



State of New Mexico

Susana Martinez
Governor

EXECUTIVE ORDER 2018-48

DIRECTING STATE BOARDS AND COMMISSIONS TO TAKE APPROPRIATE ACTION ON OCCUPATIONAL REGULATION

WHEREAS, evidence suggests comprehensive occupational licensure reform could save each New Mexico family more than \$1,000 per year by decreasing prices and expanding consumer access to goods and services; and

WHEREAS, reports suggest that burdensome licensing restrictions prevent people from escaping poverty and disproportionately impact the working class and minorities; and

WHEREAS, a federal Department of Labor report found that military spouses in the labor force are more likely to require licenses or certification for their profession and are ten times more likely to have moved across state lines in the last year compared to their civilian counterparts; and

WHEREAS, peer-reviewed research demonstrates that there is no discernable difference in health and public safety outcomes between states with more rigid licensing regulation and states with more flexible licensing regulation; and

WHEREAS, multiple studies indicate that states with more burdensome occupational licensing regulations experience significantly higher recidivism rates than states with more reasonable licensing regulations; and

WHEREAS, Executive Order 2018-037 directed boards and commissions to review all requirements, processes, and rules related the issuance of occupational licenses and oversight of licensees to identify opportunities for potential consolidation of functions, increased efficiency, cost-savings, and the elimination of unnecessary regulatory burdens and processes; and

WHEREAS, pursuant to Executive Order 2018-037 each board and commission was required to report its findings to the Office of the Governor; and

WHEREAS, state boards and commissions have thoroughly reviewed all relevant rules and regulations and have reported their findings to the Office of the Governor, and the reports demonstrated that boards and commissions frequently use overly-restrictive licensure schemes to

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regulate certain professions; and

WHEREAS, these schemes impose an undue burden on the fundamental right of New Mexicans to pursue a career in any chosen occupation without permission from the government and cause all New Mexico families to suffer economically; and

WHEREAS, reforming and eliminating occupational licensure schemes would remedy the deficiencies they create and afford New Mexicans the ability to prosper economically;

NOW, THEREFORE, I, Susana Martinez, Governor of the State of New Mexico, by the authority vested in me by the Constitution and the Laws of the State of New Mexico do hereby **ORDER** and **DIRECT**:

1. In order to reduce the burden of occupational licensing on job-seekers who move to New Mexico and military families, all New Mexico boards, commissions, agencies or departments that issue occupational licenses shall promulgate rules or policies to accomplish the following:
 - a. Accept the occupational licenses of licensees in good-standing in any other state or jurisdiction as equal to a New Mexico license for equivalent or similar occupations unless it can be compellingly demonstrated that the other jurisdictions' requirements do not adequately protect the public health or safety because of risks inherent to providing the service in New Mexico which are not present in the other state or jurisdiction;
 - b. Accept professional experience as a substitute for reciprocal licensure in the case that an individual comes to New Mexico from a state or jurisdiction that does not license that occupation unless it can be compellingly demonstrated that doing so would not adequately protect the public health or safety because of risks inherent to providing the service in New Mexico which are not present in the other state or jurisdiction. The board, commission, agency, or department shall recognize and

accept the individual's professional experience at a rate of 1,000 hours of required training for every one year of verifiable work experience for purposes of an occupational license in New Mexico;

- c. Establish a "consumer choice" process that is an alternative to occupational licensing. Under such a process, an individual may practice an occupation without an occupational license so long as (1) the individual or individual's employer informs each prospective customer that the individual is not licensed by the State of New Mexico, and (2) the customer signs a written contract acknowledging the disclosure.
 - i. The disclosure to potential customers may include a statement that the person is certified, recognized, or otherwise issued a qualification by a relevant private industry group, trade organization, or association;
 - ii. At this time, boards, commissions, departments, and agencies that regulate the licensure of professionals who provide medical services to human beings are exempt from this order.
 - iii. The disclosure in a written contract is an affirmative defense to the state of New Mexico's enforcement of the occupational licensing regulation;
 - d. Update relevant websites to include concise and easily-visible instructions for applicants on how they can submit applications and all necessary forms for licensure;
 - e. Include a checkbox on license applications to allow applicants to indicate that they are in the military, retired from the military, or are a member of a military family, if applicable;
2. In order to reduce the burden of education requirements, testing, fees, and continuing education required for licensure, all New Mexico boards, commissions, agencies or departments that issue occupational licenses shall promulgate rules or policies to accomplish the following:

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- a. Reduce the fees associated with their licensure application process to seventy-five percent (75%) of the national average or less for equivalent or comparable occupations, unless the board or commission is an enterprise agency and can demonstrate that doing so would necessitate a General Fund appropriation. If there is no fee for the occupation in other states, the licensure fee shall not exceed fifty dollars (\$50) unless the board or commission is an enterprise agency and can demonstrate that doing so would necessitate a General Fund appropriation;
 - b. Reduce required education and experience to the lowest level allowed by statute, unless it can be compellingly demonstrated that doing so would not adequately protect the public health, safety, and welfare;
 - c. Eliminate jurisprudence examinations or rewrite those examinations so that all questions pertain directly to the duties and responsibilities of a professional in the occupation. Eliminate initial testing fees for jurisprudence examinations and lower all retake fees to twenty-five dollars (\$25) or less;
 - d. Waive all initial licensure and testing fees for New Mexico residents who have been deemed eligible for Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), Low Income Home Energy Assistance Program (LIHEAP), or Medicaid benefits;
 - e. Waive fees for National Guardsmen and members of the Armed Forces who require an occupational license to carry out their official National Guard or military duties;
 - f. Expand the acceptance of online continuing education credits, or their equivalent, to increase accessibility for residents who cannot conveniently attend continuing education classes in person;
3. In order to make the occupational licensure process more predictable and aid those with a criminal record in finding gainful employment and consequently reducing the likelihood of recidivism, all New Mexico boards, commissions, agencies, or departments that issue occupational licenses shall promulgate rules or policies to accomplish the following:

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- a. Establish a specific list of crimes or classifications of crimes that shall be considered when evaluating an application for licensure. Crimes or classifications of crimes must pertain directly to the practice of the occupation or the applicant's capacity to perform the duties of that occupation;
 - b. Inform candidates for licensure who have their application denied the reason for the denial accompanied by a clear, concise, and easily understood description of the procedure to appeal the decisions in writing within seven (7) days.
4. None of the directives in this executive order shall be implemented by any board, commission, department, or agency if doing so would put any licensure scheme in conflict with state statute.
5. For the purpose of this Order; the terms "board(s)" or "commission(s)" include without limitation the Board of Acupuncture and Oriental Medicine; Board of Examiners for Architects; New Mexico Athletic Commission; Board of Barbers and Cosmetologists; Board of Body Art Practitioners; Board of Chiropractic Examiners; Construction Industries Commission; New Mexico Board of Dental Health Care and Dental Hygienists Committee; State Board of Licensure for Engineers and Professional Surveyors; Funeral Services Board; Gaming Control Board; Interior Design Board; Board of Landscape Architects; Manufactured Housing Commission; Massage Therapy Board; New Mexico Medical Board; Naprapathic Practice Board; Board of Nursing; Nutrition and Dietetics Practices Board; Board of Nursing Home Administrators; Board of Examiners for Occupational Therapy; Board of Optometry; Board of Osteopathic Medical Examiners; Board of Pharmacy; Board of Podiatry; New Mexico State Board of Psychologist Examiners; New Mexico Public Accountancy Board; State Racing Commission; Real Estate Appraisers Board; New Mexico Real Estate Commission; Signed Language Interpreting Practices Board; Board of Social Work Examiners; Speech Language Pathology, Audiology and Hearing Aid Dispensing Practices Board; and Board of Veterinary Medicine.

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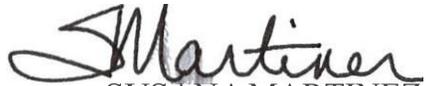
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6. For the purpose of this Order; the terms “department(s)” or “agency (ies)” include the Department of Agriculture; Department of Health; Energy, Minerals and Natural Resources Department; Office of the State Engineer; and Regulation and Licensing Department.

SIGNED AT THE EXECUTIVE OFFICE
THIS 3rd DAY OF OCTOBER, 2018.

WITNESS MY HAND AND THE GREAT
SEAL OF THE STATE OF NEW MEXICO


SUSANA MARTINEZ
GOVERNOR

ATTEST:



MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

