

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 19 PHARMACISTS
PART 32 WAIVER PROVISIONS

16.19.32.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy.
[16.19.32.1 NMAC - N, 04/30/07]

16.19.32.2 SCOPE: Any person or business pursuant to 26-1-17 of the New Mexico Drug, Device and Cosmetic Act, 30-31-12(A), (B) of the Controlled Substance Act, and 61-11-9, 61-11-11, 61-11-11.1, 61-11-14(A), (B) of the Pharmacy Act.
[16.19.32.2 NMAC - N, 04/30/07]

16.19.32.3 STATUTORY AUTHORITY: Section 26-1-18(A) NMSA 1978 authorizes the board to promulgate regulations for the efficient enforcement of the New Mexico Drug, Device and Cosmetic Act (26-1-1 NMSA 1978). The board shall conform the regulations promulgated under the New Mexico Drug, Device and Cosmetic Act, insofar as practical, with regulations promulgated under the federal act as defined in Section 26-1-2 NMSA 1978. Section 30-31-11 NMSA 1978 authorizes the board to promulgate regulations and charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances. Section 61-11-6(A)(1) NMSA 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Section 61-11B-3 NMSA 1978 authorizes the board to adopt regulations to carry out the provisions of the Pharmacist Prescriptive Authority Act. Section 30-31B-6 NMSA 1978 authorizes the board to promulgate regulations and charge reasonable fees relating to the licensing and control of the manufacture, possession, transfer and transportation of drug precursors.
[16.19.32.3 NMAC - N, 04/30/07]

16.19.32.4 DURATION: Permanent
[16.19.32.4 NMAC - N, 04/30/07]

16.19.32.5 EFFECTIVE DATE: April 30, 2007, unless a later date is cited in the history note at the end of a section.
[16.19.32.5 NMAC - N, 04/30/07]

16.19.32.6 OBJECTIVE: This regulation established guidelines to waive provisions of the New Mexico board of pharmacy regulations as authorized by law.
[16.19.32.6 NMAC - N, 04/30/07]

16.19.32.7 DEFINITIONS: “Waive/waivers” means to refrain from pressing or enforcing compliance with certain regulations for the specified period of time provided the health, safety, or welfare of patients and staff are not in danger. Waivers are issued at the sole discretion of the New Mexico board of pharmacy.
[16.19.32.7 NMAC - N, 04/30/07]

16.19.32.8 PROVISIONS FOR ENTITY SEEKING TO OBTAIN A WAIVER:

A. Petition for a waiver must be submitted to the board of pharmacy. Waivers granted by the board are limited to use by the party and business specified in the waiver document and other limitations set forth. Such petitions shall include:

- (1) name of party;
- (2) address of the business;
- (3) type of business;
- (4) reason for waiver request, including each affected New Mexico administrative code citation;
- (5) supporting documents;
- (6) the expected public benefit as a result of the waiver, and;
- (7) other information requested by the board as deemed necessary.

B. Any licensed facility granted a waiver must publicly display the “waiver” in proximity to the facility’s current registration.

C. Waivers granted: the board shall include in any waiver granted:

- (1) date granted;

- (2) name and license number of person or facility;
- (3) type of license;
- (4) specific regulation(s) waived;
- (5) duration of the waiver; and
- (6) any alternative requirements imposed by the board.

D. All waivers will be subject to review and reconsideration.
[16.19.32.8 NMAC - N, 04/30/07]

History of 16.19.32 NMAC: [RESERVED]