contractor's license issued in this state  
persons, firms, partnerships or corporations. In event the  
business association of the supervisor shall terminate with  
any electrical contractor granted a license under this law,  
the holder of such license shall immediately apply to the board  
of such termination and said license shall become null and  
void within sixty (60) days after a notice is given, unless  
another supervisor is qualified in accordance with the above  
requirements. Before any license shall be renewed, or any  
existing license renewed, the applicant shall pay to the  
board a fee in the amount specified in the law. If the  
any person shall be granted a license as a journeyman electrician,  
such person shall be examined by the board as to his  
knowledge of the orders, rules, and regulations governing the  
installation of electrical wiring and equipment, and



this law and in conformity with recognized standards. Each application for a journeyman electrician's license shall be made in writing on forms prescribed and furnished by the board and shall contain statements made under oath, showing the applicant's record of experience as a journeyman electrician, and shall be accompanied by the prescribed examination fee.<sup>14</sup>

Fees. The fee for the electrical contractor's examination and license is thirty-five dollars (\$35.00); for a journeyman electrician's examination and license, eight dollars (\$8.00). The fees must be paid to the board before it<sup>15</sup> conducts an examination or grants a license.

Renewal. All licenses issued under the provisions of this law shall elapse and expire July first of each year. Applications for renewal of a current license accomplished by the same fees provided for an original license, before the expiration date, shall authorize operation as an electrical contractor or journeyman electrician, depending on the type of license, by such licensee until actual issuance of such renewal license for the ensuing year. All applications for

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<sup>14</sup> Ibid.

<sup>15</sup> Ibid.



this law and in conformity with regulations prescribed by the board and shall contain statements made under oath, which the applicant's record of experience and a journeyman electrician, and shall be accompanied by the prescribed fees. 14

Fees. The fee for the electrical contractor's examination and license is thirty-five dollars (\$35.00); for a journeyman electrician's examination and license, eight dollars (\$8.00). The fee must be paid to the board before the conductor an examination or grants a license.

Renewal. All licenses issued under the provisions of this law shall expire and expire this first of each year. Applications for renewal of a current license shall be filed by the same fees provided for an original license, before the expiration date, shall continue operation as an electrical contractor or journeyman electrician, depending on the type of license, by such license until actual notice of renewal license for the ensuing year. All applications for

14  
Ibid.  
15  
Ibid.



renewal of licenses shall be filed with the State Electrical Administrative Board not later than July thirty-first of each year; otherwise such licenses shall be automatically suspended, and shall be renewable thereafter only on the payment of the examination fee and upon re-examination under the provisions of this law; provided that the board may waive re-examination depending upon the circumstances. Nothing in this law shall be construed to prohibit the employment of apprentices or helpers working under the direct supervision of a licensed journeyman electrician. Licenses issued under this law are non-transferable.

16

Standards for Electrical Materials. Except as otherwise provided elsewhere in this law, all electrical wiring installed or used shall be in conformity with the statutes of the State of New Mexico and the orders, rules, and regulations issued by this board and with approved electrical standards for safety to life and property. Unless by a statute of the state or by an applicable ordinance, rule, or regulation of any political subdivision of the state, a specific type or class of electrical wiring is disapproved for installation and use, conformity with the standards of the Underwriters' Laboratories, Incorporated, as approved by the

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16Ibid.



renewal of license shall be filed with the State Board of  
Administrative Code and Labor Laws, Department of Labor,  
year; otherwise such license shall be automatically renewed  
ed, and shall be renewable thereafter only on the basis of  
the examination fee and upon re-examination under the same  
visions of this law; provided that the board may waive the  
examination depending upon the circumstances. Nothing in  
this law shall be construed to prohibit the licensing of ap-  
prentices or helpers working under the direct supervision of  
a licensed journeyman electrician. License issued under  
this law are non-transferable.

Standards for Electrical Equipment. Except as other-

wise provided elsewhere in this law, all electrical equip-  
ment installed or used shall be in conformity with the standards  
of the State of New Mexico and the national, state, and local  
laws issued by this board and with approved electrical  
standards for safety to life and property. Unless by a  
statute of the state or by an administrative order, rule, or  
regulation of any political subdivision of the state, a man-  
datory type or class of electrical wiring is prescribed for  
installation and use, conformity with the standards of the  
Underwriters' Laboratories, Incorporated, as approved by the



American Standards Association, shall be prima facie evidence  
 17  
 of conformity with approved standards.

Permit Required. Before any electrical wiring shall be installed within or on any building, structure, or premises, publicly or privately owned, or before any alteration or addition be made in any such existing installation, a permit therefor shall be secured from the electrical inspector in whose jurisdiction such installation, alteration, or addition is to be made, except as provided elsewhere in this law, and except that no permit shall be required to execute any of the following classes of work: (A) Minor repair work, the replacement of lamps or the connection of portable electrical equipment to suitable receptacles which have been permanently installed; (B) the installation of temporary wiring for testing electrical equipment or apparatus; (C) the installation, alteration, or repair of electrical equipment for the operation of signals or the transmission of intelligence  
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 by wire. Application for such permit, describing the work to be done, shall be made to the electrical inspector by the person, firm, partnership, or corporation installing same. No deviation shall be made from the installation described in the permit without the written approval of the electrical

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17 Statutes, op. cit., Sec. 51-2209.

18 Statutes, op. cit., Sec. 51-2210.



of conformity with approved standards.

Permit Required. Before any electrical work shall be installed within or on any building, structure, or premises, publicly or privately owned, or before any electrical work shall be made in any such existing installation, a permit shall be secured from the electrical inspector in whose jurisdiction such installation, alteration, or addition is to be made, except as provided elsewhere in this law, and except that no permit shall be required to extend any of the following classes of work: (A) minor household wiring; replacement of lamps or the connection of portable electrical equipment to suitable receptacles which have been previously installed; (B) the installation of temporary wiring for testing electrical equipment on equipment; (C) the installation, alteration, or repair of electrical equipment for the operation of signals or the transmission of radio signals by wire. Application for such permit, describing the work to be done, shall be made to the electrical inspector of the person, firm, partnership, or corporation installing, altering, or repairing the same. No deviation shall be made from the installation described in the permit without the written approval of the electrical inspector.



inspector who has jurisdiction. The board shall have the authority to fix reasonable fees for permits outside the corporate limits of any municipality and within municipalities where the inspection is done exclusively by full-time deputy state electrical inspectors. The board shall provide a procedure for the issuance of permits required by this law outside the corporate limits of any municipality where the inspection is done by the electrical inspector of such municipality under authority of the board.<sup>19</sup>

Annual Permits. In lieu of an individual permit for each installation, alteration, or addition of electrical wiring, an annual permit shall, upon application therefor, be issued to any person, firm, or corporation regularly employing one (1) or more journeymen electricians for the installation, alteration or maintenance of electrical wiring and equipment on premises owned or occupied by the applicant for such permit. A fee of five dollars (\$5.00) shall be paid for each annual permit at the time of issuance and same shall expire one (1) year from the date of issuance. Schedule fees shall be collected in addition for electrical wiring inspected at the time of each regular inspection.<sup>20</sup>

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<sup>19</sup> Ibid.

<sup>20</sup> Statutes, op. cit., Sec. 51-2211.



Inspector who has jurisdiction. The Board shall have the authority to fix reasonable fees for permits. Within the corporate limits of any municipality and within any other place where the inspection is done exclusively by the Board, the Board shall provide a procedure for the issuance of permits. This law outside the corporate limits of any municipality where the inspection is done by the electrical inspectors of each municipality under authority of the Board.

Annual Permit. In lieu of an individual permit for each installation, alteration or addition of electrical wiring, an annual permit shall, upon application therefor, be issued to any person, firm, or corporation who is employing one (1) or more journeyman electricians for the installation, alteration or maintenance of electrical wiring and equipment on premises owned or occupied by the applicant for such permit. A fee of five dollars (\$5.00) shall be paid for each annual permit at the time of issue or renewal. The permit shall be collected in addition for electrical wiring installed at the time of each regular inspection.

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1914.



Inspection to be Made. Upon the completion of any installation of electrical wiring which has been made under a permit, other than an annual permit, it shall be the duty of the person, firm, partnership, or corporation installing same to notify the electrical inspector having jurisdiction, who shall inspect the work within a reasonable time. Where the inspector finds the installation to be in conformity with orders, rules, and regulations of the board and all ordinances applying to the installation, he shall issue to the person, firm, partnership, or corporation that made the installation a certificate of approval, authorizing the use of same and connection to the supply of electricity, and shall send written notice of such authorization to the agency<sup>21</sup> which supplies the electric current. When a certificate of approval is issued authorizing the connection and use of temporary work, such certificate shall be issued to expire at a time to be stated therein, and shall be revokable by the electrical inspector issuing same at any time for cause. At regular intervals, the electrical inspector having jurisdiction shall visit all buildings and premises where work may be done under annual permits and shall inspect all electrical wiring installed under such permits since the date of

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<sup>21</sup> Statutes, op. cit., Sec. 51-2212.



inspecting to be made. Upon the completion of any  
installation of electrical wiring under a permit made under  
a permit, other than an annual permit, it shall be the duty  
of the person, firm, partnership, or corporation installing  
same to notify the electrical inspector having jurisdiction,  
who shall inspect the work within a reasonable time. Where  
the inspector finds the installation to be in conformity  
with orders, rules, and regulations of the board and with  
ordinances applying to the installation, he shall issue to  
the person, firm, partnership, or corporation that made the  
installation a certificate of approval, authorizing the use  
of same and connection to the supply of electricity, and  
shall send written notice of such authorization to the agency  
which supplies the electric current. When a certificate of  
approval is issued authorizing the connection and use of elec-  
tricity work, such certificate shall be issued to expire at a  
time to be stated therein, and shall be renewable by the  
electrical inspector issuing same at any time the same is  
regular intervals, the electrical inspector having jurisdic-  
tion shall visit all buildings and premises where work  
may be done under annual permits and shall inspect all elec-  
trical wiring installed under such permits within the date of



his last previous inspection. The electrical inspector shall issue a certificate of approval for such work as is found to be in conformity with the orders, rules and regulations of the board, after payment of any required fees.<sup>22</sup> If, upon inspection, any installation is found not to be fully in conformity with the provisions of this law, the orders, rules, and regulations of the board, the electrical inspector making the inspection shall at once forward to the person, firm, partnership, or corporation making the installation a written notice stating the defects that have been found to exist, with orders to correct these defects at once. Every deputy state electrical inspector shall, not later than the third day of each month, make a report to the board of all inspections made and certificates of approval issued by him<sup>23</sup> during the preceding month.

Connection to Installations. Except where work is done under an annual permit and as otherwise provided in this law, it shall be unlawful for any person, firm, or corporation to make connection from a supply of electricity or to supply electricity to any electrical wiring for the installation of which a permit is required, or which has been

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<sup>22</sup> Ibid.

<sup>23</sup> Ibid.



his last previous inspection. The electrician, however, is  
to issue a certificate of approval for each work he is found to  
be in conformity with the order, and such certificate  
the board, after payment of any required fees, is to  
inspect, and if satisfied is to sign the same. The  
conformity with the provisions of the act, and the  
rules, and regulations of the board, and electrical  
making the inspection shall be made before the inspection  
firm, partnership, or corporation making the inspection  
within notice stating the date of the inspection is to be  
exist, with orders to correct those defects in order  
given, state electrical inspection shall be made on the  
third day of each month, and a report to be made  
inspections made and certification of the same to be  
during the preceding month.

Connection to electric lines. No person shall  
do so under an annual permit as provided in the act  
law, it shall be unlawful for any person to  
tion to make connection with a power line or  
supply electricity to any electrical machine or  
tion of which a permit is required, or to

22  
Idid.  
23  
Idid.



disconnected or ordered to be disconnected by the electrical inspector having jurisdiction, without the authorization of<sup>24</sup> the electrical inspector having jurisdiction. If within seven (7) days after the inspector is notified of the completion of an installation of electrical wiring, he has neither authorized connection nor disapproved the installation, or if an installation of electrical wiring is not located in any territory where an electrical inspector has been authorized to make inspections, the supplying agency is authorized to make connections and supply electricity to such installation upon receipt of a written statement made by the person, firm, partnership or corporation installing the electrical wiring declaring that the installation is in conformity with the provisions of this law and the orders, rules and regulations of the board, and said supplying agency shall immediately report to the board the receipt of such statement. If it shall be found that any declaration made in such statement is contrary to the facts, the board shall require the person, firm, partnership, or corporation making the statement to rectify the defects within five (5) days<sup>25</sup> after receipt of written notice thereof from the board.

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<sup>24</sup> Statutes, op. cit., Sec. 51-2213.

<sup>25</sup> Ibid.



disconnected or ordered to be disconnected by the electrical  
inspector having jurisdiction, without the written consent of  
the electrical inspector having jurisdiction. If within  
seven (7) days after the inspector is notified of the con-  
nection of an installation of electrical wiring, he has  
neither authorized connection nor disconnected the installa-  
tion, or if an installation of electrical wiring is  
located in any territory where an electrical inspector has  
been authorized to make inspections, the written consent has  
been authorized to make connections and repairs of electrical wiring  
installation upon receipt of a written receipt of the  
person, firm, partnership or corporation installing the  
electrical wiring declaring that the installation is in con-  
formity with the provisions of this act and the rules, regulations  
and regulations of the board, and said signature, receipt shall  
immediately report to the board the receipt of such report.  
If it shall be found that any declaration made in  
such statement is contrary to the facts, the board shall re-  
quire the person, firm, partnership or corporation making  
the statement to rectify the declaration within ten (10) days  
after receipt of written notice thereof from the board.



Inspector's Certificate of Qualification. No person shall be employed by any municipality in this state as electrical inspector without having first secured from the board an electrical inspector's certificate of qualification. In order to obtain an electrical inspector's certificate of qualification, the applicant shall be a competent electrician of good moral character, shall be possessed of such executive ability as is requisite for the performance of his duties, shall have a thorough knowledge of the required standards of both materials and methods used in the installation of electrical wiring and equipment, shall have had at least eight (8) years' experience as an electrical inspector or in the installation of electrical wiring, or in lieu of such eight (8) years' experience, shall be a graduate of some recognized engineering school and shall have had at least six (6) years' experience as an electrical inspector or electrician, and shall pass a written examination given by the board.<sup>26</sup> Before an electrical inspector's certificate of qualification shall be issued to any applicant, he shall pay to the board a fee of five dollars (\$5.00). Each certificate of qualification shall continue in force one (1) year from date of issuance unless sooner revoked by the board for cause after hearing, and shall be renewed for a period of

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<sup>26</sup> Statutes, op. cit., Sec. 51-2214.



Inspector's Certificate of Qualification. No person shall be employed by any municipality in the State as an electrical inspector without having been awarded such certificate by an electrical inspector's certificate of qualification. In order to obtain an electrical inspector's certificate of qualification, the applicant shall be a competent electrician of good moral character, shall be possessed of such experience and ability as is requisite for the performance of his duties, shall have a thorough knowledge of the required standards of both materials and methods used in the installation of electrical wiring and equipment, shall have had at least eight (8) years' experience as an electrical inspector in the installation of electrical wiring, or in other of such eight (8) years' experience, shall be a graduate of some recognized engineering school and shall have had at least six (6) years' experience as an electrical inspector or electrician, and shall pass a written examination before the board. Before an electrical inspector's certificate of qualification shall be issued to any applicant, he shall pay to the board a fee of five dollars (\$5.00). Such certificate of qualification shall expire at the end of the year from date of issuance unless sooner renewed by the board for cause after hearing, and shall be renewed for a period of



one (1) year from date of expiration upon payment of a fee of one dollar (\$1.00). No certificate of qualification shall be assignable or transferable.

27

Revocation and Suspension of Licenses and Certificates.

Any electrical contractor's license, journeyman electrician's license, or any electrical inspector's certificate of qualification issued in accordance with the provisions of this law may, after hearing by the board, be suspended for a definite length of time, or revoked by the board, if the holder of such license or certificate shall wilfully or by reason of incompetence violates any statute of this state relating to the installation, alteration, maintenance, or repair of electrical wiring as defined in this law.

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Review of Decisions. Any person, firm, partnership, or corporation may register an appeal with the board for a review of any decision of the electrical engineer of the board, provided such appeal is made in writing within fifteen (15) days after the notice of such decision has been received by the complainant. Upon receipt of such appeal, the board shall proceed to determine if the action complained of was in

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27 Ibid.

28 Statutes, op. cit., Sec. 51-2215.



one (1) year from date of expiration...  
one dollar (\$1.00). No certificate...  
transferable or transferrable.

Revocation and Suspension of License and Certificate

Any electrical contractor's license, certificate or permit...  
license, or any electrical inspector's certificate or permit...  
licensing issued in accordance with the provisions of this...  
law may, after hearing by the board, be suspended for a...  
definite length of time, or revoked by the board, if the...  
holder of such license or certificate shall willfully...  
reason of incompetence violates any statute of this state...  
relating to the installation, alteration, maintenance, or...  
repair of electrical wiring as defined in this law.

Review of Decisions

Any person, firm, corporation, or partnership may...  
or corporation may register an appeal with the board...  
review of any decision of the electrical engineer or the...  
board, provided such appeal is made in writing within fifteen...  
(15) days after the notice of such decision has been received...  
by the complainant. Upon receipt of such appeal, the board...  
shall proceed to determine if the action complained of was in

27 Ibid.

28 Statutes, op. cit., Sec. 57-503a.



conformity to the provisions of this law and the orders, rules, and regulations issued by the board under this law, and within fifteen (15) days after its next regular or special meeting, shall render a decision in accordance with its findings.<sup>29</sup>

Appeals from the decisions of the board shall be made to the district court of the county of the residence of the party aggrieved within thirty (30) days after the decision of the board has been delivered to the complainant. Said suit shall be filed against the board as defendant, and service of process may be had upon the chairman of the electrical engineer of the board. The suit shall be tried de novo as other civil causes, the burden of proof devolving upon the plaintiff assailing the decision of the board.<sup>30</sup>

Penalties. Any person, firm, partnership, or corporation who violates any provision of this law, or who violates any order of the board issued in conformity with the provisions of this law, or who shall fail or refuse to comply with the provisions of this law, or any part thereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than twenty-five

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<sup>29</sup> Statutes, op. cit., Sec. 51-2216.

<sup>30</sup> Ibid.



conforming to the provisions of this law, and the rules, and regulations issued by the board, and within fifteen days after the date of the special meeting, shall render a report to the board on the findings. Appeals from the decisions of the board shall be made to the district court of the county in which the residence of the party aggrieved is situated, and after the decision of the board has been rendered, said suit shall be filed in the district court, and service of process may be made on the defendant, and the electrical engineer or the board, who shall be held to have as other civil cases. The board, in deciding upon the plaintiff's complaint, the decision of the board.

Penalties. Any person, firm, partnership, or corporation who violates any provision of this law, or who issues any order of the board issued in violation of this law, or who issues any order in violation of this law, or who shall fail to comply with the provisions of this law, or who shall fail to comply with the provisions of this law, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not less than twenty-five



dollars (\$25.00) nor more than two hundred dollars (\$200.00), or by imprisonment not to exceed sixty (60) days, or by both fine and imprisonment, in the discretion of the court.<sup>31</sup>

#### E. Embalmers

It is unlawful to practice embalming in the State of New Mexico without first undergoing examination and licensure by the State Board of Embalmers. There are definite rules and regulations by which embalmers and embalmers' apprentices must abide in order to protect the life and health of the public.

The State Board of Embalmers, Appointment and Removal of Members. This board consists of five (5) members to be appointed by the governor of the state, and all vacancies occurring on the board shall be filled by the governor. Each member shall serve for a term of five (5) years. One (1) member shall be appointed annually and shall serve for a term of five (5) years from the first day of April, following the appointment. The members of said board shall be residents of New Mexico and shall have had at least five (5) years' experience in the practice of embalming and in the care and disposition of dead human bodies. The governor shall have

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<sup>31</sup> Statutes, op. cit., Sec. 51-2219.



dollars (\$25.00) nor more than two hundred dollars (\$200.00) or by imprisonment not to exceed sixty (60) days, or both, fine and imprisonment, in the discretion of the court.

E. Embalming

It is unlawful for practice embalming in the State of New Mexico without first undergoing examination and licensing by the State Board of Embalmers. There are certain rules and regulations by which embalmers and embalmers' assistants must abide in order to protect the life and health of the public.

The State Board of Embalmers, Appointment and Powers of Members. This board consists of five (5) members to be appointed by the Governor of the state, and all embalmers occurring on the board shall be filled by the Governor. Each member shall serve for a term of three (3) years. One (1) member shall be appointed annually and shall serve for a term of five (5) years from the first day of April, following the appointment. The members of said board shall be responsible for New Mexico and shall have had at least five (5) years of experience in the practice of embalming and in the care and disposition of dead human bodies. The Governor shall have



the power to remove from office any member of said board for neglect of duty, incompetency, or improper conduct.<sup>1</sup>

Meetings of the Board. The Board of Embalmers shall meet at least once each year, and may meet as often as the proper and efficient discharge of its duties shall require. Three (3) members of said board shall constitute a quorum. The annual meeting of said board shall be held at the time and place of the annual meeting of the New Mexico Funeral Directors Association, but shall be called one (1) day before. Other meetings shall be held at such times and places<sup>2</sup> as are designated by the board.

Officers of the Board, Limitation on Expenditures.

The board shall have the power to select out of its own members a president, a vice-president, and a secretary and treasurer, who shall serve for a term of one (1) year or until their successors are elected and qualified. The secretary and treasurer shall furnish such bond as may be required of them by the board and their compensation shall be in such amounts as the board may see fit to allow them, subject to the provisions and limitations of this law. The board has a

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<sup>1</sup> Statutes, 1941, op. cit., Chap. 51, Art. 23, Sec. 51-2301.

<sup>2</sup> Statutes, op. cit., Sec. 51-2303.



the power to remove from office any member of said board who neglects or fails to perform his duty, and to fill the vacancy so created.

Meetings of the Board. The board of directors shall meet at least once each year, and may meet as often as may be deemed proper and efficient discharge of its duties shall require. Three (3) members of said board shall constitute a quorum. The annual meeting of said board shall be held at the time and place of the annual meeting of the corporation, and shall be called by the president of the corporation. Other meetings shall be held at such times and places as are designated by the board.

Officers of the Board. The board of directors shall have the power to select and elect two or more officers, a president, a vice-president, and a secretary, and shall also have the power to select and elect a treasurer, and shall also have the power to select and elect such other officers as may be deemed proper and efficient discharge of its duties shall require. The officers of the board shall hold office for one year, and their successors shall be elected and qualified at the same time. The officers of the board shall be subject to removal by the board at any time, and their successors shall be elected and qualified at the same time. The officers of the board shall be subject to removal by the board at any time, and their successors shall be elected and qualified at the same time.

<sup>1</sup> Statutes, 1921, c. 21, § 21, and c. 22, § 22.

<sup>2</sup> Statutes, c. 21, § 21, and c. 22, § 22.



common seal. At no time shall said board contract indebtedness in excess of the amount of funds in the hands of the treasurer; provided, that the offices of secretary and treasurer<sup>3</sup> may be combined at the discretion of the board.

Powers of the Board. For the purpose of carrying out the objects and purposes of this law, to provide for the better protection of life and health, to prevent the spread of infectious and contagious diseases, and to protect the public from untrained and unskilled embalmers, by regulating the practice of embalming and funeral directing as it has to do with the care, preparation, disposition, and transportation of the human dead, said board shall have the power, and it shall be its duty, to prescribe a standard of efficiency as to the qualifications of those engaged in or who may engage in the practice of embalming and funeral directing. Said board shall, from time to time, adopt rules, regulations, and by-laws, not inconsistent with the laws of the State of New Mexico and the United States, whereby the operation and the performance of the duties of said board and the practicing of embalming and funeral directing shall be regulated. The board may conduct investigations and hearings

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<sup>3</sup> Statutes, op. cit., Sec. 51-2304.







when, in its opinion, such investigations and hearings are required; and the president of the board is authorized to summon any person to appear and testify at any hearing or investigation conducted by the board, to administer oaths<sup>4</sup> and examine all witnesses appearing before the board.

Application for License, Fee, and Examination. Every person, before engaging in the practice of embalming dead human bodies within the State of New Mexico, shall make a written application to the Board of Embalmers for a license, accompanying the same with a license fee of twenty-five dollars (\$25.00); whereupon the applicant shall present himself or herself before said board, at the time and place fixed by the board, and if said board shall find, upon due examination, that the applicant is good moral character and possessed of skill and knowledge of said practice of embalming and the care and disposition of the dead, and has a reasonable knowledge of sanitation and of disinfection of bodies of deceased persons, and the apartment, clothing, and bedding in case of death from infection or contagious disease, the board shall issue to said applicant a license to practice embalming and the care and disposition of the dead, and shall<sup>5</sup> register applicant as a duly licensed embalmer. All persons

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<sup>4</sup> Statutes, op. cit., Sec. 51-2305.

<sup>5</sup> Statutes, op. cit., Sec. 51-2306.



when, in its opinion, such investigation and examination  
required; and the president of the board is authorized to  
summon any person to appear and testify at any hearing or  
investigation conducted by the board, to administer oaths  
and examine all witnesses appearing before the board.

Application for license, fee, and examination.

person, before engaging in the practice of embalming, shall  
have resided within the State of New Jersey, shall have  
written application to the board of embalming for a license,  
accompanying the same with a declaration of twenty-five  
dollars (\$25.00); whereupon the applicant shall transmit to the  
board, at the time and place specified in the application,  
the board, and it said board shall find, upon the examination,  
that the applicant is of good moral character, and possesses  
of skill and knowledge of said practice of embalming, and the  
care and disposition of the dead, and has a reasonable  
knowledge of sanitation and of disinfection of bodies,  
deceased persons, and the apartment, clothing, and other  
in case of death from infection or contagious disease, the  
board shall issue to said applicant a license to practice  
said practice, and the care and disposition of the dead, and shall  
register applicant as a duly licensed embalmer.

<sup>1</sup> Statutes, op. cit., Sec. 6A-202.

<sup>2</sup> Statutes, op. cit., Sec. 6A-203.



receiving a license under the provisions of this law shall register the fact at the office of the board of health of the city; and where there is no board of health, then he must register with the clerk of the town or county court in its jurisdiction in which it is proposed to carry on such practice. The registrant shall display said license in a conspicuous place in his office. Each applicant for a license must receive a mark of at least seventy-five (75%) per cent in a scale of one hundred (100) before a license is granted.<sup>6</sup> The board shall select all questions to be used<sup>7</sup> for the examination of applicants for a license.

Temporary Licenses to Embalmers from Other States.

Any embalmer, holding a license to practice embalming in any state or territory, upon the filing of said license with the secretary of the New Mexico Board of Embalmers, shall be granted a temporary license to practice embalming in the State of New Mexico, until the regular meeting of the board.<sup>8</sup>

Renewal and Annulment for Failure to Renew License.

Every registered embalmer, who desires to continue the

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<sup>6</sup> Ibid.

<sup>7</sup> Statutes, op. cit., Sec. 51-2307.

<sup>8</sup> Statutes, op. cit., Sec. 51-2308.



receiving a license under the provisions of this act shall  
 register the fact at the office of the board of health in  
 the city and where there is no board of health, then he  
 must register with the clerk of the court of county clerk  
 the jurisdiction in which it is proposed to carry on such  
 practice. The registrant shall display said license in a  
 conspicuous place in his office. Each applicant for a li-  
 cense must receive a mark of at least twenty-five cents  
 sent in a scale of one hundred (100) cents a license fee.  
 5  
 granted. The board shall select all persons to be  
 for the examination of applicants for a license.

Temporary License to Embalmer.  
 Any embalmer, holding a license to practice embalming in any  
 state or territory, upon the filing of said license with the  
 secretary of the New Mexico Board of Health, shall be  
 granted a temporary license to practice embalming in the  
 state of New Mexico, until the regular expiration of the term.

Renewal and annulment for failure to renew license.  
 Every registered embalmer, who desires to continue to

6 Ibid.

7 Statutes, pp. 211, 222, 223-224.

8 Statutes, pp. 211, 222, 223-224.



practice of his occupation, shall annually thereafter, during the time he shall continue such practice, on or before the first day of April and not later than the last day of April, pay to the secretary of the board a fee of five dollars (\$5.00) for the renewal of registration. Licenses not renewed before the first day of May, following their expiration on the first day of April, are invalid and annulled. However, a license so annulled may be renewed by the board upon the payment of a fee of twenty-five dollars (\$25.00) within two (2) years after such annulment. After any license has been annulled or voided for a period of two (2) years, the holder of said license, in order to procure a New Mexico embalmer's license, shall be required to make application to the board in regular form, and conform to all rules of the board then in force, and shall be required to pay the application fee of twenty-five dollars (\$25.00) and take the examination prescribed by the board at its next<sup>9</sup> regular meeting.

Expenditures and Disposition of Moneys of the Board.

All expenses, salary and per diems for members of this board shall be paid from fees received under the provisions of this law, and shall in no manner be an expense to the state. All

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<sup>9</sup> Statutes, op. cit., Sec. 51-2309.



practice of his occupation, shall annually thereafter, on or before the first day of April and not later than the last day of April, pay to the secretary of the board a fee of five dollars (\$5.00) for the renewal of registration. Licenses not renewed before the first day of May, following their expiration on the first day of April, are invalid and annulled. However, a license so annulled may be renewed by the board upon the payment of a fee of twenty-five dollars (\$25.00) within two (2) years after such annulment. After any license has been annulled or voided for a period of two (2) years, the holder of said license, in order to procure a new Mexico embalmer's license, shall be required to file application to the board in regular form, and submit to all rules of the board then in force, and shall be required to pay the application fee of twenty-five dollars (\$25.00) and take the examination prescribed by the board at its next regular meeting.

Expenses and Disposition of Monies of the Board.  
All expenses, salary and per diem for members of this board shall be paid from fees received under the provisions of this law, and shall in no manner be an expense to the state.



moneys received in excess of said per diems and allowances and other expenses provided for, shall be paid by the treasurer of said board as a special fund for meeting the expense of said board. Each member of the board shall be allowed five dollars (\$5.00) per day and railroad fare for each day actually spent in the work of the board, provided that this per diem shall not be allowed for more time than four (4) days at any one examination.<sup>10</sup>

Record of Licenses, and Records of Transported Bodies.

The secretary of the Board of Embalmers shall keep a record in which shall be registered the names and residences of all persons to whom certificates hereunder have been granted, and the dates of all licenses. A copy of this record shall be furnished to all those holding a license and to the various transportation companies of the State of New Mexico. The secretary shall keep a record of all bodies transported within or removed from the state by baggage, express, or other common carrier; and of all bodies removed from the state by and all methods of transportation, for which a transportation permit is required and used.<sup>11</sup> After the returned portions of transportation permits have been kept filed for five (5)

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<sup>10</sup> Statutes, op. cit., Sec. 51-2310.

<sup>11</sup> Statutes, op. cit., Sec. 51-2311.



money received in excess of said and shall be paid to the  
 and other expenses provided for, shall be paid to the  
 treasurer of said board as a special fund for the  
 expense of said board. Each member of the board shall be  
 allowed five dollars (\$5.00) per day and traveling time for  
 each day actually spent in the work of the board, provided  
 that this per diem shall not be allowed for more than two  
 four (4) days in any one calendar month.

Record of licenses, and Records of Transportation  
 The secretary of the Board of Public Safety shall keep a record  
 in which shall be registered the names and addresses of all  
 persons to whom certificates have been issued.  
 and the dates of all licenses. A copy of this record shall  
 be furnished to all those holding a license and to the  
 transportation companies of the State of New York. The  
 secretary shall keep a record of all motor vehicles  
 in or removed from the state by license, transfer, or other  
 common carrier; and of all bodies removed from the state  
 and all methods of transportation, for which transportation  
 permits is required and used. After the removal of  
 of transportation permits have been filed in the

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- 10 Statutes, pp. 21-22.
- 11 Statutes, pp. 21-22.



years, same may be destroyed by burning.

Violations. It shall be unlawful for any person, not an embalmer holding a valid New Mexico license as provided by this law, to advertise, practice, or pretend to practice embalming, either by arterial cavity, or any other treatment, or to prepare for transportation by railroad, express, airplane, automobile or by any licensed common carrier any dead human body. It shall be unlawful for any railroad, express, or airplane company or any licensed common carrier to receive for transportation any dead human body unless said body has been prepared by an embalmer holding a valid New Mexico license; or for any individual, firm, or corporation operating either a public or private conveyance upon the public highways in the State of New Mexico to accept for removal, or remove from, the State of New Mexico, any dead human body unless said body has been prepared and encased by an embalmer holding a valid New Mexico license as required by law. The provisions of this rule shall not apply to any person, firm, or corporation engaged only in the selling of coffins or caskets, nor to any person caring for or burying the dead without compensation or remuneration, or not embalming or preparing bodies for removal from the state, or







not holding themselves out as funeral directors and embalm-  
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 ers.

Penalty for Violation. Any person who shall advertise, practice, or hold himself or herself out as practicing embalming without having complied with the provisions of this law, or who does not have an embalmer's license as required by law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or shall be imprisoned for not less than thirty (30) days nor more than ninety (90) days for each and every offense. Any any person, railroad, express company, or common carrier or their agents, who shall violate the provisions of this law shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment for not less than ninety (90) days nor more than one (1) year, or both, such fine and  
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 imprisonment in the discretion of the court.

Embalming Dead Body in Suspicious Cases. It shall be unlawful to embalm a dead human body when any fact within the

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<sup>13</sup> Statutes, op. cit., Sec. 51-2312.

<sup>14</sup> Statutes, op. cit., Sec. 51-2313.



not holding themselves out as Federal officers and agents.  
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etc.

Penalty for Violation. Any person who shall violate this law, or hold himself or herself out as violating this law, or who does not have an emblematic license as required by law, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or shall be imprisoned for not less than thirty (30) days nor more than ninety (90) days for each and every offense. Any person, railroad, express company, or other carrier or their agents, who shall violate the provisions of this law shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined in the sum of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or imprisonment for not less than thirty (30) days nor more than one (1) year, or both, each time such imprisonment in the discretion of the court.

Emblematic Band Body in Question Cases. It shall be unlawful to emblem a dead human body when and where within the



knowledge or brought to the attention of the embalmer is sufficient to arouse the suspicion of crime in connection with the cause of death of the deceased, until permission of the justice of the peace has first been obtained. Any person violating the provisions of this rule shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before any court, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00).<sup>15</sup>

All licensed embalmers shall use shipping pasters, to be furnished by the Board of Embalmers, said pasters to be approved by the board.<sup>16</sup>

Distribution of Rules and Regulations. All companies or individuals operating or controlling railroads, express companies, airplane companies, public and private conveyances of any kind, and all licensed embalmers and funeral directors and their apprentices in the state shall obey the rules and regulations of the board when made and published in the official book of the State Board of Embalmers, copies of which must be furnished each licensed embalmer, registered apprentice, and funeral director in this state and the proper head

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<sup>15</sup> Statutes, op. cit., Sec. 51-2314.

<sup>16</sup> Statutes, op. cit., Sec. 51-2315.



knowledge or brought to the attention of the board, or  
evidence to prove the same, shall be deemed to be  
with the cause of death of the deceased, and the  
the justice of the peace was first seen, and any  
and violating the provisions of this act shall be  
guilty of a misdemeanor, and, upon conviction thereof,  
for any court, shall be fined not less than twenty  
dollars (\$25.00) nor more than one hundred dollars (\$100.00).  
All licensed embalmers shall be subject to the rules  
furnished by the Board of Embalmers, and failure to do so  
is  
proved by the board.

Penalties for Failure to Comply with Regulations  
or individuals operating or controlling in any manner, company,  
company, or person, or any other person, or any other person,  
of any kind, and all licensed and unlicensed persons,  
and their representatives in the state shall be subject to the  
regulations of the board and shall be subject to the  
final book of the State Board of Embalmers, and shall be  
must be furnished each licensed embalmers, and shall be  
also, and funeral director in this state, and shall be



of each transportation company operating in this state or others requesting same. Any licensed embalmer, funeral director, or their apprentices, or any railway, express, or airplane company, or any common carrier or their agents, or any person or owner having charge of a public or private conveyance of any kind, who shall neglect or refuse to obey such rules and regulations when made and published in the official book of the State Board of Embalmers and distributed as provided, shall be guilty of a misdemeanor and for each offense shall be fined in the sum of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or shall be imprisoned for not less than thirty (30) days nor more than ninety (90) days.<sup>17</sup> Nothing in this law shall apply to, or in any manner interfere with, the duties of an officer of the law.<sup>18</sup>

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<sup>17</sup> Statutes, op. cit., Sec. 51-2316.

<sup>18</sup> Statutes, op. cit., Sec. 51-2318.



of each transportation company operating in the State, and  
others requesting same. Any license obtained by the  
Director, or their representative, or any other person, or  
airplane company, or any other person, or any other person,  
any person or owner having charge of a vehicle or vehicle  
conveyance of any kind, who shall violate or refuse to obey  
such rules and regulations and shall be liable to the  
officials of the State Board of Motor Vehicle Inspectors and  
as provided, shall be guilty of a misdemeanor and shall be  
offense shall be fined in the sum of not less than  
dollars (\$50.00) nor more than one hundred dollars (\$100.00)  
or shall be imprisoned for not less than thirty days nor  
more than ninety (90) days.  
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## CHAPTER VI

### SUMMARY AND CONCLUSION

Every state has a long list of boards created for the purpose of examining and licensing persons who desire to practice certain professions. These boards are also charged with the responsibility of investigating complaints that unlicensed persons are practicing, and instituting to prevent such practice. The professions and occupations most commonly dealt with in this manner are law, medicine, dentistry, pharmacy, and accountancy.<sup>1</sup> All forty-eight states of the Union regulate the following occupations: accountants, attorneys, dentists, embalmers, pharmacists, physicians, nurses, optometrists and veterinarians.<sup>2</sup> In forty-five states the following groups are regulated: barbers, chiropodists and engineers; cosmetologists are regulated in forty-four states, chiropractors in forty-three, architects in forty-two, surveyors in thirty-two, and contractors in twelve states.<sup>3</sup>

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<sup>1</sup> Harvey Walker, Public Administration in the United States, (New York: Farrar & Rinehart, Inc., 1937), p. 622.

<sup>2</sup> A. H. Martin, Jr., director, State Occupational Legislation, The Marketing Laws Survey, (Washington: U. S. Department of Commerce, 1942), Vol. 6, p. 13.

<sup>3</sup> Loc. cit.



# CHAPTER VII SUMMARY AND CONCLUSION

Every state has a long list of persons who are in the purpose of examining and licensing persons who desire to practice certain professions. These boards are charged with the responsibility of investigating complaints and issuing licenses and certificates, and maintaining the records of such practice. The professions and occupations most commonly dealt with in this manner are law, medicine, dentistry, pharmacy, and accountancy. All forty states of the Union regulate the following occupations: accountants, attorneys, dentists, engineers, pharmacists, physicians, and veterinarians. In forty-five states the following groups are regulated: barbers, chiropractors, and engineers; cosmetologists are regulated in forty-two states, chiropractors in forty-two, and health officers in forty-two. Surveyors in thirty-two, and draftsmen in twenty states.

<sup>1</sup> Harvey Walker, Public Administration in the United States (New York: Farrar & Rinehart, Inc., 1937), p. 242.

<sup>2</sup> A. H. Martin, Jr., Director, State Department of Legislation, The Marketing Laws Survey, (Washington: Department of Commerce, 1932), Vol. II, p. 103.



The ostensible purpose of all these examinations, licenses, and regulations is to protect the public against the danger of unqualified persons practicing in these fields. While this result is undoubtedly attained in many instances and is certainly necessary, it is interesting to note that the professions and occupational groups themselves have asked for these regulations. It seems likely that the prevention or limitation of competition plays an important part in securing their enthusiastic support of these measures. This motive becomes clearer when the examining board sets unreasonably high standards and admits to a profession each year only a limited number of new practitioners.

The carrying of the licensing practice to its logical conclusion leads to absurd results. There are many lines of human activity in which expert service is as important as in most of those listed in the preceding page. We arrive at the somewhat annoying issue: Is the process of creating new boards to be continued until there are examining and licensing agencies for newspaper reporters, printers, bricklayers, carpenters, metal-workers, garage mechanics, and the thousand and one other specialists of our complex civilization? There is scarcely a session of the state legislature in which some new group does not come forward with a request<sup>4</sup> for licensing and regulation.

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<sup>4</sup> Walker, op. cit., p. 623.



The ostensible purpose of all these examinations, licenses, and regulations is to protect the public against the danger of unqualified persons practicing in these fields. While this result is undoubtedly attained in many instances and is certainly necessary, it is interesting to note that the professions and occupational groups themselves have asked for these regulations. It seems likely that the prevention or limitation of competition plays an important part in securing their enthusiastic support of these measures. This motive becomes clearer when the examining boards set unreasonably high standards and admit to a profession each year only a limited number of new practitioners. The carrying of the licensing process to its logical conclusion leads to absurd results. There are many cases of human activity in which expert service is as important as in most of those listed in the preceding page. The motive of the somewhat annoying feature is the process of appointing boards to be continued until there are stipulating that certain agencies for newspaper reporters, printers, lawyers, carpenters, metal-workers, grocers, mechanics, and thousands and one other specialists of our complex civilization. There is scarcely a session of the Senate in which some new group does not come forward with a request for licensing and regulation.



The right of the state to fix the qualifications for persons engaged in some of these vocations has been established beyond doubt. The practice of the various professions is subject to complete public control, and any regulations that the state may impose, short of mere arbitrary enactments, are usually upheld by the courts.<sup>5</sup> Drugless practitioners must submit to state regulation and to the state license system.<sup>6</sup> Dentists are required to secure state licenses;<sup>7</sup> optometry is subject to regulation.<sup>8</sup> In 1889, when a West Virginia law limited the practice of medicine to graduates of reputable medical colleges, the graduate of a college not on the approved list contended that he was deprived of his liberty--that is, his liberty to engage in a lawful profession--without due process of law, contrary to the Fourteenth Amendment. But the Supreme Court of the United States refused to accept this view when Mr. Justice Field, speaking for the Court, said:

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<sup>5</sup> Austin F. MacDonald, American State Government and Administration, (New York: Thomas Y. Crowell Company, 1934), p. 659.

<sup>6</sup> Crane v. Johnson, 242 U. S. 339, (1917).

<sup>7</sup> Douglas v. Noble, 261 U. S. 165, (1923).

<sup>8</sup> McNaughton v. Johnson, 242 U. S. 344, (1917).



of such persons, and the names of such persons, shall be  
others residing in the same, and the names of such persons,  
director, or any other person, shall be the same, and the names of such persons,  
attorney company, or any other person, shall be the same, and the names of such persons,  
and persons in other persons, and the names of such persons,  
conveyance of any kind, and the names of such persons,  
and other persons, and the names of such persons,  
of the same, and the names of such persons,  
as provided, shall be the same, and the names of such persons,  
offense shall be the same, and the names of such persons,  
dollars (\$50.00) and the names of such persons,  
or shall be the same, and the names of such persons,  
more than ninety (90) days, and the names of such persons,  
five (5) years, or in any other way, and the names of such persons,  
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## CHAPTER VI

### SUMMARY AND CONCLUSION

Every state has a long list of boards created for the purpose of examining and licensing persons who desire to practice certain professions. These boards are also charged with the responsibility of investigating complaints that unlicensed persons are practicing, and instituting to prevent such practice. The professions and occupations most commonly dealt with in this manner are law, medicine, dentistry, pharmacy, and accountancy.<sup>1</sup> All forty-eight states of the Union regulate the following occupations: accountants, attorneys, dentists, embalmers, pharmacists, physicians, nurses, optometrists and veterinarians.<sup>2</sup> In forty-five states the following groups are regulated: barbers, chiropodists and engineers; cosmetologists are regulated in forty-four states, chiropractors in forty-three, architects in forty-two,<sup>3</sup> surveyors in thirty-two, and contractors in twelve states.

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<sup>1</sup> Harvey Walker, Public Administration in the United States, (New York: Farrar & Rinehart, Inc., 1937), p. 622.

<sup>2</sup> A. H. Martin, Jr., director, State Occupational Legislation, The Marketing Laws Survey, (Washington: U. S. Department of Commerce, 1942), Vol. 6, p. 13.

<sup>3</sup> Loc. cit.



## SUMMARY AND CONCLUSIONS

Every state has a long list of persons who are in the purpose of examining and licensing persons who desire to practice certain professions. These boards are also in touch with the responsibility of investigating complaints and issuing licenses and penalties, and maintaining the records of such practice. The professions and occupations most commonly dealt with in this manner are law, medicine, dentistry, pharmacy, and accountancy. All forty states of the Union regulate the following occupations: accountants, architects, dentists, engineers, geologists, chemists, and electricians. In forty-five states the following groups are regulated: barbers, beauticians, and engineers; cosmetologists are regulated in forty-two states, chiropractors in forty-three, electricians in forty-two, and surveyors in thirty-two, and contractors in twenty states.

<sup>1</sup> Harvey Walker, Public Administration in the United States (New York: Farrar & Rinehart, Inc., 1937), p. 241.

<sup>2</sup> A. H. Gardin, Jr., Director, State Department of Legislation, The Marketing Laws Survey, Legislative Department of Commerce, 1932, Vol. 8, p. 132.



The ostensible purpose of all these examinations, licenses, and regulations is to protect the public against the danger of unqualified persons practicing in these fields. While this result is undoubtedly attained in many instances and is certainly necessary, it is interesting to note that the professions and occupational groups themselves have asked for these regulations. It seems likely that the prevention or limitation of competition plays an important part in securing their enthusiastic support of these measures. This motive becomes clearer when the examining board sets unreasonably high standards and admits to a profession each year only a limited number of new practitioners.

The carrying of the licensing practice to its logical conclusion leads to absurd results. There are many lines of human activity in which expert service is as important as in most of those listed in the preceding page. We arrive at the somewhat annoying issue: Is the process of creating new boards to be continued until there are examining and licensing agencies for newspaper reporters, printers, bricklayers, carpenters, metal-workers, garage mechanics, and the thousand and one other specialists of our complex civilization? There is scarcely a session of the state legislature in which some new group does not come forward with a request  
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for licensing and regulation.

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<sup>4</sup> Walker, op. cit., p. 623.



The ostensible purpose of all these examinations, licenses, and regulations is to protect the public against the danger of unqualified persons practicing in these fields. While this result is undoubtedly attained in many instances and is certainly necessary, it is interesting to note that the professions and occupational groups themselves have asked for these regulations. It seems likely that the provision or limitation of competition plays an important part in securing their enthusiastic support of these measures. This motive becomes clearer when the examining boards set unreasonably high standards and admit to a profession each year only a limited number of new practitioners. The carrying of the licensing process to its logical conclusion leads to absurd results. There are many instances of human activity in which expert service is as important as in most of those listed in the preceding page. To require in the somewhat annoying cases: Is the process of organizing boards to be continued until there are organizing committees coming agencies for newspaper reporters, printers, lawyers, carpenters, metal-workers, grocers, etc., and thousands and one other specialists of our complex civilization? There is scarcely a session of legislative legislation in which some new group does not come forward with a demand for licensing and regulation.



The right of the state to fix the qualifications for persons engaged in some of these vocations has been established beyond doubt. The practice of the various professions is subject to complete public control, and any regulations that the state may impose, short of mere arbitrary enactments, are usually upheld by the courts.<sup>5</sup> Drugless practitioners must submit to state regulation and to the state license system.<sup>6</sup> Dentists are required to secure state licenses;<sup>7</sup> optometry is subject to regulation.<sup>8</sup> In 1889, when a West Virginia law limited the practice of medicine to graduates of reputable medical colleges, the graduate of a college not on the approved list contended that he was deprived of his liberty--that is, his liberty to engage in a lawful profession--without due process of law, contrary to the Fourteenth Amendment. But the Supreme Court of the United States refused to accept this view when Mr. Justice Field, speaking for the Court, said:

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<sup>5</sup> Austin F. MacDonald, American State Government and Administration, (New York: Thomas Y. Crowell Company, 1934), p. 659.

<sup>6</sup> Crane v. Johnson, 242 U. S. 339, (1917).

<sup>7</sup> Douglas v. Noble, 261 U. S. 165, (1923).

<sup>8</sup> McNaughton v. Johnson, 242 U. S. 344, (1917).



The right of the state to limit the qualifications for persons engaged in some of these vocations has been established beyond doubt. The practice of the various professions is subject to complete public control, and any regulations that the state may impose, short of some arbitrary enactment, are usually upheld by the courts. Physicians must submit to state registration and to the state license system. Dentists are required to secure state licenses; optometry is subject to registration. In 1898, when a West Virginia law limited the practice of medicine to graduates of reputable medical colleges, the graduates of a college not on the approved list contended that they were deprived of his liberty—that is, his liberty to engage in lawful profession—without due process of law, contrary to the Fourteenth Amendment. But the Supreme Court of the United States refused to accept this view and Justice Field, speaking for the Court, said:

Justice F. McDonald, *Justice v. McDonald*, 100 U.S. 692, 11 U.S. 692, 39 L. Ed. 112, 113.

*Grane v. Johnson*, 248 U.S. 248, 18 S. Ct. 117, 60 L. Ed. 117.

*Boyles v. Boyles*, 241 U.S. 122, 16 S. Ct. 122, 60 L. Ed. 122.

*McKinnon v. Johnson*, 241 U.S. 122, 16 S. Ct. 122, 60 L. Ed. 122.



It is undoubtedly the right of every citizen of the United States to follow any lawful calling, business, or profession he may choose, subject only to such restrictions as are imposed upon all persons of like age, sex, and condition. This right may in many respects be considered as a distinguishing feature of our republican institutions. . . . But there is no arbitrary deprivation of such right where its exercise is not permitted because of a failure to comply with conditions imposed by the state for the protection of society. . . . The nature and extent of the qualifications required must depend primarily upon the judgment of the state as to their necessity. If they are appropriate to the calling or profession, and attainable by reasonable study or application, no objection to their validity can be raised because of their stringency or difficulty. It is only when they have no relation to such calling or profession, or are unattainable by such reasonable study and application, that they can operate to deprive one of his right to pursue a lawful vocation.<sup>9</sup>

Regulations concerning other professions and trades, also, are upheld by the courts under most circumstances and in most jurisdictions. Occasionally, however, a law providing for the examination and licensing of persons engaged in some vocation is set aside as bearing no reasonable relationship to the public welfare. The Supreme Court of the State of Washington, in 1906, declared: "It will not do to say that any occupation which may remotely affect the public health is subject to this kind of legislation and control. Our health, our comfort, and our well-being are materially affected by all our surroundings--by the house we live in,

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<sup>9</sup> Dent v. West Virginia, 129 U. S. 114, (1889).



It is undoubtedly the right of every citizen of the United States to follow any lawful calling, occupation or profession he may choose, subject only to such restrictions as are imposed upon all persons of like sex, and condition. This right may be more properly considered as a right of the citizen as an individual, than as a right of the citizen as a member of a community. But there is no doubt that the deprivation of such right when it amounts to a denial of the exercise of a privilege or immunity is a violation of the rights imposed by the state. The nature and extent of the restrictions upon the exercise of this right must depend upon the nature of the state as to which the restriction is imposed, and upon the nature of the calling or occupation, and the relation of the restriction to the public interest. It is only when a restriction is such as to deprive a citizen of his right to follow any lawful calling, occupation or profession, that it is a violation of his rights.

Regulations concerning other professions and trades,

also, are upheld by the courts under most circumstances and

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violating for the examination and licensing of persons engaged

in some vocation is not upheld as being a reasonable exercise

of the power to regulate the public welfare. The Supreme Court in the

case of *Washington, In 1905, decided* "It will not be

any that any occupation which may be lawfully carried on without

license is subject to this kind of legislation and control.

Our health, our comfort, and our well-being are necessarily

affected by all our surroundings—the house we live in,



the clothes we wear, and the food we eat. Yet are we on this account to add the carpenter, the tailor, the shoemaker, those who produce and prepare our food, and all the rest to the ever growing list? If so, it will be but a short time before a man can not engage in honest toil to earn his daily bread without first purchasing a license or permit from some board or commission.<sup>10</sup>"

Despite occasional adverse court decisions, the list of professions and trades subject to examination and license requirements is constantly growing, and state standards of technical proficiency are constantly being raised.<sup>11</sup> Each board fixes its own standards and determines whether candidates are properly qualified. As a result, standards sometimes vary widely within the same state. This situation has been corrected to some extent, in a few states, including New Mexico, by the establishment of basic science boards, which ascertain whether every candidate has a reasonable knowledge of such fundamentals as anatomy, pathology and physiology before presenting himself to his professional examining board. Each board is composed of practitioners in the same profession or occupation. Such is the policy that is being followed in

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<sup>10</sup> State ex. rel. Richey v. Smith, 42 Wash. 237, (1906).

<sup>11</sup> MacDonald, op. cit., p. 660.



the clothes we wear, and the food we eat. The doctor, the lawyer,  
account to add the carpenter, the tailor, the shoemaker,  
those who produce and prepare our food, and all the others in  
the ever growing list. If we, in fact, are to live as we should  
before a man can ever engage in honest toil to earn his  
daily bread, without first providing a list of the things he  
needs, and a plan for getting them, it is a waste of time and  
effort. It is a waste of time and effort to go to the store  
for a professional and trades subject to examination and license  
requirements is constantly growing, and still the same  
technical proficiency are constantly being required.  
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State ex. rel. Bishop v. Smith, 12 Wash. 2d 110, 111

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MacDonald, supra, at 650.



the appointment of members to the examining boards. If this was not the case, applicants for licenses to practice the newer professions would be certain to feel that they were not receiving fair treatment. A good case in point is that of the "drugless doctors." Not only do the members of those professions toward which the doctors of medicine have been unfriendly demand an examining and licensing process free from the controls of doctors of medicine, but other professions and businesses have also demanded a similar freedom and independence. Thus, prospective dentists want to be examined and licensed by a board composed of practicing dentists. Chiropractors expect to be examined by practicing chiropractors, and so on through the list.

If the above idea were followed to its logical conclusion, it would of course mean that members of a given profession would have absolute control over future admissions to their own practice. Conceivably this might lead to unwholesome monopolistic tendencies culminating in the entrenchment of virtually closed corporations. On the other hand, the practice might lead to an undesirable lowering of standards. There is little evidence to show, however, that either of these conditions have resulted in states where members of each profession have full control



The appointment of members to the examining boards, all this was not the case, applicants for licenses to practice the newer professions would be expected to pass their own tests not receiving fair treatment. A good deal of time is lost of the "drugless doctors," not only do the members of these professions toward which the doctors of medicine have been unfriendly demand an examination and licensing process free from the control of doctors of medicine, but they are free from the control of doctors of medicine. These professions and businesses have often demanded a similar freedom and independence. They, however, demand to be examined and licensed by a board composed of practicing dentists. This profession expects to be examined by practicing chiropractors, and a few through the State. If the above ideas were followed to the logical conclusion, it would of course mean that members of the given profession would have absolute control over their own affairs and to their own practice. Consequently this might lead to unwholesome monopolistic tendencies on the part of the establishment of virtually closed organizations. On the other hand, the practice might lead to a lowering of standards. There is little evidence to show, however, that either of these conditions have resulted in states where members of each profession have full control.



over the examination and licensing of applicants.<sup>12</sup> Such is the case in New Mexico. Members of the professions have not sought to close their ranks arbitrarily against newcomers, and, on the other hand, there has been sufficient professional pride among practitioners to prevent an unwholesome lowering of standards. There is, of course, the danger that the license system may be carried too far. It may deprive a person of his freedom to engage in a calling and thus deprive him of his constitutional rights.

License laws may be promoted in some instances by a selfish desire to close the ranks of a trade and to restrict its membership as well as its product.<sup>13</sup> They may be approved in trades where there is very little appearance of a public-service motive. The decision of the Supreme Court of the State of Washington, already cited, illustrates how the courts may at all times call a halt to the increase of such legislation.

Administrative control through licensing involves an advance judgment regarding the presence of legal requirements or the absence of legal objections. The broad end

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<sup>12</sup> Kirk H. Porter, State Administration, (New York: F. S. Crofts and Company, 1938), p. 301.

<sup>13</sup> Earl W. Crecraft, Government and Business, (New York: World Book Company, 1928), p. 422.



over the examination and licensing of physicians. *Id.*

the case in New Mexico. Members of the profession have not

sought to close their ranks exclusively against non-physicians.

and, on the other hand, there has been sufficient protection

against fraud among practitioners to prevent an undue

lowering of standards. There is, of course, the danger that

the license system may be carried too far. It may deprive a

person of his freedom to engage in a calling and thereby

deprive him of his constitutional rights. *Id.*

License laws may be proposed to meet these ends by a

selfish desire to close the ranks of a trade and to restrict

the membership as well as the product. *Id.*

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Administrative control through licensing involves an

advance judgment regarding the presence of legal objections

to the absence of legal objections. The Board of

12 Kirk H. Porter, State Administration (New York: P. S. Crofts and Company, 1938), p. 301.

13 Earl W. Crockett, Government and Business (New York: World Book Company, 1935), p. 423.



in view is to secure law observance by eliminating at the outset the most obvious or serious sources of future trouble, thus avoiding slower remedial processes either administrative or judicial in nature.<sup>14</sup> The value of the licensing power from the point of view of effective law enforcement turns in part on the fact that it throws the burden of proof on the individual applicant, not on the official. To examine, the official must take the initiative; to secure a license, the individual must take the first step by demonstrating affirmatively his right to favorable action. The precise degree of official power inherent in the granting of a license varies considerably from case to case, depending upon a number of elements in the licensing process.

The requirements pre-requisite to the issue of a license may be extremely formidable, as in the case of the professional examinations preceding the issuance of a license to practice the so-called "learned" professions, such as medicine, law, or engineering. In other cases, such as barbers or contractors, demonstrated skill in performance of the work plus personal integrity of the applicant are the chief requirements. The weight of administrative power

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<sup>14</sup> Leonard D. White, Introduction to the Study of Public Administration, (New York: The MacMillan Company, 1939), p. 501.



in view is to secure the maximum of efficiency in the  
contact the most efficient and the most efficient  
there avoiding any possible delay in the  
live or judicial in nature. It is the  
power from the point of view of efficiency in the  
times in part on the fact that the most efficient  
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varies principally with the amount of discretion which attends the grant or refusal.<sup>15</sup> The law may specify in considerable detail the conditions under which a license shall be granted, leaving little to the discretion of the official. On the other hand, and more commonly, such terms as "reasonable," "adequate," "reputable," "suitable," or "safe" are used, which imply official judgments on values or future probabilities. Wide discretion is vested in such cases. Where, as a matter of professional experience, value and probability judgments are fairly standardized, discretion may be reduced to the point at which there appears to be hardly more than a question of fact; then again, the range of permissible considerations and their inherent uncertainty may be such as to widen discretion to the point of substantial freedom, as where the legislative reference is to the general welfare or the public good or detriment.<sup>16</sup>

The importance of the licensing power is also extended if the license may be burdened with conditions. Although the weight of judicial opinion indicates that conditions may not be attached without express legislative

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<sup>15</sup> White, ibid.

<sup>16</sup> Ernst Freund, "Licensing," Encyclopedia of the Social Sciences, IX, p. 448.



...with the amount of discretion which the  
...the grant or refusal. The law may require that the  
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On the other hand, and more commonly, some points are left  
... "adequate," "reasonable," "satisfactory," or "sound" and  
...which fairly official judgment is called for. These  
...discretion. With discretion is vested the power to  
...where, as a matter of professional opinion, where and  
...probably judgments are fairly standardized. The  
...may be reduced to the point at which there remains but  
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White, 1914.

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Social Sciences, 12, 2, 445.  
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James French, "Licensing," *Administrative Science*



authority, the tendency is in the direction of granting such power. Since one of the requirements of administrative work is that it must be consistent and not capricious, a licensing agency is at once faced with the necessity of finding and stating the standards on which its discretionary action will be based. The degree of freedom allowed officials at this point will vary with the text of the legislation. Specific, objective criteria may be found in the law; the standard is then a legislative, not an administrative one.<sup>17</sup> Common standards are (1) skills and knowledge established by formal written examinations, as in the professional licenses; and (2) public safety, as in licenses to operate a barber shop or a beauty culture shop. In this latter respect, the main purpose is to impose sanitary regulations.

The power of the state to enforce sanitary regulations is determined in part by statute law and by the common law as interpreted in the American courts. This depends upon the common law of nuisances. What constitutes a nuisance may in the original instance be determined by the legislature subject to judicial review. The general tendency of the courts, however, is to allow the legislature considerable latitude in the determination of what are

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<sup>17</sup>White, op. cit., p. 509.



authority, the tendency is in the direction of increasing power. Since one of the requirements of administrative action is that it must be consistent and not arbitrary, a legislative agency is at once faced with the necessity of fixing and stating the standards on which the discretion of the agency will be based. The degree of freedom allowed officials at this point will vary with the sort of the institution. In objective criteria may be found in the law, and the need is then a legislative, not an administrative, one. Standards are (1) skills and knowledge established by formal written examinations, as in the professional licensing; and (2) public safety, as in licenses to operate a business shop or a heavy-duty shop. In the latter respect, the main purpose is to impose sanitary regulations. The power of the state to enforce sanitary regulations is determined in part by statute, but also by common law as interpreted in the American courts. This common law is the common law of England. What constitutes a nuisance may in the original instance be determined by the legislature subject to judicial review. The general competency of the courts, however, is to allow the legislature considerable latitude in the determination of what are



nuisances, particularly those which affect the public health.<sup>18</sup> In some instances, this category of licensing is also apparently sought as a means of establishing a trade or occupational monopoly and uniform prices to be charged for services. In such cases, the licensing board will be found ipso facto in the hands of the organized trade or labor group. Examples are the barbers and cosmetologists. Registration is annual, and licenses are granted on condition that the place of business is, with respect to its location and appointments, suitable and sanitary, and will be conducted in compliance with the law and with the rules and regulations of the licensing board. There is inadequate evidence to suggest how widely licensing becomes a means of controlling access to a trade or occupation.<sup>19</sup> However, the main consideration in favor of the licensing of the trades appears to be the possible tendency of a business to degenerate into a nuisance or its traditional connection with fraud or immorality.

In some ways the refusal to grant a license or the suspension or revocation of a license is equivalent to the

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<sup>18</sup> Everett Kimball, State and Municipal Government in the United States, (Boston: Ginn and Company, 1922), p. 485.

<sup>19</sup> White, op. cit., p. 506.



and business, particularly those which require a license to operate. In some instances, this is a matter of public health. In other cases, the license is required for the protection of the public interest or for the regulation of the industry. In such cases, the license is a necessary part of the business. In other cases, the license is a mere formality, and the business can be carried on without it. In such cases, the license is a mere formality, and the business can be carried on without it. In such cases, the license is a mere formality, and the business can be carried on without it.

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the United States, (Boston, 1910). Everett K. Rouse, Jr., and Joseph P. Rouse, Jr., eds. (Boston, 1910).



withdrawal of a benefit. In every instance where administrative action hinges on a license or permit, the normal sanction is refusal to grant or to renew, or suspension or revocation of the license. In most cases, some form of judicial review of these penalties is provided, in view of their severity. In the case of the licensed professions, the revocation of a license bars one from his means of livelihood and is surrounded by guarantees more rigid than in the revocation of a permit to hang an awning over a sidewalk.<sup>20</sup>

Sometimes the license is used as an aid in enforcing laws.<sup>21</sup> If the licensing agent has power to revoke the license, or to refuse to renew the license because of disobedience of the law, he has a powerful weapon for controlling the trade or occupation. The discretion granted to the licensing authority either in issuing licenses or in revoking them varies tremendously. Some statutes set forth quite specifically the grounds upon which such licenses shall be granted or revoked, and some give considerable latitude for the exercise of discretion. Even though an administrative agent is allowed much discretion, tests or standards to guide him must be established by the legislative

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<sup>20</sup> White, op. cit., p. 510.

<sup>21</sup> Ford P. Hall, Government and Business, (New York: McGraw-Hill Book Company, Inc., 1934), p. 36.







body in order to avoid the taint of unconstitutionality.<sup>22</sup>

There are reciprocity arrangements between the state examining and licensing boards. In the main, however, the practice laws in New Mexico specify that applicants seeking licenses in this state must have been licensed in another state under standards or requirements equivalent to those in effect in New Mexico. The laws further stipulate that such states, territories, or countries must accord similar or equal privileges to applicants from New Mexico.

Where a particular service aspires toward a professional status, the pressure for qualification requirements and therefore for licensing comes from within, as in the case of realtors, accountants, nurses and social workers; in the case of dealers in securities and perhaps of insurance agents it seems to come from outside. Often the movement begins with certification facilities or designation privileges; the optional then tends to transform itself into a compulsory system.<sup>23</sup>

How far the courts will extend this type of control is subject to question. The answer depends very largely on the willingness of courts to attribute "public service" characteristics to the numerous occupational

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<sup>22</sup> Hall, op. cit., pp. 36-37.

<sup>23</sup> Freund, op. cit., p. 450.



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32 Hall, *op. cit.*, pp. 36-37.

33 Freund, *op. cit.*, p. 480.



groups that now come petitioning the legislative body to establish the state license system with respect to themselves.

The collection of application fees is not intended for revenue purposes. The fees are intended to be nominal, and are charged only to defray the legitimate expenses incurred by the examining board in conducting examination and licensing proceedings. Where there is provision for per diem payment to members of the boards, it is, at best, a moderate amount to compensate a member at least in part for the loss of time to his practice or business, while attending official board meetings. In no case is the creation and operation of a state examining board to be a burden upon the financial resources of the state government.

No better conclusion to the subject matter of licenses can be stated than that of one of the most profound students of administrative methods,<sup>24</sup> who declares: "Where safety, health, and morals are involved, where private activities trench upon the conservation of public resources or where nationalistic interests are to be safeguarded, the license always suggests itself as a ready means of making regulation more effective, if only as a temporary measure

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<sup>24</sup> Freund, op. cit., pp. 450-451.



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pending the discovery of substantial principles of regulation." As compared with the nineteenth century the present is an era of intensive governmental regulation. Even without a disposition to enhance official powers, perhaps notwithstanding a strong feeling against bureaucratic government, there are many fields in which administrative intervention and even administrative discretion are indispensable. The choice in these fields lies between administrative orders and administrative licenses. The former probably represent a more conservative exercise of public power; but with the burden of initiative thrown upon the government, the check is likely to be sporadic and confined to exceptional cases. A licensing system is the path of least resistance; it lends itself equally to wide discretion and to non-discretion, and private interests are usually able to accommodate themselves to it without undue difficulty. It is so convenient a method of checking the observance of governmental regulations that its permanence in the economy of legislation and administration appears to be assured; but the elaboration of administrative detail with a view to the most effective reconciliation of public and private interest will necessarily be a matter of prolonged experimentation. <sup>25</sup>



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...of legislation and...  
...the elaboration of...  
...most effective...  
...will necessarily be...



The legislative policy is a policy which seeks to embody a philosophy of social welfare. As the content of this philosophy is worked out it will doubtless become unnecessary to justify statutes designed to promote the welfare of the people by reference to a judicial fiction such as the "police power." Any exercise of legislative power which does not transcend specific constitutional limitations becomes valid and no apologetic phrase is needed to cover it.

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26 William S. Carpenter and Paul T. Stafford, State and Local Government in the United States, (New York: F. S. Crofts and Company, 1936), p. 154.



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III. ATTORNEYS.

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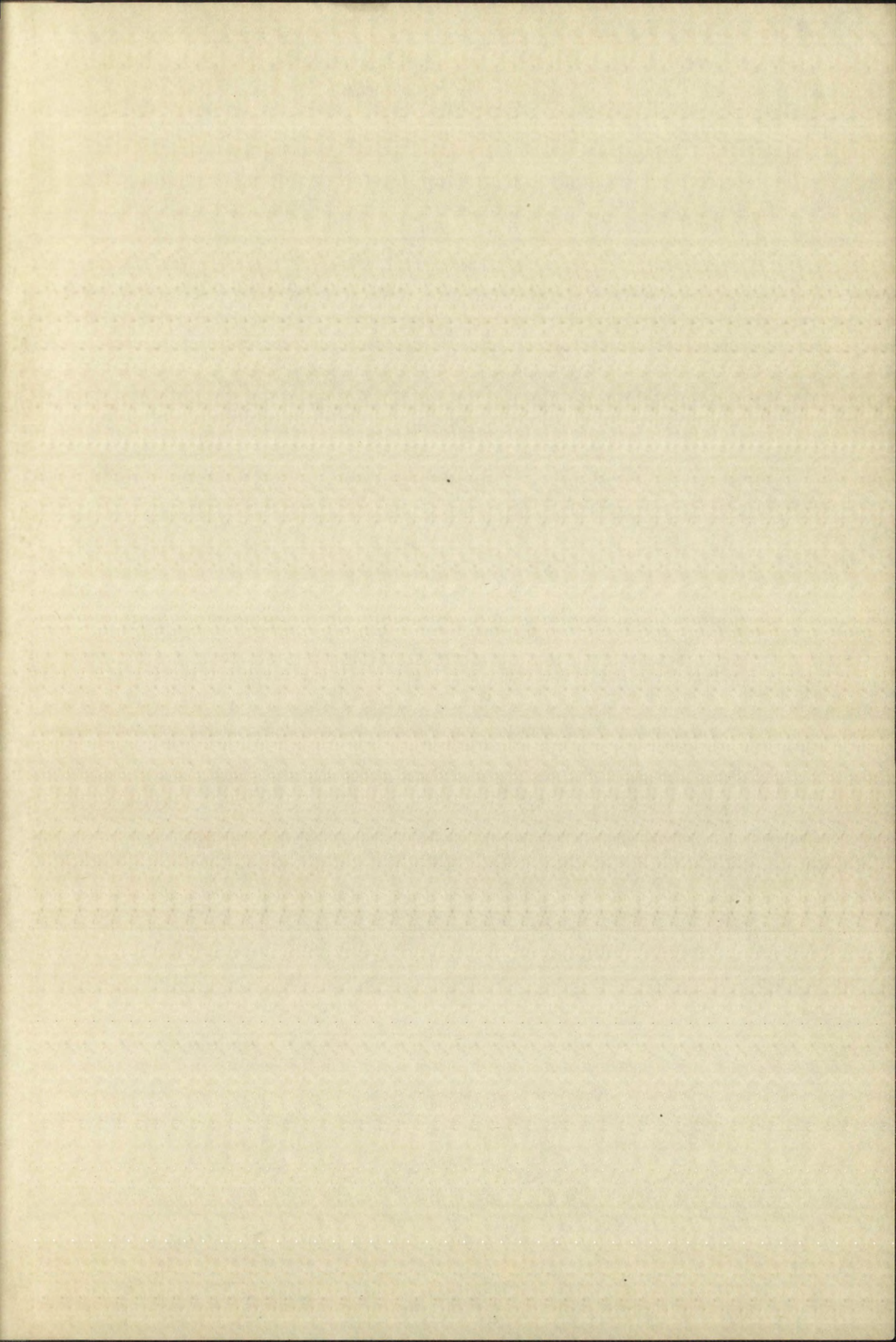
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