

# NM Regulation and Licensing Department



## State Tribal Collaboration Act - Agency Activity Report July 31, 2020

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## **EXECUTIVE SUMMARY**

### ***OUR MISSION***

To ensure that licensed New Mexico businesses and professionals provide quality care and services to all their clients.

### ***WHO WE ARE***

When visiting a dentist for a cleaning, sitting in the barber's chair for a trim or trying to read the alphabet chart for an eye exam, you may take for granted the qualifications of professionals providing these services, but the New Mexico Regulation & Licensing Department (RLD) does not.

RLD is in the business of ensuring that New Mexicans receive quality care and services from qualified individuals and businesses in 35 different industries, professions and trades. We touch everyday activities of every New Mexican, while ensuring fair and prompt administrative processes to help spur economic development.

### ***WHAT WE DO***

We certify and regulate over 400,000 individuals and businesses across New Mexico that fall into the following Divisions:

**Alcoholic Beverage Control Division** - regulates the manufacture, transportation, distribution, sales, service, and public consumption of alcoholic beverages by licensing establishments and the alcohol servers who sell or serve alcohol to the public. Our goal is to protect the health, safety, and welfare of the citizens of and visitors to New Mexico while allowing for responsible economic growth. To learn more, visit our website at [www.rld.state.nm.us/alcoholandgaming](http://www.rld.state.nm.us/alcoholandgaming).

**Boards and Commissions Division** - oversees more than 30 different professions and trades, from accounting to funeral services. We issue licenses, provide for continuing education, inspect licensed premises and investigate complaints. For more information, please see [www.rld.state.nm.us/boards](http://www.rld.state.nm.us/boards).

**Construction Industries and Manufactured Housing Division** - licenses contractors and certifies journeymen in the building trades; issues permits for residential and commercial construction; and conducts field inspections to confirm that the work meets state standards. It also oversees manufacturers, dealers, brokers, salespersons, installers and repairmen of manufactured housing units. You can find out more at [www.rld.state.nm.us/construction](http://www.rld.state.nm.us/construction).

**Financial Institutions Division** - regulates state-chartered banks, savings and loans, credit unions, trust companies, collection agencies, endowed care cemeteries, small loan and motor vehicle finance companies, mortgage lenders and loan brokers. More information can be found at [www.rld.state.nm.us/financialinstitutions](http://www.rld.state.nm.us/financialinstitutions).

**Securities Division** - licenses broker-dealers, financial advisers and other investment professionals; registers certain securities offered in New Mexico; investigates securities fraud, as well as providing education and training about securities laws and investment issues. For more information, visit us online at [www.rld.state.nm.us/securities-division](http://www.rld.state.nm.us/securities-division).

**Additional Programs:**

**Carnival Rides** - requires that carnival rides be inspected for safety and carry insurance

[http://www.rld.state.nm.us/superintendent/Carnival\\_Ride\\_Insurance\\_Program.aspx](http://www.rld.state.nm.us/superintendent/Carnival_Ride_Insurance_Program.aspx)

**Crane Operators Safety Program** – regulates the crane industry

<http://www.rld.state.nm.us/superintendent/default.aspx>

**Employee Leasing** - requires that employee leasing companies be bonded and registered

[www.rld.state.nm.us/construction/Employee\\_Leasing\\_Program.aspx](http://www.rld.state.nm.us/construction/Employee_Leasing_Program.aspx)

**Recycled Metals** – regulates the recycled metal industry [www.rld.state.nm.us/overview.aspx](http://www.rld.state.nm.us/overview.aspx)

***OUR VALUES***

**We** are accountable to the public we serve with our performance and our actions.

**We** conduct our business with honesty, integrity and take responsibility for our actions.

**We** demonstrate competent, resourceful and professional conduct.

**We** honor diversity, recognize individual contributions and treat people with courtesy and respect.

**We** interact effectively, build cooperative relationships, and encourage creative ideas and communication openly to achieve our goals.

**AGENCY-SPECIFIC AND APPLICABLE/RELEVANT STATE OR FEDERAL STATUTES OR MANDATES**

The New Mexico Liquor Control Act, respecting Indian Nation, Tribal and Pueblo sovereignty, has divested the Alcoholic Beverage Control Division from jurisdiction, regulatory or enforcement authority within New Mexico’s sovereign Native American Communities.

**Liquor Control Act exemptions specified in §60-3A-5** “[n]othing in the **Liquor Control Act [60-3A-1 NMSA 1978]** applies to: ...**(D)** the sale, service, possession or public consumption of alcoholic beverages by any person within the boundaries of lands over which an Indian nation, tribe or pueblo has jurisdiction, if the alcoholic beverages are purchased from New Mexico wholesalers and if the sale, service, possession or public consumption of alcoholic beverages is authorized by the laws of the Indian nation, tribe or pueblo having jurisdiction over those lands and is consistent with the ordinance of the Indian nation, tribe or pueblo certified by the secretary of the interior and published in the federal register according to the laws of the United States.”

**Construction Industries Licensing Act (CILA) Section 60-13-1, et seq., NMSA 1978** gives the Construction Industries Division (CID) regulatory authority to license contractors and enforce the New Mexico building codes. These codes do not apply to construction on sovereign Indian Nation, Tribal or Pueblo lands unless the governing authority of a Tribe chooses to come under CID

jurisdiction. This is also true for the **Manufactured Housing Act at Section 60-14-1, et seq., NMSA 1978.**

## **SIGNIFICANT STATE-TRIBAL ISSUES, RECOMMENDATIONS AND/OR PRIORITIES ADDRESSED IN FY 21**

### **Boards and Commissions – Pharmacy Board**

The Board of Pharmacy continues to provide access to its Prescription Monitoring Program to the Indian Health Services (IHS) Health Care Practitioners in a joint effort to reduce controlled substance abuse. IHS is not required to provide information to the Pharmacy Board.

### **Securities Division- Consumer Protection and Investor Education**

In collaboration with Native Community Finance, the New Mexico Securities Division continues to educate and prepare Native American investors so that they can protect themselves from financial fraud and learn about strategies to grow their assets through sound investments. This is accomplished through seminars, media outreach and presentations made on Tribal lands.

### **Financial Institutions Division – Financial Literacy**

The Financial Institutions Division (FID) began working on the development of a financial literacy program that will be dispersed throughout the state in FY21. The major components of the financial literacy program center around budgeting, credit development, financial decision making and understanding different types of financing options. The FID has collaborated with an outside consultant in developing a version of the financial literacy program tailored specifically to Native American communities. The launch of the program will include tangible workbook materials along with online courses and podcasts. Once it is safe to return to a social gathering learning atmosphere, the program plans on holding live financial literacy courses as well.

## **MAIN AGENCY ACCOMPLISHMENTS AND CHALLENGES REGARDING TRIBES, AI/AN AND/OR INDIAN ORGANIZATIONS**

RLD can offer inspection, regulatory services and technical advice to the governing authority of an Indian Nation, Tribe or Pueblo, but the agency has no jurisdiction, regulatory or enforcement authority on these sovereign Tribal lands. To find out more about the New Mexico Regulation & Licensing Department and the services we offer, please visit our website at: [www.rld.state.nm.us](http://www.rld.state.nm.us).

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## **AGENCY POLICY PROMOTING STATE-TRIBAL RELATIONS**

### Policy Timeline- Recommendation

The RLD timeline for the development, review and adoption of the agency policy is subject to the cluster approach of the policy template. The agencies involved in the cluster of Commerce and Industry are: EDD, TD, DOT, DWS, RLD and EXPO. The agency liaison or representative will communicate with these agencies in order to conduct a meeting of the liaisons to review, make recommendations and draft a template policy for the cluster. This cluster approach seeks to identify a generic policy covering appropriate agencies with some consistency and general commonalities.

## **AGENCY EFFORTS TO IMPLEMENT POLICY**

Every division of RLD stands ready and available to collaborate with the governing authority of an Indian Nation, Tribe and Pueblo or appropriate Tribal liaisons in order to allow for government-to-government cooperation. Since the agency has no jurisdiction on these sovereign Tribal lands, collaboration will occur upon request of a Tribal leader.

## **GOALS RELATING TO TRIBES, AI/AN AND/OR INDIAN ORGANIZATIONS FOR FY21**

### **Alcoholic Beverage Control Division**

#### **Recommendation #1: Opportunities for Collaboration**

Over the years the Alcoholic Beverage Control Division has offered technical advice and assistance to Indian Nations, Tribes and Pueblos who administer alcohol to strive for increased consistency in the regulatory environment. ABC staff regularly communicates with their counterparts in Indian County on a variety of alcohol related issues.

### **Construction Industries Division and Manufactured Housing Division**

#### **Recommendation #1: Tribal Building Programs**

Tribal governments intending to form building programs are welcome to collaborate with the state Construction Industries Division and the Manufactured Housing Division. Such programs could be designed to comprise the Tribal Housing Authority for federal HUD construction, a traditional construction component, and a component to administer modern commercial and non-HUD residential construction as well as manufactured housing. Such a program would be administered by Tribal personnel, including one or more inspectors, and such inspectors would be eligible to attend CID and MHD-sponsored trainings.

### **Boards and Commissions Division**

#### **Recommendation #1: Expand Opportunities for Collaboration**

The Boards and Commissions Division has a few Memorandums of Understanding between the Athletic Commission and Native American governing authorities throughout New Mexico. Example: We recently had a MMA Athletic Commission event at Isleta Casino where BCD entered a Memorandum of Understanding (MOU) with the governing authority of the Tribe. The Boards and Commissions Divisions goal is to expand MOU agreements to all New Mexico casinos located on sovereign Tribal lands.

#### **Recommendation #2: Opportunities for Collaboration**

In the past, the BCD inspected tattoo conventions around the state. However, over the last few years, most Body Art events are being held at casinos located on sovereign Tribal land where the BCD does not have authority to inspect for hygiene standards. Therefore, another goal for BCD is to collaborate with the governing authority of casino(s) that are located on Tribal lands and offer training to encourage sanitation and safety inspections at these events.

### **Financial Institutions Division**

#### **Recommendation #1: Full Service Banking Centers**

In the event that a Tribal government decides to increase the availability of banking services within the boundaries of an Indian Nation, Tribe or Pueblo, the state Financial Institutions Division is available to advise or assist with regulatory issues such as the availability of deposit insurance. If a Tribal governing authority expresses interest in opening a branch of a state bank on Tribal lands

or opening a bank, the Financial Institutions Division is ready and willing to offer guidance on state compliance matters.

### **Recommendation #2: Reduce Predatory Lending**

Statistics reflect that Native Americans are frequent victims of predatory lending in the form of payday, car title, tax refund and installment loans. In part, this is due to the scarcity of traditional lending institutions on and around Tribal land. FID has supported numerous efforts to enhance the statutory prohibitions on predatory lending practices and will continue to do so in the future.

### **Securities Division**

#### **Recommendation #1: Consumer Protection and Investor Education Bureau**

With the well-publicized Cobell trust fund lawsuit, where many Tribal members received a share of a \$3.4 billion settlement, the Securities Division is concerned that Tribal populations may become targets for con-artists and unscrupulous securities promoters. Therefore, Securities Division collaborated with Native Community Finance to offer awareness and educational programs to Native American communities throughout New Mexico about potential financial fraud. The program launched in July 2013 and has continued to present. If Tribal governments are interested and willing to continue having the Securities Division offer investor awareness and education, the Division is always pleased to do so.

## **CURRENT AND PLANNED PROGRAMS AND SERVICES FOR AMERICAN INDIANS / ALASKA NATIVES**

N/A

## **TRAINING AND EMPLOYEE NOTIFICATION**

Training of department personnel will be addressed following the release of training and certification material and curriculum by State Personnel Office as identified in Section 4-C-4 of the State-Tribal Collaboration Act (STCA). Training and employee notification will be addressed via interagency memorandums directed by the Superintendent through division directors.

### **A. STCA TRAINING CERTIFICATION**

Please see above.

### **B. EMPLOYEE NOTIFICATION ABOUT STCA**

Employee notification will occur via interagency memorandum to RLD personnel through the Office of the Superintendent.