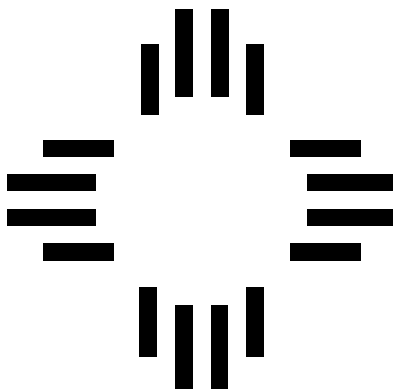


New Mexico Register

Volume XIII, Issue Number 5
March 15, 2002



The official publication for all notices of rulemaking and filings of
adopted, proposed and emergency rules in New Mexico

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Administrative Law Division
2002

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New Mexico Register

Volume XIII, Number 5

March 15, 2002

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Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. “No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico register as provided by the State Rules Act. Unless a later date is otherwise provided by law, the effective date of a rule shall be the date of publication in the New Mexico register.” 14-4-5 NMSA 1978

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Notices of Rulemaking and Proposed Rules

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

NOTICE OF PUBLIC HEARING

The Protective Services Division (PSD) will hold a public hearing in Santa Fe on April 15, 2002 from 2:30 p.m. to 4:00 p.m. in the Public Employees Retirement Association (P.E.R.A.) Building, 1120 Paseo de Peralta, 2nd floor conference room, number 227, to take comments regarding proposed revisions to the Child Protective Services Child Care Policy.

The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearings. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-3991. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

The proposed policy revisions may be review at any Protective Services Division county office. County office locations may be determined by calling 505-827-8400 for location information. The proposed policy revisions may also be reviewed between 8:00 a.m.-5:00 p.m. (MST) at the PSD Directors office, Room 254, In the P.E.R.A. building in Santa Fe, NM. Copies of the proposed policies may be obtained by contacting Linda McNall, Bureau Chief, CYFD-PSD, P.O. Drawer 5160, Santa Fe, NM 87502-5160, or by calling 505-827-3991. Copies can be requested through the use of the New Mexico relay system by calling 505-827-7586.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT PROTECTIVE SERVICES DIVISION

NOTICE OF PUBLIC HEARING

The Protective Services Division (PSD) will hold a public hearing in Santa Fe on April 15, 2002 from 2:30 p.m. to 4:00 p.m. in the Public Employees Retirement Association (P.E.R.A.) Building, 1120 Paseo de Peralta, 2nd floor conference room, number 227, to take comments

regarding proposed revisions to the PSD Quality Assurance Policy.

The PERA building is accessible to people with disabilities. Written comments are provided the same weight as comments received during the public hearings. Documents are available in different formats to accommodate a particular disability. Anyone seeking such assistance must provide two weeks notice to receive any written material in an alternative format by calling 505-827-3991. If assistance is required to attend the hearing, please call 505-827-8400 to arrange accommodation.

The proposed policy revisions may be review at any Protective Services Division county office. County office locations may be determined by calling 505-827-8400 for location information. The proposed policy revisions may also be reviewed between 8:00 a.m.-5:00 p.m. (MST) at the PSD Directors office, Room 254, In the P.E.R.A. building in Santa Fe, NM. Copies of the proposed policies may be obtained by contacting Linda McNall, Bureau Chief, CYFD-PSD, P.O. Drawer 5160, Santa Fe, NM 87502-5160, or by calling 505-827-3991. Copies can be requested through the use of the New Mexico relay system by calling 505-827-7586.

NEW MEXICO ENVIRONMENT DEPARTMENT

NOTICE OF PUBLIC HEARING

The New Mexico Environment Department (Department) will hold a public hearing on April 17, 2002, beginning at 9:30 at the New Mexico Energy, Minerals and Natural Resources Department, 1220 South Saint Francis Drive, Pinon Building, Porter Hall Conference Room, Santa Fe, New Mexico

The public hearing will be held to consider the Department's proposed amendments to the existing Corrective Action Fund Administration, 20.5.17 NMAC. The proposed amendments are to make 20.5.17 NMAC consistent with recent statutory changes and to incorporate the new standards of the New Mexico State Records Office, which includes renumbering and reformatting. The proposed amendments will allow above ground storage tank (AST) owners and operators the ability to seek access to the Corrective Action Fund for

releases of petroleum products. The Ground Water Protection Act, NMSA 1978, Sections 74-6B-1 through 74-6B-14, provides the authority for the Secretary to adopt regulations allowing AST owners and operators access to the Corrective Action Fund. Any interested persons or parties are encouraged to participate or attend.

The proponent of the proposed amendments is the New Mexico Petroleum Storage Tank Bureau (the "Bureau") of the New Mexico Environment Department (Department). In summary, the Bureau proposes to amend part 17 as follows:

Previously, the Ground Water Protection Act only allowed owners and operators of underground storage tanks (USTs) to access the Corrective Action Fund. The proposed amendments will also seek to amend the competitive contractor selection process requirements. Previously, competitive contractor selection was required for investigation and remediation activities. Competitive contractor selection is now only required for remediation. The competitive contractor selection process has also been amended to allow an owner and operator to have a representative on the proposal selection team.

All interested persons will be provided with a reasonable opportunity to submit data, views or arguments orally or in writing and examine witnesses testifying at the hearing. Any interested persons may also submit a general written statement concerning the regulations before the hearing by filing the statement with the Secretary of the Department, Carolyn Vigil at the Environment Department, P.O. Box 26110, Santa Fe, New Mexico 87502. Any person may provide a general oral statement or non-technical testimony concerning the proposed regulations at the hearing.

Any person who intends to provide a technical written statement or technical oral testimony concerning the proposed changes to the regulations shall file a statement of intent to present technical testimony on or before April 5, 2002. The statement of intent to present technical testimony shall:

1. Identify the person filing the statement;
2. State whether the person filing the statement supports or opposes the regulations;
3. Identify each fact and/or expert witness, qualifications of each

witness, including name, address, affiliations and educational work background;

4. summary or copy of any direct testimony of each witness, stating any opinions to be offered by such witness, and an explanation of the basis for such opinions;

5. identify all exhibits anticipated to be offered;

6. list or make available all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in his or her direct testimony; and

7. include the text of any recommended modifications to the proposed regulatory changes.

Interested persons may review hard copies of the proposed amendments during regular business hours at the Petroleum Storage Tank Bureau located at 2044 Galisteo Street, Suite A, in Santa Fe, New Mexico, at the Albuquerque district office located at 4131 Montgomery NE, or at the Environment Department's web site at www.nmenv.state.nm.us. You may also contact Jerry Schoeppner at 984-1939 to obtain hard copies of the proposed amendments.

If you are an individual with a disability and you require assistance or an auxiliary aide, i.e. sign language interpreter, to participate in any aspect of this hearing, please contact Cliff Hawley. Mr. Hawley's telephone number is (505) 827-2844, and his address is New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, New Mexico 87502 (TDD or TDY users please access this number via the New Mexico Relay Network. Albuquerque TDD uses (505) 275-7333; outside of Albuquerque: 1-800-659-1779.

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF AN)
INQUIRY INTO RENEW-)
ABLE ENERGY AS A) Utility
SOURCE OF ELECTRICI-) Case No.
TY,) 3619
UTILITY DIVISION STAFF)
OF THE PUBLIC REGULA-)
TION COMMISSION,)
Petitioner.)

NOTICE OF PROPOSED RULEMAK- ING

NOTICE IS HEREBY GIVEN
that the New Mexico Public Regulation

Commission ("NMPRC" or the "Commission") proposes to adopt a new Rule 572 to replace existing Rule 572 and a portion of Rule 591, and to encourage the development of renewable energy in New Mexico.

The proposed new Rule has two parts: In the first, public utilities are to provide to all customers an energy portfolio with a progressively greater percentage of service from renewable sources, on a least cost basis and preferably from generators in New Mexico. By September 1, 2003, the portfolio standard will be 2%. Then, the standard increases to 5% by September 1, 2005. Finally, the standard becomes 10% by September 1, 2007. A utility may satisfy some or all of these requirements through acquisition of certificates from any other New Mexico generator.

The second part of the proposed Rule specifies that every utility must provide electricity from renewable sources to any customer who requests it, and who is willing to purchase renewable energy, regardless of cost, based on availability. The price charged for these voluntary programs is to be established in renewable energy tariffs filed with and approved by the Commission.

The proposed rule would be adopted under the authority granted the Commission by the New Mexico Constitution, Article XI, Section 2, and by the Legislature pursuant to NMSA 1978 Sections 8-8-4; 8-8-15; 62-3-1; 62-3A-2; 62-3A-19; 62-3A-20; 62-6-4; and 62-6-19.

A copy of the proposed rule to be promulgated as NMPRC Rule 572 is attached hereto as "Exhibit A". The rule has been formatted for inclusion in the New Mexico Administrative Code pursuant to NMSA 1978 Section 14-4-3 and, if adopted as proposed, would be cited as 17 NMAC 10.572.

The proposed Rule specifies an effective date of May 31, 2002. Any person wishing to comment on the proposed NMPRC Rule 572, 17 NMAC 10.572 may do so by submitting written comments no later than April 1, 2002. Any person wishing to respond to comments may do so by submitting written response comments no later than April 16, 2002. Comments suggesting changes to the rule as proposed shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested.

All pleadings, including comments, shall bear the caption and case number contained at the top of this notice and must be served on all persons in the Commission official service list for this case. Additional copies of the proposed Rule can be obtained from, and comments

on the proposed Rule shall be sent to:

Maria Brito, Records Manager
NMPRC-Utility Division
Marian Hall
224 East Palace Avenue
Santa Fe, New Mexico 87501
Telephone: (505) 827-6940

Pursuant to NMSA 1978, Section 8-8-15(B), this notice, including Exhibit A, shall be mailed at least thirty days prior to the hearing date to all persons who have requested advance notice, and it must be published, without Exhibit A, in two newspapers of general circulation in the state and in the New Mexico Register.

A public hearing will begin at 10:00 on April 23, 2002 at the offices of the Commission at Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico, to receive oral comment.

Copies of any Final Order adopting the proposed Rule will be sent, along with copies of the particular rules adopted or amended, to all affected utilities, commentators in the case, and individuals requesting such copies.

**ISSUED under the Seal of the
Commission at Santa Fe, New Mexico,
this 26TH day of February, 2002.
NEW MEXICO PUBLIC REGULA-
TION COMMISSION**

TONY SCHAEFER, CHAIRMAN

**LYNDA M. LOVEJOY, VICE-CHAIR-
WOMAN**

HERB H. HUGHES, COMMISSIONER

RORY McMINN, COMMISSIONER

**JEROME D. BLOCK, COMMISSION-
ER**

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

Public Rule Hearing

The New Mexico Board of Social Work Examiners will convene a public rule hearing on Friday April 19, 2002. The hearing will begin at 9:00 a.m. and a Board Meeting thereafter at the Regulation and Licensing Department, 725 Saint Michaels Drive, Santa Fe, New Mexico. The purpose of the

rule hearing is to hear public testimony and comments regarding the proposed rules and regulations:

Proposed Rules and Regulations

Part 1	General Provisions
Part 3	Application for Licensure
Part 4	Examinations
Part 6	Licensure by Credentials
Part 7	Provisional License
Part 8	Fees
Part 9	Baccalaureate Social Worker
Part 10	Master Social Worker
Part 11	Independent Social Worker
Part 12	Continuing Education
Part 13	Disciplinary Action
Part 14	Inactive Status
Part 15	Retirement
Part 16	Code of Conduct
Part 19	Impaired Social Worker
Part 20	Parental Responsibility Act Compliance

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

NOTICE OF HEARING AND PROPOSED RULES

The Department proposes to adopt the following regulations:

3.2.1.18(L) NMAC Section 7-9-3
NMSA 1978 Gross Receipts &
Compensating Tax Act
(*Racing Receipts*)
3.2.1.18(II) NMAC
(*Receipts from Winning Contest*)
3.2.215.7 NMAC
Section 7-9-57 NMSA 1978
(*Definition of Out-of-State Buyer*)
3.2.215.13 NMAC
(*Delivery to, or Initial Use by, Buyer's Customer*)

The proposed regulations were placed on file in the Office of the Secretary on March 1, 2002. Pursuant to Section 9-11-6.2 of the Taxation and Revenue Department Act, the final regulations, if filed, will be filed as required by law on or about May 15, 2002.

A public hearing will be held on the proposed regulations on Thursday, April 18, 2002, at 9:30 a.m. in the Secretary's Conference Room No. 3004/3138 of the Taxation and Revenue Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico. Auxiliary aids and accessible copies of the proposed regulations are available upon request; contact (505) 827-0908. Comments on the proposed regulations are invited. Comments may be made in person at the hearing or in

writing. Written comments on the proposed regulations should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before April 18, 2002.

TITLE 3: TAXATION CHAPTER 2: GROSS RECEIPTS TAXES PART 1: GENERAL PROVISIONS

3.2.1.18 GROSS RECEIPTS - SERVICES

L. [AUTOMOBILE] RACING RECEIPTS.

(1) Unless the receipts are exempt under Section 7-9-40 NMSA 1978:

(a) the receipts of ~~race-car~~ vehicle or animal owners from winning purse money at ~~automobile~~ races held in New Mexico are receipts from performing services in New Mexico and are subject to the gross receipts tax if any charge is made for attending, observing or broadcasting the race.

(b) receipts of ~~race-car~~ vehicle drivers, animal riders and drivers and other persons from receiving a percentage of the owner's purse are receipts from performing services in New Mexico and are subject to the gross receipts tax, unless the person receiving the percentage of purse money is an employee, as that term is defined in Section 3.2.105.7 NMAC of the ~~race-car~~ owner [as that term is defined in Section 3.2.105.7 NMAC].

(2) Where there is an agreement between the driver, rider or other person and the owner for distribution of the winning purse, then only the [amounts] amount received by ~~the driver and the owner are subject to the gross receipts tax~~ each after the distribution is gross receipts of that person.

II. RECEIPTS FROM WINNING CONTEST

(1) Receipts of a contestant from winning purse money in a rodeo or an athletic game, match or tournament held in New Mexico are gross receipts from performing services if any charge is made for attending, observing or broadcasting the event. Such receipts are subject to the gross receipts tax unless an exemption or deduction applies. Where the contestant is a team and there is an agreement among the team members governing distribution of the purse money, then only the amount received by each after the distribution is gross receipts of that member.

(2) Subsection II of 3.2.1.18 NMAC does not apply to receipts exempt

under Section 7-9-40 NMSA 1978 nor does it apply to activities that are primarily or solely gambling.

TITLE 3: TAXATION CHAPTER 2: GROSS RECEIPTS TAXES PART 215: DEDUCTION -GROSS RECEIPTS TAX-SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER

3.2.215.7 DEFINITION OF "OUT-OF-STATE BUYER": An "out-of-state buyer" for purposes of Section 7-9-57 NMSA 1978 is a buyer who is one of the following:

A. a buyer with no presence in New Mexico who both accepts delivery of the product of the service and makes initial use of the product of the service outside New Mexico;

B. a federal agency when the contracting office, the office or designee or assignee taking delivery of the product of the service and the office or designee or assignee making initial use of the product of the service are outside New Mexico;

C. a unit of a private business if the contracting office, the office or designee or assignee taking delivery of the product of the service and the office or designee or assignee making initial use of the product of the service are outside New Mexico; or

D. an individual domiciled in another state or nation who both accepts delivery of the product of the service and makes initial use of the product of the service outside New Mexico.

3.2.215.13 DELIVERY TO, OR INITIAL USE BY, BUYER'S CUSTOMER:

A. When a service is performed in New Mexico at the order of an out-of-state buyer but the product of the service is delivered to or initially used in New Mexico by a customer of the buyer, the receipts may not be deducted under Section 7-9-57 NMSA 1978.

B. Example: C is a corporation whose domicile is outside New Mexico. C has no offices or employees in New Mexico but some of its shareholders are residents of New Mexico. P is another corporation. P is domiciled in New Mexico. All of P's offices and employees are in New Mexico. C contracts with P for P to provide certain information and public relations services to C's shareholders. All of P's services are provided directly to C's shareholders, not to C. P's receipts with respect to such services the product of which is delivered in New Mexico to C's shareholders are

not deductible under Section 7-9-57 NMSA 1978. P's receipts with respect to such services provided to C's out-of-state shareholders may be deducted under Section 7-9-57 NMSA 1978 provided those shareholders do not receive or initially use the product of the services in New Mexico.

**End of Notices and Proposed
Rules Section**

Adopted Rules and Regulations

ALBUQUERQUE / BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

This is an amendment to 20.11.68.200 NMAC.

Due to an error in transcription of the hearing record of the Albuquerque Bernalillo County Air Quality Control Board (Board) Hearing held on October 11, 1995, important language was excluded from the copy filed with the New Mexico Records Center. This mistake was not noticed until February 5, 1999 when the regulation was being recompiled. Upon inspection of the hearing record it is clear that the language was included in the hearing record, and was approved by the Board. This inclusion will necessitate an Administrative change to the regulation, but will not require another hearing. Between 1995 and now the format of NMAC has changed and so in addition to the restored language, 20.11.68 NMAC was also renumbered and reformatted from 20 NMAC 11.68 to conform to the current NMAC requirements.

20.11.68.200 APPLICABLE REQUIREMENTS:

A. Residential Use: The construction, use or operation of an incinerator on property devoted to residential uses is prohibited.

B. Construction/Operation: The construction, use or operation of an incinerator, even if an "affected facility" pursuant to 40 CFR 60, Subpart Ea as amended, on any property is prohibited, except for certain crematories as allowed by this Part.

C. Crematories: Crematories may be used solely for cremating human or animal remains, parts and tissues thereof, and other items normally associated with the cremation process. No person may release or discharge into the atmosphere from any crematory particulate matter in excess of 0.08 grains per standard cubic foot of dry exhaust gas corrected to 12 percent of carbon dioxide (CO₂) at standard conditions. In measuring the combustion contaminants from crematories, the carbon dioxide (CO₂) produced by combustion of any liquid or gaseous fuel shall be excluded from the correction to 12% of carbon dioxide (CO₂). In no instance shall the emissions of a crematory exceed federal requirements.

[3/24/82, 6/16/92; 20.11.68.200 NMAC – Rn, 20 NMAC 11.68.II.1, 2, 3, & A, 4/01/02]

NEW MEXICO ATHLETIC COMMISSION

The following rules are hereby repealed:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers and Procedures, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-3 (aka 15 NMAC 6.14), Fee Schedule, filed 8-17-92; **repealed** 03-23-2002.

NMAC Rule 92-4 (aka 15 NMAC 6.2), Contracts, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-5 (aka 15 NMAC 6.3), Tickets For Contests And Exhibitions, filed 8-17-92, **repealed** effective 03-23-2002.

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92, **repealed** effective 03-23-2002.

NMAC Rule 92-7 (aka 15 NMAC 6.5), Requirements To Safeguard Health, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-8 (aka 15 NMAC 6.6), The Ring Officials, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-9 (aka 15 NMAC 6.7), The Premises, Its Facilities And Equipment, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-10 (aka 15 NMAC 6.8), Conduct of Boxing Bouts, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-11 (aka 15 NMAC 6.9), Scoring System, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-12 (aka 15 NMAC 6.10), Boxing Classes and Championships, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-13 (aka 15 NMAC 6.11), Special Requirements For Wrestling, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-14 (aka 15 NMAC 6.12), Contest Rules For Full Contact Karate And Kick Boxing, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-15 (aka 15 NMAC 6.13) Closed Circuit Telecasts, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-16 (aka 15 NMAC 6-15), Drugs And Foreign Substances – Penalties, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-17 (aka 15 NMAC 6.16), Disciplinary Actions, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 95-1 (aka 15 NMAC 6.1),

Definitions, filed 5-5-95; **repealed** effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING AND MARTIAL ARTS PART 1 GENERAL PROVI- SIONS

15.6.1.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.1.1 NMAC – N, 03-23-2002]

15.6.1.2 SCOPE: The provisions in Part 1 apply to all parts of Chapter 6 of Title 15, and provide relevant information to anyone affected or interested in Chapter 6 of Title 15.
[15.6.1.2 NMAC – N, 03-23-2002]

15.6.1.3 STATUTORY AUTHORITY: Part 1 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.).
[15.6.1.3 NMAC – N, 03-23-2002]

15.6.1.4 DURATION: Permanent.
[15.6.1.4 NMAC – N, 03-23-2002]

15.6.1.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.1.5 NMAC – N, 03-23-2002]

15.6.1.6 OBJECTIVE: The objective of Part 1 of Chapter 6 is to set forth the provisions that apply to all of Chapter 6, and to all persons and entities affected by Chapter 6 of Title 15.
[15.6.1.6 NMAC – N, 03-23-2002]

15.6.1.7 DEFINITIONS:

A. "Board" means the medical advisory board.

B. "Commission" means the New Mexico Athletic Commission.

C. "Broadcast" means any audio or visual image sent by radio or television signals.

D. "Closed Circuit Telecast" means any telecast that is not intended to be available for viewing without the payment of a fee for the privilege of

viewing the telecast and includes the term "pay-per-view". This definition includes, but is not limited to, telecasts to arenas, bars, lounges, clubs, entertainment or meeting centers and private residences.

E. "Contact Exhibition" means any exhibition in which the participants intend, are allowed, or are expected to hit, punch, or contact each other in any way.

F. "Counted Out" means that a participant has been knocked down and the referee and knockdown timekeeper have performed the appropriate count as set forth in the rules, and the completion of such count signifies that the participant has been knocked out.

G. [RESERVED]

H. "Department" means the New Mexico Regulation and Licensing Department.

I. "Event" means any professional contest or portion of a fight card, bout, or exhibition in boxing, wrestling, or martial arts, conducted, held, televised on closed circuit, or given within New Mexico.

J. "Face Value" means the dollar value of a ticket that the customer is required to pay or, for complimentary tickets, would have required payment. It shall include any charges or fees, such as dinner, gratuity, parking, surcharges, or any other charges or fees that must be incurred in order to be allowed to view the match. However, if the ticket specifies the amount of admission charges attributable to state or federal taxes, such taxes shall not be included in the face value.

K. "Fight Card" means a program of matches.

L. "Foreign Co-promoter" means a promoter who has no place of business in this state.

M. [RESERVED]

N. "He" or "His" shall also mean "she" or "her".

O. [RESERVED]

P. "Main Event" means the principal match or matches within a program of matches.

Q. "Professional Contest" means any professional boxing, wrestling, or martial arts contest or exhibition, whether or not an admission fee is charged for admission of the public.

R. "Professional Boxer" or "Professional Wrestler" means an individual who competes for money, prizes or purses or who teaches, pursues or assists in

the practice of boxing, wrestling or martial arts as a means of obtaining livelihood or financial gain.

S. "Program of Matches" means collectively, all of the matches that are scheduled or proposed to be scheduled under the same permit.

T. "Promoter" means any person, and in the case of a corporate promoter includes any officer, director or stockholder of the corporation, who produces or stages any professional boxing, wrestling or martial arts contest, exhibition or closed circuit television show.

U. "Purse" means the financial guarantee or any payment, or part thereof, for which professional boxers or professional wrestlers are participating in a contest or exhibition, and includes the participant's share of any payment received for radio broadcasting, television or motion picture rights.

V. [RESERVED]

W. "Ring Official" means any person who performs an official function during the progress of a contest or exhibition.
[15.6.1.7 NMAC – N, 03-23-2002]

15.6.1.8 DOCUMENTS FILED WITH COMMISSION: All applications, records, or other papers and documents filed with or submitted to the Commission or to the medical advisory board appointed by the Commission, or at any hearing, shall become the property of the Commission.
[15.6.1.8 NMAC – N, 03-23-2002]

15.6.1.9 LICENSEE RECORDS SUBJECT TO COMMISSION INSPECTION: All the books and records of any licensee of this Commission; or of any corporation of which the licensee is an officer, director or stockholder; and which directly or indirectly concern boxing, wrestling, or martial arts, shall at all times be subject to the inspection of the Commission at such times and under such circumstances as the Commission may direct.
[15.6.1.9 NMAC – N, 03-23-2002]

15.6.1.10 DUTIES OF THE COMMISSION ADMINISTRATOR: The Commission's Administrator shall keep a full and true record of all the Commission's proceedings; preserve and keep its books, documents, papers, records; and prepare such papers, reports, and other

documents as may be required by the Commission; and perform such other duties as may be assigned to the Commission Administrator from time to time by the Commission. The Commission Administrator shall keep a record of the minutes of all Commission meetings and prepare monthly financial statements for the Commission.
[15.6.1.10 NMAC – N, 03-23-2002]

15.6.1.11 MINUTES OF COMMISSION MEETINGS: The minutes of all Commission meetings shall be transcribed and kept on file at the Commission's office.
[15.6.1.11 NMAC – N, 03-23-2002]

15.6.1.12 MEDICAL ADVISORY BOARD RECORDS: The records of the medical advisory board shall not be available for public inspection unless the Commission is served with a subpoena issued by a court of competent jurisdiction.
[15.6.1.12 NMAC – N, 03-23-2002]

15.6.1.13 AMENDMENT OF RULES: The rules of this Commission may be suspended, amended, revised or re-codified in compliance with the Uniform Licensing Act (NMSA 1978 Sections 61-1-1 through 61-1-33). Any amendment of the rules shall be published by the Commission as required by law, and in a bulletin, and shall be available at the Commission's office.
[15.6.1.13 NMAC – N, 03-23-2002]

15.6.1.14 SEVERABILITY: If any part or application of Chapter 6 of Title 15 is held invalid, the remainder, or its application to their situations or persons, shall not be affected.
[15.6.1.14 NMAC – N, 03-23-2002]

15.6.1.15 OPEN MEETINGS NOTICES: Commission meetings shall be open to the public and shall be legally noticed in compliance with the Open Meetings Act, NMSA 1978, Sections 10-15-1 to 10-15-4, and in accordance with an Open Meetings Resolution adopted annually by the Commission.
[15.6.1.15 NMAC – N, 03-23-2002]

15.6.1.16 INSPECTION OF PUBLIC RECORDS: The Commission operates in compliance with the Inspection of Public Records Act, NMSA 1978 Sections 14-2-1 through 14-2-16. The Commission's administrator is the custodi-

an of the Board's records.
[15.6.1.16 NMAC – N, 03-23-2002]

15.6.1.17 TELEPHONE CONFERENCES: As authorized by NMSA 1978 (1993 Repl. Pam.) Section 10-15-1.C of the Open Meetings Act, when it is difficult or impossible for a Commission member to attend a Commission meeting in person, the member may participate by means of a conference telephone or similar communications equipment. Participation by such means shall constitute presence in person at the meeting. Each member participating by conference telephone must be identified when speaking. All participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the Commission who speaks during the meeting.
[15.6.1.17 NMAC – N, 03-23-2002]

15.6.1.18 LICENSEE REQUIRED TO UPDATE ADDRESS WITH COMMISSION:

A. Correspondence, notices, bulletins, or any other information from the Commission will be sent to the last known address on file with the Commission at the Commission's office.

B. The licensee shall be responsible for notifying the Commission of any change in address.
[15.6.1.18 NMAC – N, 03-23-2002]

15.6.1.19 CODE OF CONDUCT FOR COMMISSION MEMBERS: In accordance with the provisions of the Governmental Conduct Act, Sections 10-16-1 to 10-16-18, NMSA 1978, each Commission Member shall annually sign a Commission Member Code of Conduct and the Board shall annually adopt said executed document which shall then be forwarded to the New Mexico Secretary of State by the Commission Administrator.
[15.6.1.19 NMAC – N, 03-23-2002]

15.6.1.20 COSTS OF DISCIPLINARY ACTIONS: Licensees shall bear **all costs** of disciplinary proceedings unless they are excused by the board from paying all or part of the costs, or if they prevail at the hearing and an action specified in Section 61-1-3 NMSA 1978 is not taken by the commission.
[15.6.1.20 NMAC – N, 03-23-2002]

HISTORY of 15.6.1 NMAC:
Pre-NMAC History:
Material in the part was derived from that

previously filed with the commission of public records - state records center and archives:
NMAC 80-1, The Commission, Its Powers and Procedures, filed 9-24-80;
Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers and Procedures, filed 8-17-92;
NMAC Rule 92-1, Definitions, filed 8-17-92;
Those relevant portions of NMAC Rule 95-1, Definitions, filed 5-5-95.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers and Procedures, filed 8-17-92; **repealed** effective 03-23-2002.
NMAC Rule 95-1 (aka 15 NMAC 6.1) Definitions, filed 5-5-95; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-2 and NMAC 95-1 were recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions; 15.6.1 NMAC, General Provisions, replaced those relevant portions of 15 NMAC 6.1, General Provisions, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 2 CONTRACTS

15.6.2.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.2.1 NMAC – N, 03-23-2002]

15.6.2.2 SCOPE: The provisions in Part 2 apply to licensees regulated by the Commission.
[15.6.2.2 NMAC – N, 03-23-2002]

15.6.2.3 STATUTORY AUTHORITY: Part 2 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-4, 60-2A-8, 60-2A-10, 60-2A-13, 60-2A-16, and 60-2A-18.
[15.6.2.3 NMAC – N, 03-23-2002]

15.6.2.4 DURATION:
Permanent.

[15.6.2.4 NMAC – N, 03-23-2002]

15.6.2.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.2.5 NMAC – N, 03-23-2002]

15.6.2.6 OBJECTIVE: The objective of Part 2 of Chapter 6 is to set forth the policies and procedures for contracts.
[15.6.2.6 NMAC – N, 03-23-2002]

15.6.2.7 DEFINITIONS:
[RESERVED]
[15.6.2.7 NMAC – N, 03-23-2002]

15.6.2.8 LICENSE REQUIRED. All participants in a contract must first be licensed by the Commission before participating, either directly or indirectly, in any professional contest regulated by the Commission.
[15.6.2.8 NMAC – N, 03-23-2002]

15.6.2.9 AGE REQUIREMENTS: The Commission may require a birth certificate or equally bona fide certification of age.

A. Professional Boxers must be at least eighteen (18) years of age.

B. Managers must be at least twenty-one (21) years of age.

C. Seconds must be at least eighteen (18) years of age.
[15.6.2.9 NMAC – N, 03-23-2002]

15.6.2.10 EXECUTION OF CONTRACTS: Contracts between a boxer and a manager, or between a boxer or manager and a licensed promoter, shall be executed on printed contract forms approved by the Commission. If printed contract forms are unavailable, the Commission may approve notarized contracts.
[15.6.2.10 NMAC – N, 03-23-2002]

15.6.2.11 [RESERVED]
[15.6.2.11 NMAC – N, 03-23-2002]

15.6.2.12 USE OF THE BOXER'S TRUE NAME IN SIGNING CONTRACTS: The Commission will not approve any contract for the services of a boxer unless such contract is signed by the boxer under his true, legal, and complete name.
[15.6.2.12 NMAC – N, 03-23-2002]

15.6.2.13 CONTRACT FILING: A copy of any contract entered into between a manager and a boxer must be

placed on file with the Commission for approval.

A. A contract becomes null and void if at any time during its term the manager or the boxer loses his license as a result of an action by the Commission or by failure of the manager or boxer to renew his license.

B. A manager is not allowed to participate in more than 33-1/3 percent of the ring earnings of the boxer.

C. The Commission must approve and consent to any assignment of any part of the boxer's or manager's interest in a contract.
[15.6.2.13 NMAC – N, 03-23-2002]

15.6.2.14 VALIDATION OF THE CONTRACT:

A. Unless otherwise directed by the Commission, both parties to the contract, the manager and the boxer, or an approved representative for either party, must appear before the Commission at the same time to have the contract approved and validated by the Commission.

B. No contract between a manager and a boxer will be approved for more than a three-year term.
[15.6.2.14 NMAC – N, 03-23-2002]

15.6.2.15 EXECUTION OF THE CONTRACT BY BOXER MANDATORY:

A boxer must carry out all the terms and conditions of the contract to which he is a party. Any boxer failing to fulfill the terms of any such contract will be subject to disciplinary action by the Commission.
[15.6.2.15 NMAC – N, 03-23-2002]

15.6.2.16 BOXER'S DEFAULT OF CONTRACT:

A. If a boxer claims that his failure to fulfill the terms of his contract was caused by illness or injury or by conditions over which he had no control, he shall submit such claim in writing to the Commission.

B. The Commission may then decide whether such default requires the imposition of any penalty or disciplinary action.

C. In the event that either no claim is made, or that it is made and rejected by the Commission:

(1) The Commission may suspend or revoke the license of the boxer in default and award to the opponent the amount of any forfeit posed under the terms of the contract; and

(2) The Commission may declare the defaulting boxer ineligible for any other boxing contest in the State of New Mexico until such terms of the breached contract are fulfilled.

D. If the Commission finds that the default was excusable, the defaulting boxer must fulfill the terms of the contract by an adjourned date subject to the approval of the Commission. Subject to penalty of suspension or revocation of his license, the boxer shall not box in any other boxing contest or for any other promoter without the approval of the Commission.
[15.6.2.16 NMAC – N, 03-23-2002]

15.6.2.17 [RESERVED] [15.6.2.17 NMAC – N, 03-23-2002]

15.6.2.18 CONDITION FOR APPROVAL OF BOXING CONTEST CONTRACTS:

The Commission will not approve contracts for a boxing contest unless both boxers have signed contracts with the same licensed promoter.
[15.6.2.18 NMAC – N, 03-23-2002]

15.6.2.19 TIME LIMITS FOR FILING BOXING CONTEST CONTRACTS:

The promoter must meet the following conditions for filing boxing contest contracts with the Commission:

A. All main events and semi-main event contracts between a promoter and any boxer or manager of a boxer, effecting or calling for the services of a main event or semi-main event boxer, shall be filed within seven (7) days after the execution of the contract, and at least seven (7) days prior to any boxing contest to which the contract relates.

B. All contracts for preliminary boxers shall be filed no later than twenty-four (24) hours prior to any match to which they relate.
[15.6.2.19 NMAC – N, 03-23-2002]

15.6.2.20 COMPENSATION OF BOXERS IS REQUIRED:

A. Payment may be made only to persons set forth by the Commission unless the Commission has approved, in advance, all the details of payment to another party.

B. All boxers participating in a boxing contest shall be paid, directly or through their licensed managers, who shall issue a receipt for such payment.

C. Payment shall be made only to the duly recognized manager or to the contestant himself, if he has no recognized manager.

D. Unless otherwise agreed to by the Commission, all participants must be paid immediately following the conclusion of the final bout.

E. Promoters shall pay the agreed amount to the contestants.

F. No professional contestant shall be paid less than \$25.00 for each round scheduled in any contest.

G. Contestants shall not kickback any part of the amount paid them to any manager, second, promoter, or matchmaker.

H. None of the parties involved in an event or match shall accept a kickback offered to him by any contestant.
[15.6.2.20 NMAC – N, 03-23-2002]

15.6.2.21 CONTRACTS FOR BROADCAST OR TELECAST OF BOXING CONTEST:

A. All contracts entered into by any licensee of the Commission, or any and all amendments, changes or modifications calling for or referring to any motion picture, telecast or radio broadcast of any boxing contest, exhibition or match, must be promptly filed with the Commission for approval.

B. No person or party may announce or conduct any such broadcast or telecast of any boxing contest, exhibition or match conducted under the jurisdiction of the Commission without first obtaining the approval of the Commission.
[15.6.2.21 NMAC – N, 03-23-2002]

15.6.2.22 PROHIBITIONS TO ENTER INTO CONTRACT:

The Commission prohibits any licensed matchmaker, promoter, manager, contestant, person or party employed or connected with a licensed promoter, to enter into a contract or commence negotiations for any boxing contest or exhibition with any other licensee whose license is currently suspended or revoked by the Commission.
[15.6.2.22 NMAC – N, 03-23-2002]

15.6.2.23 [RESERVED] [15.6.2.23 NMAC – N, 03-23-2002]

15.6.2.24 CONTRACTS FOR STATE CHAMPIONSHIP BOXING CONTESTS:

All contracts for state championship boxing contests must be signed at a Commission meeting.

A. Posting Forfeit Monies: On the date of the contract signing, the two contestants and the licensed corporation promoting the boxing contest will

each post forfeit money with the Commission.

(1) The contestants, the champion title holder and the challenger, will each deposit \$50, if their purses are not more than \$5,000.

(2) If the title bout purse for either contestant is more than \$5,000, that contestant must post a deposit of 10% of his guaranteed purse.

(3) The promoter of the title contest must deposit an amount equal to the highest amount deposited by either contestant.

B. Posting Deposits Ensures Contestants' Appearance: Posting of forfeit monies is to insure that each contestant will appear at the championship contest and will make the proper weight; and that the promoter will fulfill the promoter's obligations.

C. Title Bouts Authorized by Outside Sanctioning Body: For championship title contests authorized by an outside sanctioning body (IBF, WBA, WBC, etc.) only the promoter shall be required to post a deposit equal to 10% of the total purse for both of the title bout contestants. The deposit may be waived or readjusted by the Commission.

D. If Forfeit Is Declared: In the event that a forfeit is declared, the deposit or deposits so forfeited will be distributed equally between the non-defaulting depositors and the New Mexico Athletic Commission.

[15.6.2.24 NMAC – N, 03-23-2002]

HISTORY of 15.6.2 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-2, Contracts, filed 9-24-80; NMAC Rule 92-4, Contracts, filed 8-17-92; NMAC 80-4, Conduct of Licensees, filed 9-24-80;

Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92; NMAC 80-10, Boxing Classes And Championships, filed 9-24-80;

Those relevant of NMAC Rule 92-12, Boxing Classes And Championships, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-12 (aka 15 NMAC 6.10), Boxing Classes And Championships, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-4 (aka 15 NMAC 6.2), Contracts, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees; NMAC Rule 92-12 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.10 and named Boxing Classes And Championships;

15.6.2 NMAC, Contracts, replaced 15 NMAC 6.2, Contracts, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL

CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 3 TICKETS FOR CONTESTS AND EXHIBITIONS

15.6.3.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.3.1 NMAC – N, 03-23-2002]

15.6.3.2 SCOPE: The provisions in Part 3 apply to anyone printing, selling, or purchasing tickets for an event regulated by the Commission.
[15.6.3.2 NMAC – N, 03-23-2002]

15.6.3.3 STATUTORY AUTHORITY: Part 3 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-4, 60-2A-8, 60-2A-15, 60-2A-23, 60-2A-25, 60-2A-26, 60-2A-27, 60-2A-28, and 60-2A-29.
[15.6.3.3 NMAC – N, 03-23-2002]

15.6.3.4 DURATION: Permanent.
[15.6.3.4 NMAC – N, 03-23-2002]

15.6.3.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.3.5 NMAC – N, 03-23-2002]

15.6.3.6 OBJECTIVE: The objective of Part 3 of Chapter 6 is to set forth protocols for printing, Commission approval, sales, disbursement, and purchase of tickets for events regulated by the Commission.

[15.6.3.6 NMAC – N, 03-23-2002]

15.6.3.7 DEFINITIONS: "Face Value" means the dollar value of a ticket that the customer is required to pay or, for complimentary tickets, would have required payment. It shall include any charges or fees, such as dinner, gratuity, parking, surcharges, or any other charges or fees that must be incurred in order to be allowed to view the match. However, if the ticket specifies the amount of admission charges attributable to state or federal taxes, such taxes shall not be included in the face value.

[15.6.3.7 NMAC – N, 03-23-2002]

15.6.3.8 PRINTING OF TICKETS: Tickets for events regulated by the Commission must be printed by a printer approved by the Commission.

A. Printing Format: The Commission shall direct how the tickets will be printed and in what form they will be printed.

(1) Purchase Price of Ticket: All tickets of admission to any boxing, sparring, or wrestling match or exhibition shall clearly bear the purchase price upon the face of the tickets.

(2) Reserved Seat Tickets: Reserved seat tickets shall be printed with a stub to be retained by the purchaser.

(3) General Admission Tickets: General admission tickets shall be printed with a stub to be retained by the purchaser, and they shall be consecutively numbered.

(4) Press Tickets: All tickets issued to ringside reporters and/or media photographers, shall be marked MEDIA. The Commission will issue media passes on any requests received from the media twenty-four (24) hours in advance of the event.

B. Different Prices – Different Colors: Different priced tickets must be printed on paper of different, distinctive colors unless otherwise sanctioned by the Commission.

C. New Tickets – New Exhibition: A new set of tickets shall be printed for every exhibition or contest.
[15.6.3.8 NMAC – N, 03-23-2002]

15.6.3.9 DISTRIBUTION OF TICKETS:

A. Promoters and promoter corporations licensed by the Commission may only sell or distribute tickets obtained from a printer approved by the Commission.

B. At least twenty-four (24) hours before the tickets go on sale, a Commission-approved printer must deliver to the Commission a sworn manifest of all the tickets delivered to the licensed promoter or corporation, and the manifest must indicate the purchase price of the tickets. [15.6.3.9 NMAC – N, 03-23-2002]

15.6.3.10 [RESERVED]

[15.6.3.10 NMAC – N, 03-23-2002]

15.6.3.11 PROHIBITIONS IN THE DISTRIBUTION AND SALE OF TICKETS:

A. Promoters and corporations licensed by the Commission must be vigilant in preventing ticket speculation.

B. Promoters and corporations licensed by the Commission are prohibited from the following:

(1) Selling any tickets for any price other than the price printed on the face of the ticket, without the consent of the Commission or representative in charge.

(2) Changing the price of the tickets at any time after the tickets for the contest or exhibition have been placed on sale without the consent of the Commission or Commission representative in charge.

(3) Selling any tickets at any time during the contest or exhibition for a price less than tickets for similar seats were sold or offered before the exhibition or contest began, without the consent of the Commission or Commission representative in charge.

(4) Selling standing room or roll tickets for any contest or exhibition without the consent of the Commission or Commission representative in charge and of the appropriate local or municipal safety departments.

[15.6.3.11 NMAC – N, 03-23-2002]

15.6.3.12 SALE OF TICKETS AND TICKET EXCHANGES:

A. No licensee may sell any ticket for more than the price printed on the face of the ticket.

B. No other person may sell any ticket of which he is in possession for more than fifty cents over the price printed on the face of the ticket.

C. Ticket exchanges may only be made at the licensed promoter or corporations' box office.

D. Once the main event has started, no additional tickets may be sold. [15.6.3.12 NMAC – N, 03-23-2002]

15.6.3.13 [RESERVED]

[15.6.3.13 NMAC – N, 03-23-2002]

15.6.3.14 CONDITIONS TO BE MET BEFORE TICKETS ARE SOLD: The sale of tickets for any proposed contest or exhibition is prohibited until the following occurs:

A. The Commission approves plans and statements showing the seating arrangements and the ticket prices established for each seating area; and

B. The appropriate county or municipal authority approves the aisle spacing, the exit facilities, and the location of fire extinguishers.

[15.6.3.14 NMAC – N, 03-23-2002]

15.6.3.15 OTHER CONDITIONS FOR SELLING TICKETS:

A. Reserved Seats Identified: Promoters and promoter corporations licensed by the Commission must have available in their main office, a chart that plainly indicates the location of all reserved seats.

B. Duties of Box Office Employees: Box office employees of each promoter or promoter corporation licensed by the Commission shall assist in the sale of tickets, and cooperate with the Commission's representative in the tabulating of receipts, as well as, counting sold and unsold tickets directly after the main boxing contest contenders enter the ring.

C. Ticket Sale Supervision by Treasurer: The treasurer of each promoter or promoter corporation licensed by the Commission shall, in addition to other duties that may be prescribed to him, supervise the sale of tickets to the general public and prepare the necessary and proper tax returns as required by law.

D. Signed Gate Receipts Report Required: Failure of the licensee's treasurer to sign the gate receipts report shall result in the suspension of the promoter's permit to stage the next scheduled event, contest, or exhibition.

[15.6.3.15 NMAC – N, 03-23-2002]

15.6.3.16 [RESERVED]

[15.6.3.16 NMAC – N, 03-23-2002]

15.6.3.17 REPORTS REQUIRED BY THE COMMISSION:

A. Within seventy-two hours after the close of the event, contest, or exhibition, the authorized representative of the promoter or promoter corporation

licensed by the Commission must submit to the Commission the following written reports:

(1) An "Athletic Tax Report" showing the number of each class of tickets sold, unsold or unused; and shall

(a) Permit the Commission or its designated representative to examine the following: all sold and unsold or unused tickets; stubs; coupons; the financial records of the event;

(b) Permit the Commission or its designated representative to investigate all other matters relating to the receipts and conduct of the box office and ticket takers; and

(c) Permit the Commission or its designated representative to review the ticket tally, which must conform to the manifest issued by the Commission-approved printer.

(2) An "Inspectors' Financial Statement" for the particular contest or exhibition that must be approved and signed by the following persons:

(a) The Commissioner in attendance, or by the Commission's designated representative in charge;

(b) The Commission Inspectors making the count; and

(c) The authorized representative of the licensed promoter of the event.

(3) An "After Contest Report" that shall be submitted within seventy-two hours after the close of the contest, on forms as required by the Commission. Information shall include the payments made to the competitors and officials, and the manner and form in which they were compensated.

[15.6.3.17 NMAC – N, 03-23-2002]

15.6.3.18 [RESERVED]

[15.6.3.18 NMAC – N, 03-23-2002]

15.6.3.19 PERSONS EXCUSED FROM HOLDING TICKETS:

Only the following persons are excused from holding tickets for an event, contest, exhibition, or match. For these designated exceptions, appropriate admission tickets may be issued in such number and in such form as approved by the Commission.

A. Members of the Commission;

B. Persons designated by the Commission for an official duty;

C. The officials required to attend under provisions of State laws or the Commission's Rules and Regulations (15.6 NMAC).

D. The principals, managers, and seconds who are involved in the contests or exhibitions; and

E. The policemen, firemen, and other public officials, actually on duty, shall be admitted to any contest or exhibition.

F Any official, currently licensed and in good standing, who is not on duty.
[15.6.3.19 NMAC – N, 03-23-2002]

HISTORY of 15.6.3 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMAC 80-3, Tickets For Contests And Exhibitions, filed 9-24-80;
NMAC Rule 92-5, Tickets For Contests And Exhibitions, filed 8-17-92;
NMAC 80-4, Conduct of Licensees, filed 9-24-80;
Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92; **repealed** effective 03-23-2002.
NMAC Rule 92-5 (aka 15 NMAC 6.3), Tickets For Contests And Exhibitions, filed 8-17-92, **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees;
NMAC Rule 92-5 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.3 and named Tickets For Contests And Exhibitions;
15.6.3 NMAC, Tickets For Contests And Exhibitions, replaced 15 NMAC 6.3, Tickets For Contests And Exhibitions, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 4 DUTIES AND CON- DUCT OF LICENSEES

15.6.4.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.4.1 NMAC – N, 03-23-2002]

15.6.4.2 SCOPE: The provisions in Part 4 apply to all licensees of the Commission.
[15.6.4.2 NMAC – N, 03-23-2002]

**15.6.4.3 S T A T U T O R Y
AUTHORITY:** Part 4 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-8, 60-2A-9, 60-2A-10, 60-2A-13, 60-2A-14, 60-2A-15, 60-2A-16, 60-2A-17, 60-2A-18, 60-2A-21, 60-2A-22, 60-2A-28, and 60-2A-29.
[15.6.4.3 NMAC – N, 03-23-2002]

15.6.4.4 D U R A T I O N :
Permanent.
[15.6.4.4 NMAC – N, 03-23-2002]

15.6.4.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.4.5 NMAC – N, 03-23-2002]

15.6.4.6 OBJECTIVE: The objective of Part 4 of Chapter 6 is to set forth notify all Commission licensees of the duties and conduct expected by the Commission and the consequences of not complying with the provisions.
[15.6.4.6 NMAC – N, 03-23-2002]

15.6.4.7 D E F I N I T I O N S :
[RESERVED]
[15.6.4.7 NMAC – N, 03-23-2002]

15.6.4.8 DUTY TO SAFE- GUARD BUILDING, PREMISES, AND SAFETY OF ATTENDEES

**A. Duty to Safeguard
Premises:** All promoters licensed by the Commission are required to assure the Commission that all necessary arrangements have been made to safeguard the premises where boxing contests, wrestling or martial arts exhibitions are to be conducted in order to ensure that adequate protection has been provided to prevent riot, stampede, or disorderly conduct on the premises.

(1) Any disorderly conduct, act of assault, or breach of decorum on the part of any Commission licensee is prohibited.

(2) Any violation of this section by a Commission licensee shall subject the licensee to penalties as deemed appropriate by the Commission.

**B. Building Equipment
and Safety Requirements:** All premises,

buildings, or structures used or intended for use in holding or televising boxing, wrestling, or martial arts matches or exhibitions shall:

(1) Be properly ventilated;

(2) [RESERVED]

(3) Provide an adequate fire alert system, fire extinguishers, emergency and fire exits; and

(4) Shall, in all manner, conform to the laws, ordinances, building codes, and regulations pertaining to buildings in the village, town, city, or state where the building is situated.

**C. Sale of Alcoholic
Beverages on the Premises:** Alcoholic beverages may be sold at a match or event only by special permission of the Commission.

(1) The Commission may allow the sale of alcoholic beverages and limit the content of sales at each event.

(2) If sale of alcoholic beverages at an event is approved by the Commission, there must be a valid license to sell alcohol in place issued by the proper state licensing agency.

(3) If an unruly crowd or incident occurs at any event where the sale of alcoholic beverages has been approved by the Commission, the official in charge of the event may immediately suspend the sales of alcoholic beverages.

**D. Ambulance at Live
Events:** The promoter shall ensure that there is an ambulance on stand-by or medical personnel with appropriate resuscitation equipment at ringside at all live boxing, wrestling, or full contact karate or kickboxing events.
[15.6.4.8 NMAC – N, 03-23-2002]

15.6.4.9 [RESERVED]
[15.6.4.9 NMAC – N, 03-23-2002]

15.6.4.10 DUTY TO PROVIDE INSURANCE FOR LICENSED CON- TESTANTS:

A. Any person, party, or corporation holding a promoter's license issued by the Commission shall continuously provide insurance protection for licensed boxing, wrestling, or martial arts contestants appearing in boxing contests, wrestling or martial arts exhibitions.

B. Insurance coverage shall provide the licensee reimbursement for medical, surgical, and hospital care for any injuries sustained while participating in a match.

C. The minimum insur-

ance limit shall be \$1,000.00 for injuries sustained by the contestant while participating in any program, event, match, or exhibition operated under the control of the licensed promoter.

D. Failure by the licensed promoter to provide and pay premiums on insurance as provided in this Section shall be cause for the suspension or the revocation of the promoter's license.
[15.6.4.10 NMAC – N, 03-23-2002]

15.6.4.11 DUTY TO INFORM COMMISSION OF CONTESTANT'S ILLNESS:

A. Licensed promoters, matchmakers, and managers have the duty to promptly inform and furnish the Commission with all information concerning a boxer's, wrestler's, or martial artist's illness or any other reason affecting his ability to safely compete, and for his failure to fulfill any contract.

B. Such information must be submitted to the Commission before it is released to the media.

C. The contestant is in no way relieved from his contractual obligation until the Commission has been properly informed, as provided in Subsection A of this rule.

D. Any boxer, wrestler, or martial artist who is reported ill to the Commission may be placed on the "ill and unavailable list". He will not be reinstated until he has met the following conditions:

(1) He has been examined and given a medical release by the Commission's appointed physician, and

(2) He fulfills all of the commitments pending at the time of his removal from the "available list" by the Commission; or

(3) He is released from those commitments by the promoter.
[15.6.4.11 NMAC – N, 03-23-2002]

15.6.4.12 DUTY TO COMPENSATE EVENT PARTICIPANTS: The promoter of an event will be required to pay all fees due event participants and personnel.

A. Fees Set By The Commission: The Commission shall set fees to be paid to referees, judges, and timekeepers.

B. Fees Set By The Medical Advisory Board: With the approval of the Commission, the medical advisory board shall determine fees to be

paid to ringside physicians.

C. Negotiated Fees: The promoter shall negotiate fees with other event personnel (e.g. security officers, announcers, ticket sellers, ticket takers, doormen, etc.) on an individual basis.
[15.6.4.12 NMAC – N, 03-23-2002]

15.6.4.13 [RESERVED]
[15.6.4.13 NMAC – N, 03-23-2002]

15.6.4.14 DUTY OF MANAGER TO KEEP RECORDS: Managers shall keep accurate records of the receipts and expenses of the professional contestants under their management and control.
[15.6.4.14 NMAC – N, 03-23-2002]

15.6.4.15 DUTY TO REPORT OFFER TO CONDUCT SHAM OR COLLUSIVE CONTEST:

A. A licensee must immediately report to the Commission any circumstance, situation, or occurrence where he has been approached with an offer, request, or suggestion to participate in, contribute, or aid and abet in any manner, a sham or collusive contest; or to participate in any contest that is not to be conducted honestly or fairly.

B. Failure to report such activity to the Commission shall subject the licensee to disciplinary action and such penalty as the Commission may thereafter decide.
[15.6.4.15 NMAC – N, 03-23-2002]

15.6.4.16 DUTY TO PROVIDE A SURETY BOND:

A. A licensed promoter, whether a person, party or corporation, must furnish to the Commission a Surety Bond to guarantee that he will pay all participants any rents, leasing amounts, utility bills, ticket printing invoices, advertising costs, and any other legitimate expenses incurred in conjunction with each program, event, match, exhibition, or televised viewing promoted by the promoter.

B. The Commission may approve a certified check, cash, or a letter of credit, in lieu of a Surety Bond.

C. Before a promoter distributes the receipts of any contest or exhibition, he must first deduct all sums due for the privilege tax due to the State.

D. A licensed promoter, whether a person, party, or corporation, in default of any of its debts or obligations, shall be suspended by the Commission.

E. The Commission may

reinstate the promoter if the promoter meets the following conditions:

(1) The promoter provides the Commission with proof that all the subject debts and obligations have been paid in full; and

(2) The promoter posts a deposit with the Commission in such amount and for such period as determined by the Commission.
[15.6.4.16 NMAC – N, 03-23-2002]

15.6.4.17 RESIDENT STATUS REQUIREMENT FOR PROMOTER: Promoters shall be responsible to the Commission and shall have resident status in New Mexico preceding their application for an event permit.

A. Individual promoters shall have bonafide resident status in the State. However, the resident requirements may be waived by a majority order of the Commission.

B. Corporate promoters shall maintain, in New Mexico, an agent authorized to accept the service of judicial process and other documents. A certified copy of such authorization shall be filed with the Commission.

C. At least three trustees or managing directors of unincorporated clubs or associations shall be bonafide residents of the State, and their names shall be filed with the Commission.
[15.6.4.17 NMAC – N, 03-23-2002]

15.6.4.18 PROHIBITIONS OF SPECIFIC PROFESSIONAL RELATIONSHIPS OR ACTIVITIES:

A. Charitable Organization Promotions: Boxing matches, wrestling programs, or martial arts exhibitions conducted under the auspices or in conjunction with any charitable organization are prohibited by the Commission unless the Commission grants approval for such activity. The promoter may apply for Commission approval by submitting the agreement setting forth the terms and conditions of the program for the Commission's review.

B. Licensed Matchmaker Forbidden To Act As Manager or Assignee of Boxer: Matchmakers are forbidden from acting as the manager or assignee of any boxer; or from participating in any way, directly or indirectly, in the ring earnings or management of any boxer. However, the Commission shall license matchmakers as managers employed by

licensed promoters, if acceptable to the Commission. In such cases:

(1) The matchmaker and the promoter shall be jointly responsible to the Commission for any matches conducted.

(2) Matches shall be conducted only by a licensed promoter or licensed matchmaker.

(3) Matchmakers will be held responsible by the Commission if they arrange matches in which one of the principles is outclassed.

(4) Persistent lack of judgment in this matter will be regarded as cause for suspension or revocation of the matchmaker's license, and the matchmaker shall have no further connection with any boxer or stable of boxers.

C. Restrictions On Promoter As Employer Of Other Commission Licensees: Licensed promoters are prohibited from employing, or in any other way having any commercial connection to, any licensed boxer, wrestler, manager, or second.

D. Restrictions On Other Principles With Regard To Commission Licensees:

(1) The Commission prohibits any director, officer, employee, or stockholder of any licensed promoter from serving or acting, either directly or indirectly, as the manager, assignee, or second to any boxer.

(2) The Commission prohibits any director, officer, employee, or stockholder of any licensed promoter from being employed by, or in any other way being connected with, any other promoter, without the approval of the Commission.

[15.6.4.18 NMAC – N, 03-23-2002]

15.6.4.19 [RESERVED]

[15.6.4.19 NMAC – N, 03-23-2002]

15.6.4.20 DUTY TO OBTAIN EVENT PERMITS: A licensed promoter must obtain an event permit prior to each program, match, event, or exhibition.

A. The Commission will issue a permit upon receipt from the promoter of a completed Commission-approved application, and all other required documentation.

B. The application and attachments must be filed with the Commission or Events Coordinator not later than seven days before the contest. The application must contain the following information and documentation:

(1) Evidence of a current promoter's license;

(2) Date of the contest;

(3) Copy of the contract for the event location;

(4) Proof of contest insurance;

(5) Name of the main event participants; and

(6) Number of scheduled rounds of all boxing contests on the event card.

C. The promoter must provide the Commission with the signed and witnessed formal contracts for the main event boxing contest executed on forms supplied by the Commission and executed in accordance with Part 2 of the Commission's Rules and Regulations, 15.6 NMAC.

D. Each applicant for an event permit agrees to grant the Commission, or its authorized representative, the right to examine the books of accounts and other records of the applicant relating to each event for which an event permit application is made.

[15.6.4.20 NMAC – N, 03-23-2002]

15.6.4.21 APPROVAL OF EVENT PERMITS: Before approving any event permit, the Commission, or the two Commissioners acting under the Commission's delegated authority, will consider the relative merits of the contestants, their past records, and whether or not they are suitable opponents. The Commission reserves the right to disapprove any match or boxing contest on the grounds that it is not in the best interest of boxing, wrestling, or martial arts, or of the health and safety of either of the contestants.

A. Each application for an event permit will be reviewed by the Events Coordinator or by Commission staff to assure compliance with all application requirements of the Commission.

B. When the application is complete, the Events Coordinator or Commission staff will review the event permit request with two Commission members to obtain their approval. The two Commissioners have the authority to provide final approval. However, if they are unwilling to grant approval of the event permit application, the following shall occur:

(1) The event permit request will be considered at the next regularly scheduled Commission meeting; or

(2) If the next regular meeting is not scheduled to occur seven or more days

before the event, a Special Meeting of the Commission will be called to review the application.

[15.6.4.21 NMAC – N, 03-23-2002]

15.6.4.22 [RESERVED]
[15.6.4.22 NMAC – N, 03-23-2002]

15.6.4.23 DUTIES REGARDING SCHEDULING OR CANCELING OF EVENTS:

A. Scheduled events may not be cancelled or adjourned without the consent of the Commission.

B. Advertisement for an event may not be paid for until and unless the event has been approved by the Commission, as set forth in Section 21 of this rule.

[15.6.4.23 NMAC – N, 03-23-2002]

15.6.4.24 LICENSE CARD REQUIRED:

A. All participants, whether a promoter, corporation, referee, judge, matchmaker, timekeeper, corporation treasurer, professional boxer, wrestler, kick-boxer or martial artist, manager, trainer, second, or announcer, must be licensed by the Commission before they may participate, either directly or indirectly, in any boxing, sparring, wrestling match or kick boxing exhibition.

B. Upon request, any participant must allow inspection of his license card by the Commission or its delegated representative.

C. Any participant denying inspection of his license card by the Commission, or its delegated representative, shall be prohibited by the Commission from participating in the event.

[15.6.4.24 NMAC – N, 03-23-2002]

15.6.4.25 PROTOCOL FOR USING ASSUMED NAMES:

A. A boxer or wrestler may use, but not be licensed under, an assumed name, provided the Commission has approved the use of the assumed name.

B. A boxer or wrestler may not assume or be licensed under a name deceptively similar to the name of any other boxer or wrestler.

[15.6.4.25 NMAC – N, 03-23-2002]

15.6.4.26 [RESERVED]
[15.6.4.26 NMAC – N, 03-23-2002]

15.6.4.27 SUSPENSIONS REPORTED NATIONALLY:

A. The Commission shall report all suspensions nationally, except

those imposed locally for minor infractions of local rules.

B. The Commission shall report any suspensions to championship sponsoring organizations within ten (10) days of the suspension.
[15.6.4.27 NMAC – N, 03-23-2002]

HISTORY of 15.6.4 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-1, The Commission, Its Powers and Procedures, filed 9-24-80;

Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers and Procedures, filed 8-17-92;

NMAC 80-2, Contracts, filed 9-24-80;
Those relevant portions of NMAC 92-4, Contracts, filed 8-17-92;

NMAC 80-4, Conduct of Licensees, filed 9-24-80;

NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92;

NMAC 80-5, Rules to Safeguard Health, filed 9-24-80;

Those relevant portions NMAC Rule 92-7, Rules to Safeguard Health, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers and Procedures, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-4 (aka 15 NMAC 6.2), Contracts, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-7 (aka 15 NMAC 6.5), Requirements To Safeguard Health, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92, **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-2 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions;

NMAC Rule 92-4 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.2 and named Contracts;

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees;

NMAC Rule 92-7 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.5 and named Requirements To Safeguard Health;

15.6.4 NMAC, Duties and Conduct Of Licensees, replaced 15 NMAC 6.4, Conduct of Licensees, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 5 REQUIREMENTS TO SAFEGUARD HEALTH

15.6.5.1 ISSUING AGENCY:
New Mexico Athletic Commission.

[15.6.5.1 NMAC – N, 03-23-2002]

15.6.5.2 SCOPE: The provisions in Part 5 apply to all licensees of the Commission.

[15.6.5.2 NMAC – N, 03-23-2002]

**15.6.5.3 STATUTORY
AUTHORITY:** Part 5 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-4, 60-2A-7, 60-2A-8, 60-2A-17, 60-2A-20, 60-2A-21, 60-2A-28, and 60-2A-29.

[15.6.5.3 NMAC – N, 03-23-2002]

15.6.5.4 DURATION:
Permanent.

[15.6.5.4 NMAC – N, 03-23-2002]

15.6.5.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.

[15.6.5.5 NMAC – N, 03-23-2002]

15.6.5.6 OBJECTIVE: The objective of Part 5 of Chapter 6 is to notify all Commission licensees of the duties and conduct expected by the Commission with regard to safeguarding the health and safety of contestants in events regulated by the Commission.

[15.6.5.6 NMAC – N, 03-23-2002]

15.6.5.7 DEFINITIONS:
[RESERVED]

[15.6.5.7 NMAC – N, 03-23-2002]

15.6.5.8 MEDICAL EXAMINATION AND CERTIFICATION OF CONTESTANTS REQUIRED:

A. Medical Examination of Non-Main Event or Non-Championship Bout Contestants: It

shall be the duty of the licensed promoter, whether a person, party, or corporation, conducting a professional boxing, sparring, wrestling or martial arts exhibition, to arrange for the contestants to undergo a uniform pre-bout medical examination performed by a New Mexico licensed physician approved by the Commission's medical advisory board.

(1) The pre-bout medical examination shall be conducted within twenty-four (24) hours prior to the contestant's entering the ring in the scheduled match or exhibition.

(2) The pre-bout medical examination shall include the eyes, weight, temperature, pulse sitting, pulse standing, lungs, heart, blood pressure, venereal disease, infectious eye or skin diseases, scrotal evidence of hernia, general condition, and any other tests deemed advisable by the physician. Female participants shall be required to provide a current negative pregnancy test at each contest in which they participate.

(3) The pre-bout medical examination should also require the review of the results of specified medical tests/examinations that all participants should be required to keep current in a national data bank. (E.g., MRI, EKG, neurological examination, annual complete eye examination including dilation and retinal examination, hepatitis, and drug screens.)

(4) The Commission shall require proof of compliance with any medical requirements previously imposed on a participant by another commission prior to giving medical approval for a bout.

(5) Immediately following the examination, the physician shall file with the Commission a written report of the results of the examination on a form prescribed by the Commission. The physician shall certify as to the physical fitness of each contestant scheduled to participate in the match or exhibition; and deliver the completed examination report to the Commission's representative and made available to the promoter of the match or exhibition before the commencement of the event

(6) The promoter of the match or exhibition shall prohibit any boxer from entering the ring unless he has been certified by the examining physician to be physically fit to engage in the match or exhibition.

(7) It shall be unlawful for any

physician to certify falsely to the physical condition of any contestant in a professional boxing or sparring match or martial arts exhibition.

B. Medical Examination of Main Event or Championship Bout Contestants: All contestants scheduled for main event or championship boxing contests shall undergo a uniform medical examination at least five days prior to the date of the contest in the same manner and procedure as set forth in Subsection A of this rule, 15.6.5.8 NMAC.

C. Medical Examination On The Day Of The Boxing Event: All boxers scheduled for boxing contests in an event shall undergo the same type of examination outlined in Paragraph (2) of Subsection A of 15.6.5.8 NMAC. The examination shall be conducted twice on the day of the bout: (1) at the weigh-in conducted not less than six (6) hours before the scheduled contest, and (2) a short while before the boxing program commences.

D. Cost Of The Medical Examination: The cost of any physical examination shall be prescribed by a schedule of fees established by the Commission.

(1) The cost of any medical examinations of event contestants shall be paid directly to the Commission by the promoter of the event.

(2) The physician will be paid directly by the promoter in accordance with the fees established by rule by the Commission.
[15.6.5.8 NMAC – N, 03-23-2002]

15.6.5.9 CONFIDENTIAL NATURE OF MEDICAL REPORTS: All medical reports submitted to the Commission and all medical records of the Commission's medical advisory board or Commission relative to the physical examination and medical condition of boxers, wrestlers, or martial artists, shall be considered confidential in nature. These records shall be open to examination only to the following:

A. To the boxer, wrestler, or martial artist wishing to examine his own medical records and upon his written application to the Commission to examine said records; or

B. To a court of competent jurisdiction upon subpoena for an appropriate court case.
[15.6.5.9 NMAC – N, 03-23-2002]

15.6.5.10 [RESERVED]

[15.6.5.10 NMAC – N, 03-23-2002]

15.6.5.11 SPECIFICATIONS FOR HAND BANDAGES ON BOXERS' HANDS:

A. Hand bandages on the hands of a boxer shall be restricted to soft gauze not more than twenty (20) yards in length and two (2) inches in width; and held in place by not more than eight (8) feet of adhesive tape not more than one and one-half (1-1/2) inches for each hand.

B. The use of adhesive tape over the knuckles is strictly prohibited. The tape shall not cover any part of the knuckles when the hand is clenched to make a fist.

C. The use of water or any other liquid or material on the tape is strictly prohibited.

D. The hand bandages shall be placed and adjusted in the dressing room in the presence of a representative designated by the Commission and, if requested, one representative of the other boxer.

E. Under no condition are gloves to be placed on the hands of the contestant until the Commission representative stamps the Commission's approval on the hand bandages.

[15.6.5.11 NMAC – N, 03-23-2002]

15.6.5.12 PHYSICIAN IN ATTENDANCE:

A. It shall be the duty of every promoter to have in attendance at every boxing match or exhibition, a physician licensed by the State of New Mexico and designated by the Commission.

B. The Commission may establish a schedule of fees to be paid by the promoter to cover the cost of the physician's attendance.

C. The promoter shall pay the physician directly, in accordance with rules established by the Commission.
[15.6.5.12 NMAC – N, 03-23-2002]

15.6.5.13 THE RINGSIDE PHYSICIAN:

A. Duties Of The Ringside Physician: The ringside physician shall:

(1) Observe the physical condition of the contestants during the course of the match.

(2) Advise the referee if the physician determines that a contestant requires first aid treatment.

(3) Render treatment to a contestant if requested to do so by the referee.

(4) Examine any contestant between rounds whenever the physician deems it appropriate.

(5) Advise the referee to terminate the match if the physician is of the opinion that any contestant is physically unfit to continue.

(6) Treat any contestant who appears injured at the conclusion of the match.

(7) Advise the Commission representative in charge to terminate any match if, in the opinion of the physician, any contestant has received severe punishment or is in danger of serious physical injury.

(8) Render immediately any emergency treatment necessary, and recommend further treatment or hospitalization, if required.

(9) Determine whether the injured contestant and his manager should remain in the ring or on the premises after the contest for a period of time as deemed advisable by the physician.

(10) Present a full report on the matter to the Commission within 24 hours of the match.

B. When the Ringside Physician May Enter The Ring: Barring anything contrary to this part, the ringside physician may enter the ring between rounds and terminate any match or bout to prevent severe punishment or serious injury to a contestant. The referee may request an examination of the contestant during the match or bout, and is required to stop the contest upon the recommendation of the physician.
[15.6.5.13 NMAC – N, 03-23-2002]

15.6.5.14 WHEN A MANDATORY COUNT OF EIGHT IS REQUIRED:

A. In the event that one boxer is knocked-down, the referee shall give a mandatory 8-count. A boxer shall be deemed "down" when any part of his body, except his feet, is on the floor or he is hanging helplessly over or on the ropes.

B. Should a contestant slip, or fall down, or be pushed, he shall be ordered to his feet immediately. Failure to rise may subject him to disqualification.
[15.6.5.14 NMAC – N, 03-23-2002]

15.6.5.15 [RESERVED]
[15.6.5.15 NMAC – N, 03-23-2002]

15.6.5.16 AUTOMATIC SUSPENSION OF BOXER SUFFERING ACTUAL KNOCKOUT:

A. Any contestant who has suffered an actual knockout shall be automatically suspended for at least sixty (60) days;

B. The contestant shall surrender his license card to the Commission; and

C. The contestant shall not engage in any boxing or sparring contest or exhibition during the period of such suspension.
[15.6.5.16 NMAC – N, 03-23-2002]

15.6.5.17 EXAMINATION AND REPORT AFTER SEVERE INJURY OR KNOCKOUT:

A. Any contestant who has sustained any severe injury or actual knockout in a bout or match shall be thoroughly examined within twenty-four (24) hours by a physician approved by the Commission's medical advisory board.

B. Upon the medical advisory board's recommendation, the Commission may suspend the boxer beyond the mandatory sixty (60) days until he is fully recovered.

C. In the event that a contestant who has suffered a severe injury or a knockout has been treated by his own personal physician or has been hospitalized, he or his manager must promptly submit a full report from the attending physician or hospital to the Commission's medical advisory board.
[15.6.5.17 NMAC – N, 03-23-2002]

15.6.5.18 [RESERVED]
[15.6.5.18 NMAC – N, 03-23-2002]

15.6.5.19 SPECIAL MANDATORY MEDICAL EXAMINATIONS:

A Contestant Losing Six Consecutive Matches: Any contestant who has lost six consecutive bouts or matches must be automatically suspended and cannot be reinstated until he has submitted to a medical examination of the type specified in Subsection A of 15.6.5.8 NMAC.

B. Physician Panel: At the request of the Commission, the medical advisory board shall appoint a panel of three physicians to specially examine any licensed boxer, wrestler, or martial artist as deemed necessary by the Commission.
[15.6.5.19 NMAC – N, 03-23-2002]

15.6.5.20 MANDATORY

RESTING PERIOD FOR BOXERS BETWEEN BOUTS:

A. If a boxer has competed anywhere in a six (6) rounds or more bout, he shall not be allowed to box in New Mexico until seven (7) days have elapsed since his last bout.

B. If a boxer has competed anywhere in a four (4) round bout, he shall not be allowed to box in New Mexico until four (4) days have elapsed since his last bout.
[15.6.5.20 NMAC – N, 03-23-2002]

15.6.5.21 [RESERVED]
[15.6.5.21 NMAC – N, 03-23-2002]

15.6.5.22 AMBULANCE AT LIVE EVENTS: The promoter shall ensure that there is an ambulance on stand-by at all live boxing, wrestling, or full contact karate or kickboxing events.
[15.6.5.22 NMAC – N, 03-23-2002]

HISTORY of 15.6.5 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMAC 80-4, Conduct of Licensees, filed 9-24-80;
Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92;
NMAC 80-5, Rules to Safeguard Health, filed 9-24-80;
NMAC Rule 92-7, Rules to Safeguard Health, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92; **repealed** effective 03-23-2002.
NMAC Rule 92-7 (aka 15 NMAC 6.5), Requirements To Safeguard Health, filed 8-17-92, **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees;
NMAC Rule 92-7 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.5 and named Requirements To Safeguard Health;
15.6.5 NMAC, Requirements To Safeguard Health, replaced 15 NMAC 6.5, Requirements To Safeguard Health, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 6 THE RING OFFICIALS

15.6.6.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.6.1 NMAC – N, 03-23-2002]

15.6.6.2 SCOPE: The provisions in Part 6 apply to all licensees of the Commission.
[15.6.6.2 NMAC – N, 03-23-2002]

15.6.6.3 STATUTORY AUTHORITY: Part 6 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.).
[15.6.6.3 NMAC – N, 03-23-2002]

15.6.6.4 DURATION:
Permanent.
[15.6.6.4 NMAC – N, 03-23-2002]

15.6.6.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.6.5 NMAC – N, 03-23-2002]

15.6.6.6 OBJECTIVE: The objective of Part 6 of Chapter 6 is to set forth notify all Commission licensees of the duties of the ring officials.
[15.6.6.6 NMAC – N, 03-23-2002]

15.6.6.7 DEFINITIONS: "Ring Officials" refers to the event referees, announcers, timekeepers, and judges.
[15.6.6.7 NMAC – N, 03-23-2002]

15.6.6.8 REFEREES AND JUDGES ARE ASSIGNED BY THE COMMISSION:

A. Commission Assigns Ring Officials For Bouts and Exhibitions: The Commission shall assign referees and judges to each boxing, wrestling, or martial arts event, bout, program, match, or exhibition conducted by a licensed promoter in New Mexico.

B. Ring Officials Paid By Promoter: All ring officials assigned and directed by the Commission to be in attendance at any event, bout, program, match, or exhibition shall be paid by the licensed

promoter for the event in accordance with the fee schedule furnished by the Commission to the promoter.

C. Number and Substitution of Ring Officials: The number of officials required to be in attendance, or the substitution of officials for any reason or at any time during the event, bout, program, match, or exhibition, shall be solely within the power and discretion of the Commission.
[15.6.6.8 NMAC – N, 03-23-2002]

15.6.6.9 [RESERVED]
[15.6.6.9 NMAC – N, 03-23-2002]

15.6.6.10 THE BOXING REFEREE:

A. License Required: A referee must be licensed by the Commission before he will be permitted, assigned, or directed by the Commission to assume the duties and powers of a referee.

B. Duties and Powers: The boxing referee shall have the following duties and powers:

- (1) To instruct the contestants.
- (2) To inspect each boxer's gloves and make sure that no foreign, harmful, or detrimental substances have been applied to either the gloves or to the bodies of the boxers.
- (3) To stop a bout or contest at any stage on the grounds that it is too one-sided. In such an event, the referee may award the bout to the superior contestant as a technical knockout.
- (4) To stop a bout or contest at any stage if he determines that one or both of the boxers are not competing in earnest. In such an event, the referee may disqualify one or both of the contestants. If only one contestant is disqualified, the referee may award the bout as a technical knockout to the other contestant.
- (5) To stop a bout or contest at any stage on account of a major foul being committed by either contestant. In such an event, the referee may award the decision to the boxer who was fouled.

[15.6.6.10 NMAC – N, 03-23-2002]

15.6.6.11 [RESERVED]
[15.6.6.11 NMAC – N, 03-23-2002]

15.6.6.12 [RESERVED]
[15.6.6.12 NMAC – N, 03-23-2002]

15.6.6.13 THE RING ANNOUNCER:

A. License Required: A

ring announcer must be licensed by the Commission before he will be permitted by the Commission to assume the duties of a ring announcer. Unlicensed persons may not be employed by the promoter to act as the ring announcer for an event being conducted by the promoter.

B. Introductions: Only introductions approved by the Commission shall be made from the ring. Announcing from the ring the names of any persons not connected with the sport, without prior consent from the Commission or its delegated representative, is forbidden.

C. Announcing The Contestants: After the announcer completes the introductions, he shall announce the name of each contestant and his correct weight, along with any other announcements that he is directed by the Commission to announce.
[15.6.6.13 NMAC – N, 03-23-2002]

15.6.6.14 THE TIMEKEEPER:

A. License Required: A timekeeper must be licensed by the Commission before he will be permitted by the Commission to assume the duties of a timekeeper. Unlicensed persons may not be employed by the promoter to act as timekeepers for an event being conducted by the promoter.

B. Location of the Timekeeper: The timekeeper must sit outside the ring platform and close to the gong.

C. Tools of the Timekeeper: Each timekeeper must have either a whistle or a gong and a stopwatch, which must be submitted for approval by the Commission representative in attendance at the boxing program.

D. Knockout Protocol: In the event that a bout terminates by a knockout during any round, the timekeeper shall inform the announcer of the exact duration of the round.

E. Ten-Second Signals Required: The timekeeper shall signal ten (10) seconds prior to the beginning of any round. At such signal, all seconds must leave the inside of the ring, and all stools and equipment must be removed from the ring platform. The timekeeper must not signal during the progress of a round except to indicate that only ten (10) seconds remain in the round.

F. Striking the Gong: The timekeeper must strike the gong with a metal hammer to indicate the beginning and ending of each round.
[15.6.6.14 NMAC – N, 03-23-2002]

HISTORY of 15.6.6 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMAC 80-6, The Ring Officials, filed 9-24-80;
NMAC Rule 92-8, The Ring Officials, filed 8-17-92;

History of Repealed Material:

NMAC Rule 92-8 (aka 15 NMAC 6.6), The Ring Officials, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-8 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.6 and named The Ring Officials;
15.6.6 NMAC, The Ring Officials, replaced 15 NMAC 6, The Ring Officials, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 7 THE PREMISES, ITS FACILITIES AND EQUIPMENT

15.6.7.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.7.1 NMAC – N, 03-23-2002]

15.6.7.2 SCOPE: The provisions in Part 7 apply to all licensees of the Commission.
[15.6.7.2 NMAC – N, 03-23-2002]

15.6.7.3 STATUTORY AUTHORITY: Part 7 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-2, 60-2A-4, 60-2A-8, 60-2A-9, 60-2A-10, 60-2A-20, 60-2A-21, 60-2A-29, and 60-2A-31.
[15.6.7.3 NMAC – N, 03-23-2002]

15.6.7.4 DURATION: Permanent.
[15.6.7.4 NMAC – N, 03-23-2002]

15.6.7.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.7.5 NMAC – N, 03-23-2002]

15.6.7.6 OBJECTIVE: The objective of Part 7 of Chapter 6 is to set forth all Commission requirements for the building premises, facilities, and equipment that are to be used for an event, program, match, bout, or exhibition regulated by the Commission.
[15.6.7.6 NMAC – N, 03-23-2002]

15.6.7.7 DEFINITIONS:
[RESERVED].
[15.6.7.7 NMAC – N, 03-23-2002]

15.6.7.8 THE PREMISES AND EQUIPMENT: Any building or premise in which an event, match, program, bout, or exhibition regulated by the Commission is to be held must first be approved by the Commission. A promoter may only arrange for and hold events, matches, programs, bouts, or exhibitions regulated by the Commission in premises and with equipment approved by the Commission.
[15.6.7.8 NMAC – N, 03-23-2002]

15.6.7.9 [RESERVED]
[15.6.7.9 NMAC – N, 03-23-2002]

15.6.7.10 SEATING ACCOMMODATIONS FOR OFFICIALS: The promoter must ensure that suitable, separate ringside seats are provided for the judges, the timekeeper, the knockdown counter, the physicians, and the Commission representatives.

A. The attending Commission representative must approve seating accommodations prior to the commencement of any program.

B. The promoter must also provide one seat in each contestant's corner for the inspectors on duty to occupy during the program.

C. There shall also be a separate and cordoned-off area for working officials sitting ringside.
[15.6.7.10 NMAC – N, 03-23-2002]

15.6.7.11 [RESERVED]
[15.6.7.11 NMAC – N, 03-23-2002]

15.6.7.12 THE RING: Any ring in which a boxing, wrestling, or martial arts contest or exhibition is to be conducted, must first be inspected and approved by the Commission Chair or his designee as having met the following requirements:

A. Size: The standard ring shall be at least twenty (20) square feet within the ropes, but no more than twenty-

four (24) square feet, unless otherwise approved by the Commission; and have no less than eighteen (18) inches of unencumbered platform surface extending from the ropes.

B. Elevation: The ring shall not be elevated more than four (4) feet off of the floor, and shall be provided with two sets of suitable steps for use of contestants, coaches, and officials

C. Ropes: The ring ropes shall be four (4) in number with the bottom rope off-set from the other three. The bottom rope shall be between thirteen (13) and eighteen (18) inches from the ring surface. The ropes shall be no less than one (1) inch in diameter and should be covered with a soft material to avoid injury to the participants.

D. Padding: The ring surface shall have a smooth, firm surface covered with clean canvas or other resilient material stretched taught and laced tightly to the ring platform. Between the surface and the cover, there shall be a layer of enso-lite padding or similar material, at least one (1) inch thick that extends over the entire surface inside and outside of the ropes.

E. Ring Posts: The ring posts shall be four (4) in number and shall extend no more than fifty-eight (58) inches from the surface of the ring. Each post shall be at least eighteen (18) inches distant from the ring ropes. Ring posts and turnbuckles shall be suitably padded to insure the participants' safety.

F. Lighting: The ring shall be amply illuminated by overhead lights that should be so arranged that shadows shall be eliminated and discomfort from heat and glare are minimized for persons in and near the ring.
[15.6.7.12 NMAC – N, 03-23-2002]

15.6.7.13 [RESERVED]
[15.6.7.13 NMAC – N, 03-23-2002]

15.6.7.14 EMERGENCY MEDICAL FACILITIES AND EQUIPMENT:

A. Commission Approval Required: All medical facilities and equipment to be used at any event regulated by the Commission must be approved in advance by the Commission.

B. Promoter Responsibility: The licensed promoter of any event regulated by the Commission must provide adequate emergency medical equipment and must ensure that the Commission has approved all medical fac-

ilities and equipment for the event.

C. Specifications For Medical Facilities And Equipment: The Commission shall provide to each licensed promoter, a bulletin containing Commission-approved specifications and information regarding the medical facilities and equipment required for each event.
[15.6.7.14 NMAC – N, 03-23-2002]

15.6.7.15 [RESERVED]
[15.6.7.15 NMAC – N, 03-23-2002]

15.6.7.16 OTHER EQUIPMENT: The Commission or Commission representative must approve all equipment used in conjunction with the contest.

A. The Gong: The gong must not be less than ten (10) inches in diameter, and it must be adjusted and secured at ringside.

B. Scales: The Commission must approve, in advance of any contest, any scale that will be used for any contestant weigh-in.

C. Buckets and Bottles: There must be a clean bucket and a clean bottle in each contestant's corner for each bout or event, along with an additional bucket for the disposal of contaminated materials in each corner.

D. Second's Stools: The promoter must provide second's stools for each contestant's corner.

E. Miscellaneous Equipment: The promoter must provide any other equipment or articles as required by the Commission for the proper conduct of any bout or event.
[15.6.7.16 NMAC – N, 03-23-2002]

15.6.7.17 [RESERVED]
[15.6.7.17 NMAC – N, 03-23-2002]

15.6.7.18 DRESSING ROOMS:
A. Contestant's Dressing Rooms Restricted: No one shall be allowed in a contestant's dressing room except his manager, his seconds, and the Commission representatives.

B. Commission Approval For Exceptions to Restrictions: The Commission or its representative may make exception to the restrictions in Subsection A of 15.6.7.18 NMAC, and permit members of the press and members of the promoting corporation into a contestant's dressing room.
[15.6.7.18 NMAC – N, 03-23-2002]

HISTORY of 15.6.7 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-5, Rules To Safeguard Health, filed 9-24-80;

Those relevant portions of NMAC Rule 92-7, Rules To Safeguard Health, filed 8-17-92;

NMAC 80-7, The Premises, Its Facilities And Equipment, filed 9-24-80;

NMAC Rule 92-9, The Premises, Its Facilities And Equipment, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-7 (aka 15 NMAC 6.5), Rules To Safeguard Health, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-9 (aka 15 NMAC 6.7), The Premises, Its Facilities And Equipment, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-7 and NMAC Rule 92-9 were recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.7 and named The Premises, Its Facilities And Equipment; 15.6.7 NMAC, The Premises, Its Facilities And Equipment, replaced 15 NMAC 7, The Premises, Its Facilities And Equipment, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 8 CONDUCT OF BOXING CONTESTS

15.6.8.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.8.1 NMAC – N, 03-23-2002]

15.6.8.2 SCOPE: The provisions in Part 8 apply to all licensees of the Commission.
[15.6.8.2 NMAC – N, 03-23-2002]

15.6.8.3 STATUTORY AUTHORITY: Part 8 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.); specifically Sections 60-2A-2, 60-2A-4, 60-2A-8, 60-2A-9, 60-2A-10, 60-2A-20, 60-2A-21, 60-2A-29, and 60-2A-31.
[15.6.8.3 NMAC – N, 03-23-2002]

15.6.8.4 DURATION:
Permanent.
[15.6.8.4 NMAC – N, 03-23-2002]

15.6.8.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.8.5 NMAC – N, 03-23-2002]

15.6.8.6 OBJECTIVE: The objective of Part 8 of Chapter 6 is to set forth all Commission requirements for the conduct of any boxing contests regulated by the Commission.
[15.6.8.6 NMAC – N, 03-23-2002]

15.6.8.7 DEFINITIONS:
“Contests” are considered “boxing contests” and not “fights” or “prize fights”.
[15.6.8.7 NMAC – N, 03-23-2002]

15.6.8.8 CHANGES IN ANNOUNCED OR ADVERTISED BOXING PROGRAMS:

A. Notice of Change Required: A notice of any change in the announced or advertised programs for any main event contest must be filed with, and approved by, the Commission at least forty-eight (48) hours before the weighing-in time of the contest.

B. Posting of Notice:
Notices of any such change or substitution must also be conspicuously posted at all box offices on the premises and announced from the ring before the opening boxing contest.

C. Refund Policy: If any patrons apply for refunds on their purchased tickets, the promoter or promoting corporation shall make such refunds upon demand, provided such tickets are presented at the box office on the day or night of the contest.
[15.6.8.8 NMAC – N, 03-23-2002]

15.6.8.9 DURATION OF MATCHES:

A. Non-Championship Matches: In non-championship matches, contestants may only be matched for four, six, or ten rounds unless otherwise approved by the Commission.

B. World Championship Matches: World championship matches must not exceed twelve (12) rounds in duration.

C. State Championship Matches: State championship matches may be conducted for twelve (12) rounds, at the direction of the Commission.
[15.6.8.9 NMAC – N, 03-23-2002]

15.6.8.10 BOXING ROUNDS:

A. Number of Boxing Rounds Allowed: There shall be no less than twenty-six (26) scheduled rounds of boxing on any one program, unless otherwise approved by the Commission.

B. Round Duration and Intermission Between Rounds For Male Contestants: Each round shall be three (3) minutes in duration and there shall be one-minute rest period intermissions allowed between rounds.

C. Round Duration and Intermission For Female Contestants: All bouts for female boxer shall be scheduled for no more than ten (10) rounds with each round lasting two (2) minutes in duration, with rest period intermissions of one (1) minute duration between rounds.
[15.6.8.10 NMAC – N, 03-23-2002]

15.6.8.11 CONTESTANTS' SECONDS:

A. Approval of Seconds by Commission: The Commission must approve all seconds.

(1) Each contestant must submit the name of his chief second and his assistant second to the Commission for approval.

(2) Only seconds approved by the Commission shall be permitted in the contestant's corner.

(3) Before the fight begins, the referee must be informed who the chief second is.

B. Number of Seconds Per Contestant:

(1) The maximum number of seconds a contestant may have is three (3).

(2) Only one of a boxer's seconds will be permitted inside the ring ropes between rounds.

C. Conduct of Seconds:

(1) Seconds are prohibited from coaching any of the contestants during the progress of the round.

(2) Seconds must remain seated during each round.

(3) Seconds must not interfere with or move a boxer who has been knocked down until they are instructed to do so by the ringside physician.

(3) Seconds are prohibited from entering the ring between rounds and assisting a contestant back to his corner unless the boxing contest has been terminated by the referee or ringside physician.

(4) Seconds are prohibited from throwing any towel, sponge, etc., into the ring as a token of defeat.

(5) A second may step on the ring

apron to retire his boxer in defeat.

[15.6.8.11 NMAC – N, 03-23-2002]

15.6.8.12 CONTESTANTS' EQUIPMENT

A. Gloves: The following requirements apply to the gloves that must be used by contestants in an event:

(1) Gloves for main events shall be new.

(2) Gloves for any bout scheduled for ten (10) or more rounds shall be new.

(3) Gloves are to be furnished by the licensed promoter or licensed promoter corporation.

(4) Gloves used in any boxing event must be no less than eight (8) ounces in weight for boxers who weight 154 pounds or less; and at least ten (10) ounces in weight for boxers who weight over 154 pounds or are female. All gloves must be thumb attached or minus the thumb and approved by the Commission.

(5) Gloves shall be identical and shall not be altered in any manner.

B. Shoes: Only shoes of soft material that are not fitted with spikes, cleats, hard soles, or hard heels shall be permitted in the ring.

C. Mouthpieces: Each contestant shall wear an individually fitted mouthpiece that shall remain in the contestant's mouth at all times during the competition.

(1) The round cannot begin until the contestants are wearing mouthpieces.

(2) If the mouthpiece is dislodged during competition, the referee will call time at the first opportune moment without interfering with the immediate action and have the mouthpiece replaced.

(3) The referee shall direct the other contestant to the farthest neutral corner and escort the contestant with the dislodged mouthpiece to his or her corner to have the mouthpiece rinsed and replaced.

(4) The referee may deduct points or disqualify a participant if he deems that the mouthpiece is being intentionally spit out.

D. Abdominal Guards: Contestants shall wear an abdominal guard of a standard type that provides sufficient protection to withstand any low blow.

E. Boxing Trunks and Protective Cups: All contestants shall be required to wear boxing trunks, the belt of which shall not extend above the waistline and protective cups that shall be firmly in place before the contestant enters the ring.
[15.6.8.12 NMAC – N, 03-23-2002]

15.6.8.13 NUMBER OF BOXING CONTEST OFFICIALS REQUIRED: There shall be at least one physician in attendance at ringside at all times. In addition, the following officials shall be present at each boxing contest:

A. One referee;

B. Three judges;

C. One timekeeper;

D. One knockdown counter; and

F. One announcer.

[15.6.8.13 NMAC – N, 03-23-2002]

15.6.8.14 POSITION OF JUDGES AND PHYSICIANS:

A. Judges: The judges shall be stationed at opposite sides of the ring.

B. Physicians: The physician shall be stationed at places designated by the Commission representative in charge.

[15.6.8.14 NMAC – N, 03-23-2002]

15.6.8.15 FEMALE BOXERS: The weight classes for female boxers shall be the same as used by male boxers.

A. A female boxer must be qualified to perform as a boxing contestant before she enters the ring.

B. A female boxer shall not engage in a contest with a male boxer.

C. In addition to meeting such requirements of the Commission's rules that are applicable to boxers generally, a female boxer shall comply with the following rules:

(1) Use a mouthpiece specifically designed for her mouth;

(2) Use glove sizes as follows:

(a) Female boxers up to 154 lbs. shall use 8 ounce gloves, properly fitted; and

(b) Female boxers over 154 lbs. shall use 10 ounce gloves, properly fitted.

(3) Wear breast protectors and groin protectors that are both properly fitted ;

(4) Secure her hair with soft and non-abrasive material in a manner that does not interfere with the vision or safety of either contestant; and

(5) Not use facial cosmetics.

D. Female contestants shall be permitted to wear a body shirt or blouse without buttons, buckles or ornaments. Other apparel or equipment is prohibited.

E. All female boxers must provide a **negative pregnancy test** prior to each bout.

F. A contest between

female boxers must be limited to ten (10) rounds of two (2) minutes duration, with one (1) minute rest periods between rounds.

G. The promoters of a contest between female boxers shall provide the female contestants with adequate dressing rooms separate from the dressing rooms of male boxers.

[15.6.8.15 NMAC – N, 03-23-2002]

15.6.8.16 BOXING CONTESTANTS:

A. Non-Main Event Contestants: All contestants, except main event contestants, participating in the boxing program must report to the designated dressing room of the event premises no later than one half hour before the commencement of the first scheduled boxing contest.

B. Arrival Of Main Event Contestants To Event City: Not less than twenty-four (24) hours before the contest, a main event contestant shall report in person to the promoter in the city where the match will take place.

(1) Promoters shall immediately notify the Commission that the main event contestants have arrived.

(2) If the bout is of sufficient importance, the contestants shall complete their training in the city concerned. The Commission shall determine the number of days required for this purpose.

C. Main Event Contestants Report For Event: Main event contestants may report to the contest location no later than one hour before the commencement of the first boxing contest.

D. Confinement to Dressing Rooms: All contestants will remain in their dressing rooms until ordered to the ring by the Commission representative in charge.

E. Physical Appearance: Before entering the ring, contestants must have a clean, shaven appearance. Their hair must be trimmed, not braided, and when necessary, tied back in such a way as to not cover the contestant's face or to interfere with the vision or safety of either contestant.

F. Contestant's Ring Costume:

(1) Each contestant on a program must provide himself with a ring costume approved by the Commission.

(2) Each contestant's costume must include a foul-proof groin protector of the contestant's own selection, but of a type to be approved by the Commission, which will avert any claims of a low blow being

made during the contest.

G. Contestant's Conduct After Boxing Contest Is Finished:

(1) After the decision of any boxing contest has been announced, each contestant and his seconds must leave the ring at once and retire to the contestant's dressing room.

(2) Each contestant is prohibited from indicating in any way to the officials or the spectators his opinion as to whether he won or lost the boxing contest.

[15.6.8.16 NMAC – N, 03-23-2002]

15.6.8.17 WEIGHING - IN CEREMONIES

A. Schedules of Ceremonies: The times and places of all weigh-in ceremonies for indoor or outdoor programs shall be determined by the Commission. However, all weigh-ins shall take place not less than six (6) hours before the scheduled contest.

B. Contestant Weigh-ins: All contestants shall be weighed-in on scales approved by the Commission, and in the presence of their opponents, the matchmaker, and the Commission representative.

C. Postponement of Weigh-in: In the event a boxing contest is postponed, for any reason whatsoever, more than 24-hours prior to the contest, a second weigh-in and additional physical examinations may be required on the day to which the boxing contest has been rescheduled.

[15.6.8.17 NMAC – N, 03-23-2002]

15.6.8.18 ADJUSTMENT OF CONTESTANT'S GLOVES: In all boxing contests, the gloves of each contestant will be adjusted under the supervision of the Commission representative in charge.

A. Laces: The laces of each glove shall be knotted on the back of the wrists.

B. Adhesive Tape: A strip of one-inch adhesive tape shall be placed on the wrists of the gloves, over the laces.

C. Removal of Gloves: The contestant's gloves must be removed after the boxing contest and before the contestant leaves the ring.

[15.6.8.18 NMAC – N, 03-23-2002]

15.6.8.19 LICENSURE OF AGENTS REQUIRED: The Commission shall issue licenses to all agents present to perform functions representative of the Commission at a boxing program. This requirement shall include box office attaches, ticket collectors, doormen, glove men, seconds, managers, and any others perform-

ing duties specified and ordered by the Commission at a boxing program.

[15.6.8.19 NMAC – N, 03-23-2002]

15.6.8.20 THE REFEREE:

A. Referee's Wearing Apparel: The Commission shall prescribe the type, style, and color of the referee's apparel.

B. Referee Instructs The Contestants: Before the start of each boxing contest, the referee must call the contestants together for final instructions. Each contestant may only be accompanied by his chief second, except in cases where a contestant also requires the services of an interpreter. After receiving the referee's instructions, the contestants shall shake hands and retire to their respective corners to await the gong for the first round.

[15.6.8.20 NMAC – N, 03-23-2002]

15.6.8.21 INSPECTORS:

A. Appointed By The Commission: The Commission shall appoint licensed inspectors to be present at boxing contests.

(1) At least one inspector shall be present at any given contest.

(2) Inspectors shall work in cooperation and in conjunction with any police officers as may be detailed for this duty at boxing contests.

B. Prohibitions To Granting Of Inspector License: The Commission will not and shall not issue an inspectors license to any person who is directly or indirectly associated with, including but not limited to any financial interest in, the management of any contestant; or who is an individual promoter; or who is a stockholder in, or employee of, a promoter corporation or an unincorporated club or association engaged in the promotion of contests.

[15.6.8.21 NMAC – N, 03-23-2002]

15.6.8.22 PROHIBITED ACTIVITIES:

A. Excessive Spraying Of Water On Contestant: Any excessive or undue spraying or throwing of water on any contestant between rounds is forbidden.

B. Application of Monsel's Solution: The application of Monsel's solution, or any use of its derivatives on the body of the contestant between rounds, is prohibited.

C. Persons Forbidden to Coach Contestants: The employees of any licensed promoter and the matchmaker are

forbidden from coaching any contestant at any time during the progress of any boxing contest.

D. Persons Disqualified From Officiating: Officials, directors, matchmakers, or stockholders of any promoting corporation or licensed club are disqualified from officiating in any capacity at any boxing contest conducted by such corporation. They are also prohibited from interfering in any way with the contestants participating in said boxing program.

E. Persons Prohibited From Holding Financial Interest In Contest: No official or employee of this Commission, or of its medical panels or medical advisory board, and no judge or referee licensed by this Commission may, directly or indirectly, have any financial interest in any contestant, wrestler, promoting corporation, or in any manager's contract with any licensed athlete, or in any assignment thereof.

[15.6.8.22 NMAC – N, 03-23-2002]

15.6.8.23 OTHER "ATTRAC-TIONS" AND "EXHIBITIONS"

A. Vaudeville numbers, speeches, or exhibitions of any other branch of sport shall not be permitted on any boxing card, with the exception of such events at club dinners or "smokers" not regularly advertised as boxing shows, except as the Commission shall specifically approve.

B. There shall be no collections of any sort or for any cause made at boxing contests.

C. "Exhibition" bouts shall not be held unless announced and advertised as an "Exhibition".

D. All bouts shall be bona fide "contests".

[15.6.8.23 NMAC – N, 03-23-2002]

15.6.8.24 OUTDOOR BOXING CONTESTS: The following special rules and regulations pertain to outdoor boxing programs only. All other rules and regulations of the Commission not affected or modified below remain in full force and effect for all outdoor boxing contests, as well as, other boxing programs.

A. Postponement Of Boxing Event: In the event of rain immediately before or during the course of any outdoor boxing program, except during the course of the main event, the promoter may postpone the program to a time and place approved by the Commission.

(1) An announcement giving the

full details of the postponement shall be made by the promoter.

(2) Any patron desiring a refund of the purchase price of his ticket may apply for the refund at the box office on the premises, except when the main boxing contest is held on the scheduled date or one of the successive rain-out dates indicated on the ticket.

(3) All contestants who have fulfilled their boxing contracts before the rain-out, shall be paid in full by the promoter.

(4) On the date to which the program is postponed, the promoter shall have scheduled substitute boxing contests in such number and duration as directed by the Commission.

B. Rearrangement Or Shortening Of Program: In the event of threatening weather and rain, the program of boxing contests may be rearranged or shortened by the promoter with the consent of the Commission representative in charge.

C. Reimbursement Of Expenses To Contestants: All contestants in boxing contests, other than the main event, who were unable to compete because of weather conditions or a rearrangement or shortening of the boxing program, shall have their expenses and other fees paid by the promoter as the Commission representative in charge may direct.

D. Stopping The Boxing Contest Because Of Rain: In the event that rain occurs after the main event is completed, the boxing program shall be considered as having been completed.

(1) In the event of rain during the progress of the main event, the boxing contest shall be continued or stopped at the discretion of the Commission representative in charge.

(2) If the main boxing contest is stopped, the provisions of Subsection A of 15.6.8.24 NMAC as to postponement and refunds shall apply.
[15.6.8.24 NMAC – N, 03-23-2002]

HISTORY of 15.6.8 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-4, Conduct of Licensees, filed 9-24-80;

Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92;

NMAC 80-8, Conduct of Boxing Bouts, filed 9-24-80;

NMAC Rule 92-9, The Premises, Its

Facilities And Equipment, filed 8-17-92
NMAC Rule 92-10, Conduct of Boxing Bouts, filed 8-17-92;
NMAC 80-10, Boxing Classes And Championships, filed 9-24-80;
Those relevant portions of NMAC Rule 92-12, Boxing Classes And Championships, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-9 (aka 15 NMAC 6.7), The Premises, Its Facilities And Equipment, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-10 (aka 15 NMAC 6.8), Conduct of Boxing Bouts, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-12 (aka 15 NMAC 6.10), Boxing Classes and Championships, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees; NMAC 92-9 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.7 and named The Premises, Its Facilities And Equipment; NMAC Rule 92-10 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.8 and named Conduct of Boxing Contests; NMAC Rule 92-12 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.10 and named Boxing Classes and Championships; 15.6.8 NMAC, Conduct of Boxing Contests, replaced 15 NMAC 8, Conduct of Boxing Bouts, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 9 SCORING SYSTEM

15.6.9.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.9.1 NMAC – N, 03-23-2002]

15.6.9.2 SCOPE: The provisions in Part 9 apply to all licensees of the Commission.
[15.6.9.2 NMAC – N, 03-23-2002]

15.6.9.3 STATUTORY

AUTHORITY: Part 9 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-2, 60-2A-4, 60-2A-8, 60-2A-9, 60-2A-10, 60-2A-11; 60-2A-19; 60-2A-20, 60-2A-21, 60-2A-22; 60-2A-29, and 60-2A-31.
[15.6.9.3 NMAC – N, 03-23-2002]

15.6.9.4 DURATION:
Permanent.
[15.6.9.4 NMAC – N, 03-23-2002]

15.6.9.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.9.5 NMAC – N, 03-23-2002]

15.6.9.6 OBJECTIVE: The objective of Part 9 of Chapter 6 is to set forth all Commission requirements for the scoring of a boxing contest regulated by the Commission.
[15.6.9.6 NMAC – N, 03-23-2002]

15.6.9.7 DEFINITIONS:

A. "Down" means that some part of the contestant's body other than his feet is on the ring floor; or the contestant is hanging helplessly on the ring ropes; or the contestant is rising from a down position.

B. "TKO" means loss by a technical knockout and refers to the ending of a bout by a referee for any reason other than a count-out or a disqualification.

C. "KO" means loss by a knockout.
[15.6.9.7 NMAC – N, 03-23-2002]

15.6.9.8 UNIFORM REGULATIONS FOR PROFESSIONAL BOXING: The New Mexico Athletic Commission adopts the Association of Boxing Commissioners (ABC) *Uniform Rules for Professional Boxing Championships*. In the event of a problem/situation regarding the ABC Rules, the final authority shall rest with the Commission utilizing its **own** regulations. Within forty-eight (48) hours after the contest, *The Supervisor's Checklist*, a form provided by ABC, shall be completed and returned to ABC by the supervising Commission.

A. Contest Elements Considered: In scoring a contest, the elements of offense, defense, clean hitting, ring generalship and sportsmanship shall be

carefully considered.

B. Scoring Judges: Three judges approved by the Commission shall evaluate each contest and score the contest.

C. "10 Point" Must System: The 10-Point Must System will be the standard system of scoring a boxing contest.

D. Winner's Points: The winner of any round is marked a "10".

E. Loser's Points: The loser of any round is marked "1" to "9".

F. Mandatory Eight (8) Count: Mandatory 8-Count after knockdowns will be the standard procedure in all contests.

G Standing Eight (8) Count: There shall be NO Standing Eight-Count called in any contest.

H. Three (3) Knockdown Rule: There shall be NO Three-Knockdown Rule called in any contest.

I. Twenty-Second Count: A contestant shall receive a Twenty-Second Count if he is knocked out of the ring and onto the floor.

J. Referee is Sole Arbiter: The referee is the sole arbiter of a contest and is the only individual authorized to stop a bout.

K. Knockdown Rated: The referee shall call a knockdown as such as soon as it occurs.

L. Ring Generalship: The contestant who takes advantage of the full "9" count should be credited with "ring generalship", which would not be credited to him if he arose immediately and tried to continue in a possibly groggy condition.

M. Foul Blows: The use of foul blows and other tactics shall result in a penalty of one (1) point for each foul committed, and the referee shall advise the judges immediately of the number of points to be deducted.

N. Disqualification for Second's Assist: Contestants are to be unassisted by their seconds. If a contestant is assisted by his second, the referee shall disqualify the boxer.

O. Saved By The Bell: A contestant who has been knocked down cannot be saved by the bell in any round. [15.6.9.8 NMAC – N, 03-23-2002]

15.6.9.9 KNOCKDOWNS:

A. Judges Scoring Knockdowns: The judges may score a knockdown in any one round as either one or two points in favor of a contestant who

scored the knockdown.

B. Judges Score Independently: Each judge must determine for himself which value shall be placed on the knockdown. [15.6.9.9 NMAC – N, 03-23-2002]

15.6.9.10 PROTOCOL FOR USING SCORECARDS: Judges shall clearly write their decision and sign their scorecards; and they must mark their cards in ink or in indelible pencil at the end of each round. [15.6.9.10 NMAC – N, 03-23-2002]

15.6.9.11 THE TALLY AND DECISION:

A. The Tally: At the conclusion of the bout, each judge must tally up the points he has awarded each contestant and submit the scorecard to the referee.

B. The Decision: After the scorecards have all been checked by the Commission representative, they must be returned to the announcer who shall announce the decision of the judges from the ring.

C. Main Event Protocol On Announcing The Decision: In main events, the announcer shall call out the points awarded by each judge. The decision must then be awarded to the contestant with the greatest number of points on two of the scorecards. [15.6.9.11 NMAC – N, 03-23-2002]

15.6.9.12 [RESERVED]
[15.6.9.12 NMAC – N, 03-23-2002]

15.6.9.13 MAJOR FOULS:

A. The following are major fouls:

(1) Hitting an opponent who is down or who is rising from the down position.

(2) Using the knee against the opponent.

(3) Purposely going down without being hit.

(4) Failure to heed the referee's warning concerning low blows or other minor fouls.

(5) Any dangerous and un-sportsmanlike conduct in the ring.

B. The referee may disqualify the offending contestant, and award the bout or any points to the contestant being fouled.

C. Disqualification on fouls to the body may only occur if the referee deems that these fouls are flagrant and/or continual. [15.6.9.13 NMAC – N, 03-23-2002]

15.6.9.14 MINOR FOULS:
A. The following are minor fouls:

(1) Holding an opponent.
(2) Deliberately maintaining a clinch.

(3) Hitting with the inside or butt of the hand, the wrist, or the elbow.

(4) Backhanded blows.

(5) Low blows.

(6) Hitting or flicking with the open glove.

(7) Wrestling or roughing the ropes.

(8) Deliberately striking at the part of the body over the kidneys.

(9) Use of a pivot blow or rabbit punch.

(9) Hitting on the break.

B. It is within the discretion of the referee to determine whether the offending contestant should merely be warned, or have points deducted, for committing a minor foul.

C. If a boxer injures himself while attempting to intentionally foul his opponent, the referee will not take any action in his favor, and this injury will be the same as one produced by a fair blow. [15.6.9.14 NMAC – N, 03-23-2002]

15.6.9.15 [RESERVED]
[15.6.9.15 NMAC – N, 03-23-2002]

15.6.9.16 REFEREE'S NOTICE TO JUDGES CONCERNING FOULS:

A. In the event that the referee determines that a foul has been committed, he shall notify the judges immediately.

B. The judges shall deduct one point from the offending contestant's scores.

C. On any illegal blow to the body the referee may order a deduction of points and will give the necessary time for recovery to the injured boxer (with a maximum of five minutes) after consulting with the ringside physician. If the referee rules this foul was accidental and after five minutes the injured boxer can't continue, the rules governing accidental fouls shall apply. A contestant who is hit with an accidental low blow must continue after the 5-minute rest or he will lose the bout.

D. There may be a deduction of points by the referee at any time for illegal blows and/or conduct by the boxer and/or his corner men.

E. In the case of a clear and intentional foul that causes an injury and the contest can still continue, the contestant who was doing the fouling will have

two (2) points deducted.

(1) The referee must stop the action and inform all judges and the Commission or Commission representative of this deduction.

(2) Point deductions for intentional fouls will be mandatory.

[15.6.9.16 NMAC – N, 03-23-2002]

15.6.9.17 CONDITIONS FOR COUNTING A CONTESTANT OUT: A fighter who is hit with an accidental low blow must continue the contest after a reasonable time, but no more than five (5) minutes, or he will lose the contest.

[15.6.9.17 NMAC – N, 03-23-2002]

15.6.9.18 WRITTEN REPORT TO COMMISSION REGARDING FOULS: If, in any boxing contest, a contestant is penalized with the loss of three or more rounds due to fouls, the referee and each judge must report the matter to the Commission, in writing, within twenty-four (24) hours.

[15.6.9.18 NMAC – N, 03-23-2002]

15.6.9.19 TECHNICAL KNOCKOUTS; TECHNICAL DECISIONS; TECHNICAL DRAWS; DISQUALIFICATIONS; NO CONTESTS:

A. Technical Knockouts:

(1) When a cut is produced by a legal punch and the contest is stopped because of that cut, the injured boxer shall lose by a technical knockout and the Commissions shall enter the letters TKO in the record.

(2) When a referee stops a contest to save any contestant from further punishment, he must award the other contestant the decision by a technical knockout.

(3) If a boxer sustains an injury from a fair blow and the injury is severe enough to terminate the bout, the injured boxer will lose by a TKO.

(a) Any contestant losing by a TKO shall receive a minimum of a thirty (30) day medical suspension.

(b) Any contestant losing by a KO shall receive a minimum of a sixty (60) day medical suspension.

B. Technical Decisions:

(1) In the case where a clear and intentional foul causes an injury and the injury results in the contest being stopped in a *later* round, the injured contestant will win by a technical decision if he is ahead on the score cards.

(2) If the accidental foul occurs after the completion of four (4) rounds and

the bout must be stopped immediately because the fouled contestant is injured severely enough that he cannot continue, a technical decision shall be awarded to the contestant who is ahead on the score cards at the time the bout is stopped.

(a) Partial or incomplete rounds will be scored.

(b) At the discretion of the Judges, if no action has occurred, the round may be scored as an *even* round.

(3) If in the later rounds, the injury has worsened as a result of legal blows, and the injured boxer cannot continue, a decision shall be rendered by referring to the scorecards. The judges, who must inform the Commission and both contestants that the foul is the result of an accidental foul, shall score partial rounds.

C. Technical Draws:

(1) In the case where a clear and intentional foul causes an injury and the injury results in the contest being stopped in a *later* round, a technical draw will be declared if the injured contestant is even or behind on the scorecards.

(2) If an accidental foul occurs before the completion of four (4) rounds and the injured contestant cannot continue, the contest will be declared a technical draw.

D. Disqualifications:

(1) In the case where an intentional foul causes an injury, and the injury is severe enough to terminate the bout immediately; the contestant causing the injury shall lose by disqualification, even if he is the injured contestant.

(2) If the referee deems that a contestant has conducted himself in an unsportsman-like manner, he may stop the bout and disqualify that contestant.

E. No Contests: If, before four (4) rounds are completed in a contest, an accidental foul causes an injury severe enough for the referee to stop the bout immediately, the bout will result in a No Contest.

[15.6.9.19 NMAC – N, 03-23-2002]

15.6.9.20 COUNTING

A. Timekeeper Calls Off the Seconds: When a contestant is down, the timekeeper shall immediately commence calling off the seconds indicating the count with a motion of his arm.

B. Referee Picks up the Count: When the timekeeper commences calling off the seconds, the referee must immediately order the other contestant to a

neutral corner and shall pick up the count from the timekeeper, indicating the count with a motion of his arm.

C. Reaching The Count Of Ten:

(1) If a contestant is unable to continue at the count of ten, the referee shall declare the other contestant the winner by a knockout.

(2) If a contestant who has fallen or has been knocked out of the ring during the contest fails to be on his feet in the ring before the expiration of ten seconds, the referee shall count him out as if he were down.

(3) A contestant who has fallen or has been knocked out of the ring must return to the ring unassisted.

(4) If a contestant who has fallen fails to be on his feet in the ring at the time the round terminates, the timekeeper or referee, whoever has the count at the time, shall continue the count to ten (10). If the contestant fails to rise before the count of ten (10), the bout shall be awarded to the other contestant by a knockout in the round just ended.

(5) If a contestant has been knocked out of the ring at the time the round terminates, the timekeeper or referee, whoever has the count at the time, shall continue the count to twenty (20). If the contestant fails to rise before the count of twenty (20), the bout shall be awarded to the other contestant by a knockout in the round just ended. The contestant must return to the ring unaided.

[15.6.9.20 NMAC – N, 03-23-2002]

15.6.9.21 TERMINATION OF THE CONTEST: The three-knockdown rule is NOT in effect. The contest may be stopped at any time by the referee if he deems it necessary to protect the health, safety, and welfare of either contestant.

A. Contest Terminated Between Rounds: If the contest is terminated between rounds, the knockout must be recorded as having occurred in the round most recently terminated.

B. Knockout Recorded In Subsequent Round: When the knockout occurs between rounds and the bell for the subsequent round has already sounded, the end of the contest shall be recorded in the subsequent round.

C. Items Thrown Into The Ring: The throwing of towels, sponges, etc, into the ring by a contestant's corner men or seconds will NOT stop the contest.

D. Injured Contestant: If a contestant is cut, the referee may inter-

rupt the bout to consult the ringside physician to determine if the injured boxer can continue or not. If the ringside physician steps on the ring apron, the referee may call time-out and have the injured boxer examined by this physician. Final authority to stop or continue a bout rests with the referee.
[15.6.9.21 NMAC – N, 03-23-2002]

HISTORY of 15.6.9 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-9, Scoring System, filed 9-24-80;

NMAC Rule 92-11, Scoring System, filed 8-17-92;

History of Repealed Material:

NMAC Rule 92-11 (aka 15 NMAC 6.9), Scoring System, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-11 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.9 and named Scoring System; 15.6.9 NMAC, Scoring System, replaced 15 NMAC 9, Scoring System, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 10 BOXING CLASSES AND CHAMPIONSHIPS

15.6.10.1 ISSUING AGENCY: New Mexico Athletic Commission.

[15.6.10.1 NMAC – N, 03-23-2002]

15.6.10.2 SCOPE: The provisions in Part 10 apply to all licensees of the Commission.
[15.6.10.2 NMAC – N, 03-23-2002]

15.6.10.3 STATUTORY AUTHORITY: Part 10 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.).
[15.6.10.3 NMAC – N, 03-23-2002]

15.6.10.4 DURATION: Permanent.
[15.6.10.4 NMAC – N, 03-23-2002]

15.6.10.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.10.5 NMAC – N, 03-23-2002]

15.6.10.6 OBJECTIVE: The objective of Part 10 of Chapter 6 is to set forth all Commission regulations regarding boxing classes and championships.
[15.6.10.6 NMAC – N, 03-23-2002]

15.6.10.7 DEFINITIONS:
[RESERVED]
[15.6.10.7 NMAC – N, 03-23-2002]

15.6.10.8 STATE CHAMPIONSHIP TITLE:

A. When A Boxer Must Defend Title: A boxer holding a state championship title must defend his title against a suitable contender within six months after winning, or after last defending, his title, or his title may be vacated by the Commission.

B. Challenge To The Title: In the event a championship titleholder fails to defend his title, any boxer in the same class who is considered by the Commission to be a suitable contender, may, at the lapse of the six-month period, file a challenge with the Commission.
[15.6.10.8 NMAC – N, 03-23-2002]

15.6.10.9 [RESERVED]
[15.6.10.9 NMAC – N, 03-23-2002]

15.6.10.10 PROCEDURE WHEN COMMISSION RECEIVES A CHALLENGE:

A. Challenge Forwarded To Championship Titleholder: Upon receipt of a challenge for the state championship title, the Commission shall forward the challenge to the championship titleholder, and announce the challenge to the title at the Commission office.

B. Title Holder Agrees To Defend His Title: Upon receipt of the challenge forwarded by the Commission, the championship titleholder must, within twenty (20) days after the announcement, enter into "Articles of Agreement" to defend his state championship title against the challenging contender.

C. Title Holder Does Not Agree to Defend His Title: In the event the championship titleholder does not enter into an agreement as specified in Subsection B of this rule, or capriciously refuses to promptly defend his state championship title, the title may be withdrawn from him

by the Commission.
[15.6.10.10 NMAC – N, 03-23-2002]

15.6.10.11 PROCEDURE IF MORE THAN ONE CHALLENGE IS RECEIVED:

A. Commission Forwards and Announces Challenges: In the event that the Commission receives challenges to the championship title from more than one contender, the Commission shall forward and announce the challenges as provided in Subsection A of 15.6.10.10 NMAC.

B. State Champion Selects His Challenger: Upon receipt of the challenges from the Commission, the championship titleholder may, with the approval of the Commission, select to defend his title against any one of the challengers.
[15.6.10.11 NMAC – N, 03-23-2002]

15.6.10.12 CHAMPIONSHIP FORFEIT: In the event that a state championship titleholder is permanently unable to physically qualify for the defense of his state title, the Commission shall forfeit his championship and declare the title vacant.
[15.6.10.12 NMAC – N, 03-23-2002]

15.6.10.13 WEIGHT LIMITS FOR CHAMPIONSHIP BOXING CONTESTS:

A. State Class Weights: State championships are recognized only in the following classes; and the weight limit of each contestant in a state championship contest must comply with the list below:

- (1) Junior Flyweight: 108 lbs. – Differential: 5 lbs.
- (2) Flyweight: 112 lbs. – Differential: 5 lbs.
- (3) Bantamweight: 118 lbs. – Differential: 7 lbs.
- (4) Junior Featherweight: 122 lbs. – Differential: 8 lbs.
- (5) Featherweight: 126 lbs. – Differential: 10 lbs.
- (6) Junior Lightweight: 130 lbs. – Differential: 10 lbs.
- (7) Lightweight: 135 lbs. – Differential: 10 lbs.
- (8) Junior Welterweight: 140 lbs. – Differential: 12 lbs.
- (9) Welterweight: 147 lbs. – Differential: 12 lbs.
- (10) Junior Middleweight: 154 lbs. – Differential: 13 lbs.
- (11) Middleweight: 160 lbs. – Differential: 13 lbs.
- (12) Light Heavyweight: 175 lbs. – Differential: 14 lbs.
- (13) Cruiserweight: 190 lbs. – Differential: 14 lbs.

(14) Heavyweight: No maximum weight for any contestant.

B. Title Holder Must Be At Weight: Whenever a state championship title holder engages in a championship contest in this state, he must be at the weight required by the class for which he holds the championship.

C. Time Limits for Passing the Scale: All contestants in a championship-boxing contest must pass the scale at noon on the day of the contest, or at an additional weigh-in two (2) hours later.

D. Non-State Championship Contests: Championship bouts other than state championship bouts shall be determined by the sanctioning organization.

[15.6.10.13 NMAC – N, 03-23-2002]

15.6.10.14 HOW CHAMPIONSHIP CAN BE LOST: A championship can be lost by default; by forfeit; or by a contestant's inability to pass the scale, but a championship can only be won by a contender in a contest.

[15.6.10.14 NMAC – N, 03-23-2002]

15.6.10.15 WEIGHT LIMITS IN NON-CHAMPIONSHIP BOXING CONTESTS: The same weight limits listed in 15.6.10.13 NMAC will apply in non-championship boxing contests.

[15.6.10.15 NMAC – N, 03-23-2002]

15.6.10.16 OVERWEIGHT BOXERS IN NON-TITLE BOXING CONTESTS: Contestants in non-title boxing contests who are found to be overweight under the terms of the contract, may be suspended by the Commission after the match, for such period as the Commission may decide.

[15.6.10.16 NMAC – N, 03-23-2002]

15.6.10.17 [RESERVED]
[15.6.10.17 NMAC – N, 03-23-2002]

15.6.10.18 CONTRACTS FOR STATE CHAMPIONSHIP BOXING CONTESTS: All contracts for state championship boxing contests must be signed at a Commission meeting.

A. Posting Forfeit Monies: On the date of the contract signing, the two contestants and the licensed corporation promoting the boxing contest will each post forfeit monies with the Commission.

(1) The contestants, the champion title holder and the challenger, will each deposit \$50, if their purses are not more than \$5,000.

(2) If the title bout purse for either contestant is more than \$5,000, that contest-

ant must post a deposit of 10% of his guaranteed purse.

(3) The promoter of the title contest must deposit an amount equal to the highest amount deposited by either contestant.

B. Posting Deposits Ensures Contestants' Appearance: Posting of forfeit monies is to insure that each contestant will appear at the championship contest and will make the proper weight; and that the promoter will fulfill the promoter's obligations.

C. Title Bouts Authorized by Outside Sanctioning Body: For championship title contests authorized by an outside sanctioning body (IBF, WBA, WBC, etc.) only the promoter shall be required to post a deposit equal to 10% of the total purse for both of the title bout contestants. The deposit may be waived or readjusted by the Commission.

D. If Forfeit Is Declared: In the event that a forfeit is declared, the deposit or deposits so forfeited will be distributed equally between the non-defaulting depositors and the New Mexico Athletic Commission.

[15.6.10.18 NMAC – N, 03-23-2002]

HISTORY of 15.6.10 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:
NMAC 80-10, Boxing Classes And Championships, filed 9-24-80;
NMAC Rule 92-12, Boxing Classes And Championships, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-12 (aka 15 NMAC 6.10), Boxing Classes And Championships, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-12 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.10 and named Boxing Classes And Championships;
15.6.10 NMAC, Boxing Classes And Championships, replaced 15 NMAC 10, Boxing Classes And Championships, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS

PART 11 SPECIAL REQUIREMENTS FOR WRESTLING

15.6.11.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.11.1 NMAC – N, 03-23-2002]

15.6.11.2 SCOPE: The provisions in Part 11 apply particularly to all persons and parties licensed by the Commission to participate in any manner in wrestling exhibitions.
[15.6.11.2 NMAC – N, 03-23-2002]

15.6.11.3 STATUTORY AUTHORITY: Part 11 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.).
[15.6.11.3 NMAC – N, 03-23-2002]

15.6.11.4 DURATION: Permanent.
[15.6.11.4 NMAC – N, 03-23-2002]

15.6.11.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.11.5 NMAC – N, 03-23-2002]

15.6.11.6 OBJECTIVE: The objective of Part 11 of Chapter 6 is to set forth all Commission regulations regarding wrestling exhibitions.
[15.6.11.6 NMAC – N, 03-23-2002]

15.6.11.7 DEFINITIONS: "Fall" refers to scoring against a wrestler when, for a count of three, both of the wrestler's shoulders touch the floor at the same time; or when the wrestler is held down by a submission hold.
[15.6.11.7 NMAC – N, 03-23-2002]

15.6.11.8 WRESTLING PROGRAMS ARE NOT CONTESTS: All professional wrestling programs under the supervision and authority of the Commission are exhibitions, not contests.
[15.6.11.8 NMAC – N, 03-23-2002]

15.6.11.9 [RESERVED]
[15.6.11.9 NMAC – N, 03-23-2002]

15.6.11.10 COMMISSION RULES APPLY EXCLUSIVELY: All wrestlers are required to wrestle under the rules of the Commission.
[15.6.11.10 NMAC – N, 03-23-2002]

15.6.11.11 ADVERTISING FOR WRESTLING EXHIBITIONS:
A. Exhibitions: All

wrestling programs shall be advertised or announced as wrestling exhibitions.

B. Commission Approval Required For Exceptions: Any wrestling promoter who advertises, or causes to be advertised, any professional wrestling exhibition as a wrestling match or championship match, may only do so with the express approval of the Commission.

C. Preservation of Advertising Copy: Wrestling promoters shall provide the Commission with copies of all advertising issued in connection with the wrestling exhibition.
[15.6.11.11 NMAC – N, 03-23-2002]

15.6.11.12 [RESERVED]
[15.6.11.12 NMAC – N, 03-23-2002]

15.6.11.13 LICENSE BY COMMISSION REQUIRED:

A. Licensees: All promoters, managers, professional wrestlers, referees, announcers, and anyone who enters the ring, shall be licensed by the Commission in order to participate in any wrestling exhibition in New Mexico.

B. Booking Agencies: Any person or party operating a booking agency for wrestlers must be licensed as a matchmaker by the Commission. In any such agency is a corporation, an officer of said corporation must be licensed by the Commission.
[15.6.11.13 NMAC – N, 03-23-2002]

15.6.11.14 REQUIRED OFFICIALS AT WRESTLING EXHIBITIONS: The following officials shall be in attendance at each wrestling exhibition:

- A.** Referee.
- B.** Timekeeper.
- C.** Announcer.
- D.** Physician.

[15.6.11.14 NMAC – N, 03-23-2002]

15.6.11.15 [RESERVED]
[15.6.11.15 NMAC – N, 03-23-2002]

15.6.11.16 MANAGERS AND PROMOTERS:

A. The Commission prohibits any person licensed and acting as a wrestling promoter from also acting as a wrestling manager.

B. The Commission prohibits any person licensed and acting as a wrestling manager from also acting as a wrestling promoter.
[15.6.11.16 NMAC – N, 03-23-2002]

15.6.11.17 MEDICAL EXAMINATION OF A WRESTLER:

A. Conducted By Physician Designate: Before any wrestler may enter the ring, a physician designated by the Commission shall examine all wrestlers, referees, and any other licensed person entering the ring and engaging in a professional exhibition.

B. Medical Examination Schedule: All wrestlers, referees, and any other person who will enter the ring, must present themselves for such examination within one (1) hour prior to the commencement of the exhibition.

C. Disclosure Required: No wrestler shall conceal any known illness or disability from the examining physician.

D. Drug Testing Of Wrestlers: The Commission has the right to drug test any wrestler at any given time.

(1) The drug test can consist of the following: cocaine, marijuana, steroids, etc.

(2) If the wrestler tests positive, his license will be withheld or suspended, and he is prohibited from wrestling in New Mexico until he appears before the Commission and proves that he is drug-free.

E. Wrestler Prohibited From Wrestling: The examining physician shall not permit any wrestler to enter the ring who is suffering from any illness or disability that in any way interferes with or prevents the wrestler from giving a full, complete, and satisfactory exhibition of his ability and skill; or endangers his health or the health of his opponent.
[15.6.11.17 NMAC – N, 03-23-2002]

15.6.11.18 [RESERVED]
[15.6.11.18 NMAC – N, 03-23-2002]

15.6.11.19 EQUIPMENT REQUIREMENTS AT EXHIBITIONS:

A. Barricade Requirements: Barricades around ringside shall be mandatory at all wrestling exhibitions.

B. Wrestling Mats: Mats inside the barricades around the ring should be at least one (1) inch thick.
[15.6.11.19 NMAC – N, 03-23-2002]

15.6.11.20 [RESERVED]
[15.6.11.20 NMAC – N, 03-23-2002]

15.6.11.21 CONDUCTING WRESTLING EXHIBITION: The following special rules and regulations apply particularly to wrestling exhibitions.

A. Scoring of Exhibitions: All wrestling exhibitions shall be scored as follows:

(1) One-Fall Match: In a one-fall match, the wrestler winning the fall within

the time limit shall be declared the winner; or the match can be declared a draw if it goes the time limit.

(2) Two-Out-Of-Three-Fall Match: In a two-out-of-three-fall match, the wrestler who first wins the two falls within the time limit shall be declared the winner. If only one-fall occurs within the time limit, the wrestler scoring the fall shall be declared the winner; or the match can be declared a draw if it goes the time limit and no falls occur.

C. When Exhibitions Terminate: An exhibition shall be terminated by one-fall in a one-fall match; or by two-out-of-three-falls in a two-out-of-three-fall match, unless otherwise approved by the Commission.

D. [RESERVED]

E. How Referee Awards Falls: The referee shall immediately slap the back or the shoulder of the wrestler scoring a fall, and raise the wrestler's hand in victory.

F. Intermission Between Falls: If the exhibition provides for two-out-of-three falls, wrestlers shall be allowed one (1) minute rest period between falls.

G. [RESERVED]

H. Wrestler Refuses Or Is Unable To Continue: At the referee's command, an exhibition shall be terminated when a wrestler refuses, or is physically unable, to continue an exhibition, and the decision shall be awarded to the opponent.
[15.6.11.21 NMAC – N, 03-23-2002]

15.6.11.22 TAG TEAM WRESTLING: Following are the rules specifically for tag team wrestling. In all other instances, the general rules governing wrestling shall be applicable.

A. The exhibition shall commence between one man from each opposing team while their respective partners remain on the apron of the ring outside the ropes in each respective team's corner.

(1) The outside partner is prohibited from entering the ring unless the inside partner is defeated or is able to touch the outside team member's hand to be relieved.

(2) At all times while awaiting his turn, the outside partner must maintain a hold of a regulation three-foot double rope with a knot in one end, and the other looped over the ring post of his team's corner.

B. When a tag contact occurs between partners, the outside partner must have both feet on the apron floor and may only reach over the top rope to make the tag contact.

C. The referee must see to it that the wrestler in the ring retires to the

outside of the ring upon tagging his partner, so that his partner may enter the ring.

D. Team falls occur only when either man from one team has lost a fall by pin or submission.

E. When a fall occurs, team partners may relieve each other.

F. Time-out must be taken after an injury to permit the injured contestant to be removed from the ring.

G. If a wrestler is unable to continue the contest, his partner must carry-on the contest alone.

H. If neither team has been able to win a fall, the match can be declared a draw, or the referee can make a decision.

I. After one warning to the offending wrestler of a foul infraction, the referee shall disqualify the offender.

(1) It shall be a foul for a contestant to assist his partner or to interfere in any way with the opponent while waiting his turn on the apron.

(2) It shall be a foul for a contestant to release his hold on the rope in his corner for any reason whatsoever while waiting his turn on the apron until he is officially replaced by his partner or the referee.
[15.6.11.22 NMAC – N, 03-23-2002]

15.6.11.23 [RESERVED]
[15.6.11.23 NMAC – N, 03-23-2002]

15.6.11.24 WRESTLERS' CONDUCT TOWARD THIRD PARTIES: Wrestlers shall not molest, hit, or abuse any spectator in any manner.
[15.6.11.24 NMAC – N, 03-23-2002]

HISTORY of 15.6.11 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-11, Special Rules For Wrestling, filed 9-24-80;

NMAC Rule 92-13, Special Rules For Wrestling, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-13 (aka 15 NMAC 6.11), Special Requirements For Wrestling, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-13 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.11 and named Special Requirements For Wrestling;
15.6.11 NMAC, Special Requirements For

Wrestling, replaced 15 NMAC 11, Special Requirements For Wrestling, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 12 CONTEST REQUIREMENTS FOR FULL CONTACT KARATE, KICKBOXING, AND MARTIAL ARTS

15.6.12.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.12.1 NMAC – N, 03-23-2002]

15.6.12.2 SCOPE: The provisions in Part 12 apply to all persons and parties licensed by the Commission to participate in any manner in full contact karate and kickboxing events.
[15.6.12.2 NMAC – N, 03-23-2002]

15.6.12.3 STATUTORY AUTHORITY: Part 12 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.).
[15.6.12.3 NMAC – N, 03-23-2002]

15.6.12.4 DURATION: Permanent.
[15.6.12.4 NMAC – N, 03-23-2002]

15.6.12.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.12.5 NMAC – N, 03-23-2002]

15.6.12.6 OBJECTIVE: The objective of Part 12 of Chapter 6 is to set forth all Commission regulations regarding full contact karate and kickboxing.
[15.6.12.6 NMAC – N, 03-23-2002]

15.6.12.7 DEFINITIONS:

A. "MKR" refers to minimum kicking requirements.

B. "Down" or "Knock Down" refers to a situation where any portion of a contestant's body, other than his feet, touches the floor.

C. "Leg Checking" means extending the leg to check an opponent's leg to prevent him from kicking.

D. "Clinching" means holding or otherwise tying-up an oppo-

nent's arms to prohibit him from punching.

E. "Palm Heel Strikes" means using the heel of the palm of the hand to deliver a blow to the face of an opponent.

F. "Blind Foul" refers to a foul that the referee cannot see.
[15.6.12.7 NMAC – N, 03-23-2002]

15.6.12.8 DISTINCTION BETWEEN RULES REGULATING EVENTS:

A. Sanctioning Body Rules: Various sanctioning bodies throughout the world regulate full contact karate and kickboxing by rule. These sanctioning body rules may serve as a guideline, and with the approval of the New Mexico Athletic Commission may vary to align the event or contest with the rules of the sanctioning body.

B. Sanctioning Body Rules Must Be Approved by Commission: A set of the international sanctioning body rules must be submitted to the Commission for approval for any full contact karate or kickboxing event or contest proposed to be conducted in New Mexico.

C. International Sanctions That Vary: The Commission must approve international sanctioning body rules that vary from the Commission's rules.
[15.6.12.8 NMAC – N, 03-23-2002]

15.6.12.9 LICENSED OFFICIALS:

A. Licensure By Commission Required: All promoters, managers, matchmakers, trainers, booking agents, contestants, and their seconds, as well as officials such as referees, judges, timekeepers, and announcers officiating at any full-contact karate or kickboxing event shall be licensed by the Commission.

B. Any violation of this rule shall subject the violator to penalty by the Commission.
[15.6.12.9 NMAC – N, 03-23-2002]

15.6.12.10 [RESERVED]
[15.6.12.10 NMAC – N, 03-23-2002]

15.6.12.11 CONTESTANTS' EQUIPMENT:

A. Required Equipment: The following equipment shall be required, unless otherwise noted:

(1) **Hand And Foot Equipment:** All contestants will wear regulation gloves

and foot protective equipment approved by the sanctioning body representative. Breaking, roughing, or twisting of gloves or footpads shall not be permitted.

(2) Shin-pads: Shin-pads of a soft substance or material must be worn by all contestants and approved by the sanctioning body representative if the event sanction so requires such equipment.

(3) Groin Protector: All contestants must wear an approved groin protector. A plastic cup with an athletic supporter is adequate, but an abdominal guard is preferable.

(4) Mouthpiece: All contestants must wear fitted mouthpieces.

B. Prohibited Equipment Or Other Items: The following equipment or other listed items are prohibited from being worn by any contestant:

- (1) Elbow pads;
- (2) Forearm pads;
- (3) Rings or other jewelry; or
- (4) Any other items not authorized by the Commission or sanctioning body rules.

[15.6.12.11 NMAC – N, 03-23-2002]

15.6.12.12 WIPING CONTESTANT'S HANDS PAD: After a contestant is knocked down, or has slipped or fallen to the canvas, the referee will wipe the fallen contestant's gloves free of dirt or moisture before allowing the fallen contestant to resume the contest.

[15.6.12.12 NMAC – N, 03-23-2002]

15.6.12.13 DURATION OF ROUNDS:

A. Each round will be two (2) minutes in duration.

B. Rest periods between rounds will be one (1) minute in duration.

C. The time runs continuously and may only be called or stopped by the referee in special cases.

D. All professional contests shall be five (5) or more rounds, to a maximum of twelve (12) rounds in length.

E. World, continental, national, and regional title contests shall be twelve (12), ten (10), nine (9), and eight (8) rounds respectively.

F. State title contests shall be seven (7) rounds.

[15.6.12.13 NMAC – N, 03-23-2002]

15.6.12.14 KICKING JUDGE'S DUTIES: There will be a kicking judge assigned to each contestant in a contest.

A. Location of Kicking

Judges: Each kicking judge will be positioned at ringside sitting opposite his contestant's opposing contestant's corner.

B. Responsibility of

Kicking Judges: It is the responsibility of the kicking judges to determine the legality of the kicks executed by his own contestant, and to keep count of the number of kicks they determine to be legal.

C. Tracking The Number

Of Kicks With Flip-Cards: Both kicking judges shall use a card set of eight (8) flip-cards numbered one (1) through eight (8) to keep track of the number of kicks executed by his own assigned fighter. The promoter of the event shall supply all flip-cards for the kicking judges' use.

(1) When the first legal kick is thrown, the kicking judge will hold up the card with the number one (1), and as each legal kick is thrown, he will continue to hold up the appropriate card for the number of legal kicks thrown by his contestant during the round.

(2) If a contestant executes less than the minimum number of required legal kicks in any one round, the kicking judge will immediately notify the referee of the number of kicks thrown.

[15.6.12.14 NMAC – N, 03-23-2002]

15.6.12.15 MINIMUM KICKING REQUIREMENTS:

A. Legal Kicks: Each contestant must execute at least eight (8) legal kicks per round in a contest bout.

(1) Legal kicks are considered those that are attempts to land hard on a target area of the opponent's body with the intent to do damage.

(2) The determination as to which kicks will be counted as legal is made by the kicking judges.

B. Points Deduction: One point will be deducted from each scoring judge's ballot for each legal kick less than eight thrown by a contestant.

C. Penalty For Failing to Fulfill MKR: A contestant will be immediately disqualified if he does not fulfill his minimum kicking requirement (MKR) in any of the following contests:

(1) In any two rounds of a bout that is three, four, five, or six rounds in length; or

(2) In any three rounds of a bout that is seven, eight, nine, ten, or eleven rounds in length; or

(3) In any four rounds of a twelve-round World Title bout.

D. MKR Requirement

Reduced: MKR requirements will be reduced by one kick for both contestants in any given round for standing eight (8) count or mandatory eight (8) count. (For example, if a round has one knockdown, the minimum kick requirement would be seven (7) for that round.) Each kicking judge will drop a card for each contestant during the standing or mandatory 8-count to compensate for the MKR reduction.

[15.6.12.15 NMAC – N, 03-23-2002]

15.6.12.16 [RESERVED]

[15.6.12.16 NMAC – N, 03-23-2002]

15.6.12.17 SCORING:

A. Balloting By Scoring

Judges: The three scoring judges of a contest will each select a winner of each round at the end of each round, marking their ballots accordingly.

B. Ballots Final: Once the respective scoring judges have marked the ballots, no changes of the ballots are allowed, except at the express directive of the sanction body representative or the Commission representative.

C. Scoring System: Each scoring judge scores all rounds by recording a score of not more than ten and not less than five points for the winner of each round according to the following qualifications:

(1) 10-10 Score: A 10-10 score indicates an even round. Neither contestant distinguished himself as being more effective than the other. In addition, the contestants appeared equal in the other areas used to break an even round, such as opponent control, ring strategy, and overall conditioning and abilities as a complete karate contestant (with emphasis on kicking ability).

(2) 10-9 Score: A 10-9 score indicates that one contestant distinguished himself as the more effective fighter during the round as described in Paragraph (1). This score is used often, and indicates an obvious margin between the contestants. Should one contestant have been only slightly better in a round, an appropriate score would be 10-9.5.

(3) 10-8 Score: A 10-8 score is used sparingly, but it indicates a round in which one contestant was in constant control and unquestionably outclassed his opponent. This contestant must also have obviously stunned his opponent, usually including at least one knockdown or one standing 8-count. If there were no knockdowns or standing 8-counts, there must still have been enough damage done to indicate that at least one of the occurrences was imminent, and in this case a more appropriate score would be 10-8.5.

(4) 10-7 Score: A 10-7 score is

very seldom used. It indicates total domination by one fighter to the point that the referee nearly stops the bout. The losing fighter must have been completely dominated and controlled, generally including at least two knockdowns or two standing 8-counts. A 10-7-5 score may be given to indicate a round that a scoring judge determines falls between the qualifications for a 10-7 round and a 10-8 round.

(5) 10-5 Score: A 10-5 score is almost never used. Generally is a 10-6 score seen only on National Continental, or World Title bouts in which the three-knockdown rule has been waived. One contestant must have been so completely dominated as to have been knocked down at least three times and never to have really been in the fight at all. Scores of 10-6.5 and 10-5.5 also require these circumstances.

D. [RESERVED]

E. Points Totaled: Points shall be totaled on each scoring judge's scorecard to determine that judge's selection of a winner. Each judge's selection will count as one vote towards determining the overall winner of the bout.

(1) A Scorecard Draw: If a judge's scorecard, when totaled, reflects an equal number of points for both contestants, that judge will have voted for a draw.

(2) A Majority Decision: If two judges' scores favor one contestant, and the other judge votes for a draw, the two votes for the same contestant shall declare a winner by a majority decision.

(3) A Unanimous Decision: If all three judges' scores favor one contestant, that contestant shall be declared the winner by a unanimous decision.

(4) A Split Decision: If one judge votes for one contestant and the remaining two judges vote for the other contestant, the contestant receiving the two votes shall be declared the winner by split decision.

[15.6.12.17 NMAC – N, 03-23-2002]

15.6.12.18 METHODS OF OFFENSIVE SCORING TECHNIQUE:

Methods of offensive scoring techniques are regulated by the event sanctioning body and must be pre-approved by the Commission.

[15.6.12.18 NMAC – N, 03-23-2002]

15.6.12.19 [RESERVED]

[15.6.12.19 NMAC – N, 03-23-2002]

15.6.12.20 FOULS:

A. Categories of Fouls:

At the discretion of the referee, fouls may be classified into two categories: one to three (1-3) point fouls.

B. Referee's Discretion

Regarding Foul Penalty: The referee's decision as to the severity of the penalty for

a foul committed will be based on the intent of the contestant committing the foul and the result of the foul.

(1) At the time of the infraction, the referee will indicate to the scorekeeper the number of points to be deducted from each scoring judges' ballot at the end of the round; or

(2) The referee may simply issue a warning to the contestant, and no points will be deducted.

C. Referee Determines Scoring Of The Foul: The scoring of the foul will be based on the referee's determination, as follows:

(1) If the referee determines that the foul was obviously committed by one of the contestants, and that the fouled contestant did not contribute to the injury (e.g., by ducking into a knee; moving into an oncoming forehead, etc.), the referee will instruct the scorekeeper to deduct the appropriate number of points from the scorecard of the contestant who committed the foul.

(2) If the referee determines that the injured contestant was responsible for his own injury, the referee will not penalize his opponent in any manner. In this case, if the referee or ring physician determines that the injured contestant is unable to continue, he will lose the contest by a technical knockout.

(3) If an injury occurs as a result of a blind foul, the referee may, at his sole discretion, confer with any or all of the three judges and the ISKA representative to determine which contestant was at fault. The referee may consider any, all, or none of these officials' input in making his final determination.

D. List of Fouls:

(1) Head butting;

(2) Striking with the elbow or knee;

(3) Striking or kicking to the hip, groin, knee, or any area below the waist;

(4) Intentional striking or kicking to the back of the head, neck, or to the throat;

(5) Striking to the face with any part of the arm other than the gloved hand (as in the spinning-backfist attempt that lands with the forearm or elbow);

(6) Linear, or straight-in, striking or kicking to the spine;

(7) Punching or kicking a contestant when he is down. However, if a contestant is on his way to the floor, the opponent may continue his attack until the other opponent touches the floor with any part of his body other than his feet;

(8) Takedowns, other than legal sweeps;

(9) Intentionally pushing, shoving or wrestling an opponent to the canvas or out of the ring with any part of the body;

(10) Illegal sweeping (see 15.6.12.32.D NMAC);

(11) Attacking on the break when both contestants have been instructed by the referee to take one step back;

(12) Attacking after the bell to end the round has sounded;

(13) Holding and hitting (e.g. holding with one hand, especially behind the neck, and hitting with the other hand);

(14) Grabbing or holding on to an opponent's foot or leg, followed by a take-down, strike, or kick;

(15) Holding the ropes with one hand while kicking, punching, or defending with the other hand or with the legs;

(16) Leg checking. The contestant whose leg was checked shall have an attempted kick counted by the kicking judge;

(17) Purposely going down without being hit, which will result in the referee's automatically administering an 8-count as specified in the rule on knockdowns. No points will be subtracted from the scorecard by the scorekeeper in this case, but the judges will consider this knockdown as they would any other knockdown;

(18) Using abusive language in the ring on in the corner, as determined by the referee;

(19) Hitting or flicking one's opponent with an open glove or thumb;

(20) Intentionally evading contact;

(21) Clinching;

(22) Intentionally delaying the contest through the use of improper equipment with seconds remaining in the ring after the start of the round;

(23) Beginning a round without a mouthpiece; or intentionally dropping a mouthpiece; or intentionally spitting out the mouthpiece, etc.;

(24) Spitting, slapping, or biting;

(25) Palm heel strikes;

(26) Any un-sportsmanlike trick or action causing injury to an opponent;

E. Consequences of Delivering A Fouling Technique Deemed Malicious:

A contestant who executes a fouling technique which is deemed malicious (i.e. delivered with the intent of causing injury above and beyond the scope reasonably expected in a contest of this nature), may be subject to sharing the medical, as well as, related recovery and recuperation expenses suffered as a result of the fouling technique by the injured opponent.

[15.6.12.20 NMAC – N, 03-23-2002]

15.6.12.21 [RESERVED]

[15.6.12.21 NMAC – N, 03-23-2002]

15.6.12.22 SCOREKEEPER SCORES THE FOULS:

A. Points Deducted For Fouls: When a referee determines that a foul has been committed, and that the fight will continue, the scorekeeper will automatically deduct the appropriate number of points from each of the judge's scorecards.

B. When Both Contestants Commit Fouls: When both contestants commit fouls, the scorekeeper will deduct points from each judge's scorecard for each contestant.

C. Repeated Fouls: In the event that a contestant commits two 3-point fouls in one round, or commits the same foul two or more times during the course of a contest:

(1) The contestant may be automatically disqualified by the referee.

(2) The referee may also allow the fight to continue if he feels that no malicious intent is involved and instruct the scorekeeper to deduct the appropriate points for each foul.

D. No Less Than Zero Points Scored: No contestant will be scored less than zero in a round.
[15.6.12.22 NMAC – N, 03-23-2002]

15.6.12.23 C O N T E S T STOPPED AS A RESULT OF FOULS:

A. Recovery Time For Injured Contestant: If the referee determines that the fouled contestant needs time to recover, he may stop the bout and the time, and give the injured contestant a reasonable amount of time to recover.

B. Contestant Examined: At the end of this reasonably allotted rest period, the referee and the ring physician will determine if the fouled contestant can continue the bout. If he can continue, time in that round will be resumed and the bout will continue.
[15.6.12.23 NMAC – N, 03-23-2002]

15.6.12.24 [RESERVED]
[15.6.12.24 NMAC – N, 03-23-2002]

15.6.12.25 METHOD OF COUNTING OVER A FIGHTER WHO IS DOWN:

A. Beginning The Count: When a contestant is knocked down or purposely falls down, the referee shall instruct the opponent to retire to the farthest neutral corner of the ring by pointing to that corner, and will immediately begin the count over the contestant who is down.

B. Referee's Audible Count: The referee will audibly announce the passing of the seconds, accompanying the audible count with motions of his arm; the motion indicating the end of each sec-

ond.

C. Mandatory 8-Count: If a contestant is knocked down, the referee will automatically begin a mandatory 8-count and then, if the fighter appears able to continue, will allow the bout to resume.

D. Timekeeper's Count: The timekeeper will give the referee the correct one-second interval for his count by slapping his hand downward on the ring and audibly or visually indicating the seconds passing.

E. Official Count: The referee's count is the only official count.

F. Stopping the Count:
(1) The referee shall not count past eight if the contestant has risen to his feet.

(2) Should the opponent fail to stay in the farthest neutral corner as instructed by the referee, the referee shall stop the count until the opponent has returned to the neutral corner. After the opponent returns to the neutral corner, the referee shall resume the count at the point from which it was interrupted.

G. Determination That Immediate Attention Is Required: If in the referee's opinion, he believes the downed contestant will be unable to rise by the count of ten (10) and requires immediate attention, he may signal the end of the bout before the count of ten. He will do so by waving his arms in front of his face and immediately summoning the downed contestant's corner personnel and the ring physician to attend the downed contestant.

H. Stopping The Count During Physician's Examination: The referee may, at his discretion, request that the ringside physician examine a contestant during the bout. Should the examination occur during the course of a round, the clock will be stopped until the examination is complete.

[15.6.12.25 NMAC – N, 03-23-2002]

15.6.12.26 THE KNOCKOUT OR KNOCKDOWN: A contestant will be declared knocked down if any portion of his body other than his feet touches the floor.

A. Being Pushed Or Slipping: A contestant will not be declared knocked down if he is pushed or accidentally slips to the floor. The referee will make the decision as to whether a contestant was pushed or slipped to the floor, rather than being knocked down.

B. Knockout Declared: In all full contact karate contests, if the downed contestant fails to rise before the count of ten (10), the referee will declare

him knocked out, and the bout will be awarded to the opponent by a knockout.

C. Signaling the Knockout: If the contestant taking the count is still down when the referee calls the count of ten, the referee will wave both arms to indicate that the contestant has been knocked out and will signal that the opponent is the winner.

D. No Being Saved By The Bell: There is no being saved by the bell. A round's ending before the referee reaches the count of ten will have no bearing on the count.

E. Technical Knockout: If a referee determines, during the rest period between rounds, that a contestant is unable to continue the bout, he can declare the opponent the winner by a technical knockout.

F. Going Through The Ropes: When a contestant has been wrestled, pushed, or has fallen through the ropes during a bout, the provisions in 15.6.12.29 NMAC of this rules shall apply. The timekeeper will begin the count pursuant to that rule.

G. Contestants Go Down Simultaneously: If both contestants go down simultaneously, the count will begin and continue as long as one of the contestants is down.

(1) If one contestant rises before the count of ten, and the other contestant remains down through the count of ten, the contestant who rose shall be declared the winner by a knockout.

(2) If both contestants rise before the count of ten, the round will continue.

H. Technical Draw: If both contestants remain down until the count of ten, the bout will be stopped and the decision will be a technical draw.

I. Resuming The Count: Should a fighter who has been knocked down rise before the count of ten is reached and then go down immediately without being struck, the referee shall resume the count where it was left off.

J. Starting A New Count: If the contestant stands for more than two seconds, or is in some way touched by his opponent before going down, the referee will begin a new count.
[15.6.12.26 NMAC – N, 03-23-2002]

15.6.12.27 STANDING 8-COUNT:

A. Amateur and Professional Contests: In all amateur and professional contests, the referee may, at his discretion, administer a standing-8-count to a contestant who is in trouble, but who is still standing.

B. Opponent To Neutral Corner: The referee shall direct the oppo-

nent to a neutral corner, and then begin counting from one to eight, examining the contestant in trouble as he counts.

C. Contest Ordered To

Resume: If, after completing the 8-count, the referee determines that the contestant is able to continue, he shall order the bout to resume.

D. Technical Knockout

Declared: If, after completing the 8-count, the referee determines that the contestant is unable to continue, he shall stop the bout and declare the opponent the winner by a technical knockout.

[15.6.12.27 NMAC – N, 03-23-2002]

15.6.12.28 [RESERVED]

[15.6.12.28 NMAC – N, 03-23-2002]

15.6.12.29 WHEN A CONTESTANT FALLS FROM THE RING DURING THE ROUND:

A. Time-Out Called:

When a contestant has been wrestled, pushed, or has fallen over or through the ropes during a bout, the referee will call time-out, and if the fallen contestant's ability to return to the ring seems questionable, the referee may ask the ringside physician to examine the contestant.

B. Rules On Assisting

Fallen Contestant: If, in the opinion of the physician and the referee, the fallen contestant is able to continue the bout, only one handler from his corner will be allowed to assist the fallen contestant back into the ring.

(1) The handler will do no more than assist the fallen contestant.

(2) If the handler is found performing any other tasks as are normal during rest periods (i.e. stopping a cut, etc.), the referee will immediately penalize or disqualify the fallen contestant.

C. Penalties:

A contestant who deliberately wrestles, pushes, or throws an opponent out of the ring, or who hits his opponent when he is partly out of the ring and prevented by the ropes from assuming a position of defense, will be penalized by the referee.

D. Disqualification:

If the tactic committed in Section C of this rule results in injury to the opponent, the guilty contestant may be disqualified according to the appropriate rulings under 15.6.12.20 NMAC of the Commission's rules and regulations regarding fouls.

E. Situation Where

Counting Begins: When a contestant intentionally falls through the ropes, or was knocked from the ring by a fair blow (which is to say that he was not wrestled, pushed, or otherwise shoved through the ropes by his opponent), the referee will begin counting the fallen contestant as though he has been

knocked out in the ring.

(1) In this instance, the fallen contestant's seconds will not be allowed to assist him back into the ring.

(2) Once standing on the ring platform outside the ropes, the contestant must enter the ring immediately where he may either resume the bout or the referee may finish the count.

F. Other Contestant To

Neutral Corner: When a contestant has fallen over or through the ropes, the other contestant shall retire to the farthest neutral corner of the ring and stay there until instructed to continue the bout by the referee.

[15.6.12.29 NMAC – N, 03-23-2002]

15.6.12.30 THREE-KNOCK-DOWN RULE:

A. Amateur Or

Professional Contests: In any amateur or professional contest, the "Three Knockdown Rule" will be in effect.

B. In All Contests:

In all contests, the standing 8-count will be considered a knockdown under this "Three Knockdown Rule".

(1) Should any contestant be knocked down or receive a standing 8-count three times during the course of a round, he will be considered knocked out.

(2) The referee will automatically terminate the bout and award the victory to the opponent by knockout or technical knockout.

C. National, Continental

and World Title Contests: In National, Continental, and World Title contests, this rule is automatically waived and contests will be stopped at the discretion of the referees.

[15.6.12.30 NMAC – N, 03-23-2002]

15.6.12.31 CHANGE OF DECISION:

A. Reasons Decisions

May Be Changed: A decision rendered at the termination of any bout is final and cannot be changed unless the Commission determines that any one of the following situations has occurred.

(1) **Collusion:** That there was collusion affecting the results of any bout.

(2) **Scoring Error:** That an error occurred in the compilation of the judges scorecards that would indicate that the official decision had been awarded to the wrong contestant.

(3) Violation of Rules and

Regulations: That there was a clear violation of the rules and regulations governing the sanctioning of martial arts bouts that affected the result of the bout.

B. Commission's Power

to Change Decision: If the Commission

determines that any of the situations listed under Section A of this rule has occurred with regard to any bout, then the decision rendered shall be changed as the Commission directs.

[15.6.12.31 NMAC – N, 03-23-2002]

15.6.12.32 SWEEPING:

A. Sweeping Not A

Knockdown: A legal, successful sweep is not considered a knockdown.

B. Execution Of

Sweeping Technique: Sweeps must be executed with the arch part of the foot and delivered to the outside part of the leg only, and only to the lower portion of the calf or ankle.

C. Proper Sweeping

Technique: The sweeping technique must be an obvious attempt to unbalance the opponent's front leg.

D. Improper Sweeping

Technique: The sweeping technique must clearly not be an attempt to injure the opponent's leg. Sweeps to the inside part, the front part, or the rear part of the opponent's leg will not be permitted.

E. Follow-up

Techniques: It is the contestant's choice whether to follow-up his legal sweeping attempt with a legal follow-up technique.

(1) Follow-up techniques must land on the opponent prior to any part of the opponent's body, other than the soles of the feet, touching the floor.

(2) Striking a downed opponent is always illegal.

[15.6.12.32 NMAC – N, 03-23-2002]

15.6.12.33 INTENTIONAL EVASION OF CONTEST:

A. Warning Issued:

The referee will issue a warning to a contestant intentionally avoiding any physical contact with his opponent.

B. Penalty:

The referee may penalize the contestant who continues to avoid a confrontation with his opponent after he has received a warning for doing so during the round.

C. Additional Penalties:

If the warned contestant continues to evade action, either in the same round or in any round, the referee may, in his discretion, award more penalties; or stop the contest and declare a technical knockout.

[15.6.12.33 NMAC – N, 03-23-2002]

15.6.12.34 FAILURE TO RESUME THE CONTEST:

A. Leaving The Ring

Prohibited: Contestants are prohibited from leaving the ring during the one-minute rest period between rounds.

B. Failure To Resume

Contest At The Bell: Should a contestant

not come out of his corner when the bell sounds at the commencement of a round, the referee will begin counting as though the contestant were knocked down; and the scoring judges will consider the situation as an actual knockdown when scoring the round.

C. Technical Knockout Awarded: Should a contestant fail or refuse to resume fighting at the conclusion of the round, the referee will award a technical knockout to his opponent.

(1) Unless the circumstances indicate to the referee the need for an investigation or disciplinary action.

(2) In which case, the referee will not make a decision, and will order the purse or purses of either or both contestants withheld.

[15.6.12.34 NMAC – N, 03-23-2002]

15.6.12.35 [RESERVED]
[15.6.12.35 NMAC – N, 03-23-2002]

15.6.12.36 REFEREE'S AND PHYSICIAN'S POWER TO STOP THE CONTEST:

A. Referee's Power To Render A Decision: The referee shall have the power to stop the contest at any stage, including during the rest periods, and render a decision:

(1) If he considers the match too one-sided; or

(2) If either contestant is in such condition that to continue the match might subject him to serious injury

B. Referee's Power To Call A Technical Draw: The referee will declare the match a technical draw should both contestants be in such condition that to continue the match might subject them to serious injury.

C. Referee's Power To Call For An Examination: In cases where a contestant receives a cut eye from a fair blow or and accidental foul, or any other injury that the referee believes may incapacitate the contestant, the referee may call the ringside physician into the ring for examination of the contestant before he decides to stop the contest. Time will be called while the physician conducts the examination.

D. Ringside Physician's Powers: The ringside physician shall have the power to enter the ring to ascertain the extent of any injury he believes may have occurred, or any serious injury he believes may be suffered by a contestant, whether or not he is summoned by the referee.

(1) The physician shall notice his desire to enter the ring by instructing the Commission's representative to have the bell rung.

(2) If the bell is ordered to be rung

mid-round, it shall be a signal to the referee to temporarily stop the contest to allow the physician to conduct his examination of the contestant.

(3) Time will be called while the physician conducts the examination.

E. Both Have Power to Terminate The Contest: Either the referee or the ringside physician shall have the power to terminate the contest. Should the physician request termination for medical reasons, the referee will automatically terminate the contest.

F. Referee Has Sole Power to Render A Decision: In the event the contest is terminated, the referee shall have the sole power to render a decision.

[15.6.12.36 NMAC – N, 03-23-2002]

HISTORY of 15.6.12 NMAC:

Pre-NMAC History: Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-12, Full Contact And Kick Boxing Rules, filed 9-24-80;

NMAC Rule 92-14, Contest Rules For Full Contact Karate And Kick Boxing, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-14 (aka 15 NMAC 6.12), Contest Rules For Full Contact Karate And Kick Boxing, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-14 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.12 and named Contest Rules For Full Contact Karate And Kick Boxing; 15.6.12 NMAC, Contest Requirements For Full Contact Karate And Kick Boxing, replaced 15 NMAC 6.12 Contest Rules For Full Contact Karate And Kick Boxing, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 13 CLOSED CIRCUIT TELECASTS

15.6.13.1 ISSUING AGENCY: New Mexico Athletic Commission.
[15.6.13.1 NMAC – N, 03-23-2002]

15.6.13.2 SCOPE: The provisions in Part 13 apply to all circuit telecast-

ing of events regulated by the Commission.
[15.6.13.2 NMAC – N, 03-23-2002]

15.6.13.3 STATUTORY AUTHORITY: Part 13 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.).
[15.6.13.3 NMAC – N, 03-23-2002]

15.6.13.4 DURATION: Permanent.
[15.6.13.4 NMAC – N, 03-23-2002]

15.6.13.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.13.5 NMAC – N, 03-23-2002]

15.6.13.6 OBJECTIVE: The objective of Part 13 of Chapter 6 is to set forth all Commission regulations regarding closed circuit telecasts of any boxing, wrestling, martial arts events regulated by the Commission.
[15.6.13.6 NMAC – N, 03-23-2002]

15.6.13.7 DEFINITIONS:

A. "Promoter" refers to any person who purchases, acquires, owns and holds the distribution rights for a closed circuit telecast of an event regulated by the Commission to be viewed in New Mexico; and who intends to sell, sells, or in some manner extends such distribution rights in part to another person or entity.

B. "Broadcast" means any audio or visual image sent by radio or television signals.

C. "Closed Circuit Telecast" means any telecast that is not intended to be available for viewing without the payment of a fee for the privilege of viewing the telecast and includes the term "pay-per-view". This definition includes, but is not limited to, telecasts to arenas, bars, lounges, clubs, entertainment or meeting centers and private residences.
[15.6.13.7 NMAC – N, 03-23-2002]

15.6.13.8 REQUIREMENTS FOR CLOSED CIRCUIT TELECASTS:

A. Licensed Promoter Required: Closed circuit telecasts of boxing, wrestling, or martial arts events shall not be telecast from, or into, New Mexico except under the auspices of a licensed promoter who shall be responsible for filing the appropriate reports and tax payments with the Commission as referenced herein.

B. Event Permit

Required: The promoter shall complete and submit to the Commission a completed application form for an event permit disclosing the dates, locations, and cities intended for closed circuit telecast of the Commission regulated event in the State of New Mexico. The promoter is prohibited from selling or negotiating the sale of rights to broadcast such closed circuit telecast to any person prior to receiving an event permit from the Commission.

C. Tickets Required:

(1) Tickets are required for the closed circuit telecast of any event regulated by the Commission.

(2) All tickets must be printed by a printer approved by the Commission.

(3) All tickets for the event shall be delivered to the Commission or the Commission's representative. The tickets shall be delivered in a sealed container along with a manifest certifying the actual number of tickets printed.

(4) The Commission or the Commission's representative will audit the tickets before returning them to the promoter.

(5) Tickets may only be sold after they have been audited by the Commission or the Commission's representative.

D. Insurance Required:

The promoter shall furnish to the Commission proof of insurance to cover injury to spectators attending the closed circuit telecast event. The promoter shall also have "Signal Interruption" insurance available, if requested by the Commission.

E. Licensing Required

For All Event Personnel: All box office employees, ticket takers, and doormen at any closed circuit telecast events shall be licensed by the Commission; whether the events are held at arenas, bars, lounges, clubs, entertainment or meeting centers, etc.

F. [RESERVED]

G. Reports Required:

(1) A written report on forms provided by the Commission shall be filed by any promoter holding, showing, or telecasting any Commission-regulated event via closed circuit telecast viewed within New Mexico, whether or not the broadcast originated in New Mexico.

(2) The report shall state the number of tickets or orders sold, and the amount of gross receipts from the sale of tickets or order, excluding federal and state sales taxes.

H. International

Sanction Rules: The Commission must approve international sanctioning body rules that vary from the Commission's rules.

[15.6.13.8 NMAC – N, 03-23-2002]

15.6.13.9 [RESERVED]

[15.6.13.9 NMAC – N, 03-23-2002]

15.6.13.10 CABLE TELEVISION SYSTEM PAY-PER-VIEW TELECASTS:

A. Promoter's

Preliminary Report Required: A promoter broadcasting a closed circuit telecast utilizing a cable television system's pay-per-view facilities shall file a report with the Commission within seventy-two (72) hours following the date of the telecast, and estimating the number of orders sold.

B. Cable System

Operator's Report Required: Each cable television system operator whose pay-per-view facilities were utilized to telecast a closed circuit program event program shall file a report with the Commission within fifteen (15) calendar days following the date of the telecast, and stating the number of orders sold.

C. Promoter's Final

Report Required: The promoter shall file a final report with the Commission within thirty (30) calendar days following the date of the telecast, and stating the number of orders sold. The report will be accompanied by a tax payment of five percent (5%) of the total gross receipts from all orders sold, excluding federal and state sales taxes. [15.6.13.10 NMAC – N, 03-23-2002]

15.6.13.11 NON-CABLE TELEVISION SYSTEM TELECASTS:

A. Promoter's Report

Required: A promoter holding, showing, or telecasting a closed circuit telecast utilizing facilities other than a cable television system's pay-per-view, shall file a report with the Commission within seventy-two (72) hours following the date of the telecast.

B. Report and Tax

Payment To Commission: The report shall be accompanied by a tax payment of five percent (5%) of the total gross receipts derived from the sale of tickets, excluding federal and state sales taxes. [15.6.13.11 NMAC – N, 03-23-2002]

15.6.13.12 HOTEL AND MOTEL TELECASTS:

A. Licensed Promoter

Not Required: New Mexico law does not

currently require a licensed promoter for closed circuit telecasts of boxing, wrestling, or martial arts event programs provided in-room by hotels or motels.

B. Report and Privilege

Taxes Required: Each hotel or motel facility or establishment providing in-room closed circuit telecasts of boxing, wrestling, or martial arts event programs will be responsible for filing a report with the Commission within seventy-two (72) hours after each telecast event. The report shall be accompanied by a payment of the appropriate privilege tax due.

[15.6.13.12 NMAC – N, 03-23-2002]

15.6.13.13 PENALTIES FOR FAILURE TO REPORT OR PAY TAXES:

A. Promoter:

The Commission shall levy a fine on any promoter who fails to file either or both the report and tax payment within the prescribed time frame for any closed circuit telecast of a Commission-regulated event in the State of New Mexico.

(1) The Commission shall waive the fine if it determines that the promoter was not at fault for the failure to file either or both the report and tax payment with the Commission.

(2) Lost or mis-directed mail shall not be grounds for waiving the fine.

B. Hotels and Motels:

The Commission shall levy a fine on any hotel or motel facility or establishment that fails to file either or both the report and privilege tax payment within the prescribed time frame for any closed circuit telecast of a Commission-regulated event in the State of New Mexico.

(1) The Commission shall waive the fine if it determines that the hotel or motel facility or establishment was not at fault for the failure to file either or both the report and tax payment with the Commission.

(2) Lost or mis-directed mail shall not be grounds for waiving the fine. [15.6.13.13 NMAC – N, 03-23-2002]

15.6.13.14 TELEVISION TECHNICIANS REQUIRED:

A qualified television technician shall be present at each location where a closed circuit telecast of a Commission-regulated event is being presented.

A. Promoter's Responsibilities:

(1) It is the responsibility of the

promoter to ensure that there is a qualified television technician present at each televised event.

(2) Two days prior to the scheduled event, the promoter shall furnish the Commission with the names of all such television technicians.

B. Commission Approves Technicians: Televisions technicians must be approved by the commission. The Commission reserves the right to disapprove the event if it determines that the television technician is not qualified.
[15.6.13.14 NMAC – N, 03-23-2002]

HISTORY of 15.6.13 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-13, Closed Circuit T.V., filed 9-24-80;

NMAC Rule 92-15, Closed Circuit Telecasts, filed 8-17-92

NMAC Rule 92-1, Definitions, filed 8-17-92;

Those relevant portions of NMAC Rule 95-1, Definitions, filed 5-5-95;

History of Repealed Material:

NMAC Rule 95-1 (aka 15 NMAC 6.1), Definitions, filed 5-5-95; **repealed** effective 03-23-2002.

NMAC Rule 92-15 (aka 15 NMAC 6.13) Closed Circuit Telecasts, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 95-1 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named Definitions;

NMAC Rule 92-15 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.13 and named Closed Circuit Telecasts;

15.6.13 NMAC, Closed Circuit Telecasts, replaced 15 NMAC 6.13, Closed Circuit Telecasts, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 14 FEE SCHEDULE

15.6.14.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.14.1 NMAC – N, 03-23-2002]

15.6.14.2 SCOPE: The provisions in Part 14 of Chapter 6 apply to all persons seeking licensure by the New Mexico Athletic Commission.
[15.6.14.2 NMAC – N, 03-23-2002]

15.6.14.3 STATUTORY AUTHORITY: Part 14 of Chapter 6 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Section 60-2A-4; 60-2A-4; 60-2A-8; 60-2A-9; 60-2A10; 60-2A-11; 60-2A-12.
[15.6.14.3 NMAC – N, 03-23-2002]

15.6.14.4 DURATION:
Permanent.
[15.6.14.4 NMAC – N, 03-23-2002]

15.6.14.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.14.5 NMAC – N, 03-23-2002]

15.6.14.6 OBJECTIVE: The objective of Part 14 of Chapter 6 is to establish the fees to generate sufficient revenues required by the Commission to carry out its administrative functions.
[15.6.14.6 NMAC – N, 03-23-2002]

15.6.14.7 DEFINITIONS:
[RESERVED]
[15.6.14.7 NMAC – N, 03-23-2002]

15.6.14.8 FEES:

A. All fees are non-refundable.

B. Annual licensing fees are set as follows:

- | | |
|------------------------------|-----------------|
| (1) Promoters License: | \$250.00 |
| (2) Foreign Co-promoters: | \$500.00 |
| (3) Referees: | \$25.00 |
| (4) Timekeeper: | \$25.00 |
| (5) Announcers: | \$25.00 |
| (6) Seconds: | \$25.00 |
| (7) Trainers: | \$25.00 |
| (8) Managers: | \$25.00 |
| (9) Professional Boxer: | \$25.00 |
| (10) Professional Wrestlers: | \$35.00 |
| (11) Booking Agent: | \$35.00 |
| (12) Matchmaker: | \$35.00 |
| (13) Judges: | \$25.00 |
| (14) Judge-Trainee: | \$10.00 |

[15.6.14.8 NMAC – N, 03-23-2002]

HISTORY of 15.6.14 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives.

NMAC Rule 92.3, Fee Schedule, filed 8-17-

92.

History of Repealed Material:

NMAC Rule 92-3 (aka 15 NMAC 6.14), Fee Schedule, filed 8-17-92; **repealed** 03-23-2002.

Other History:

NMAC Rule 92-3 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.14 and named Fee Schedule;

15.6.14 NMAC, Fee Schedule, replaced 15 NMAC 6.14, Fee Schedule, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 15 DRUGS AND FOREIGN SUBSTANCES – PENALTIES

15.6.15.1 ISSUING AGENCY:
New Mexico Athletic Commission.
[15.6.15.1 NMAC – N, 03-23-2002]

15.6.15.2 SCOPE: The provisions in Part 15 apply to all professional events contestants licensed by the Commission.
[15.6.15.2 NMAC – N, 03-23-2002]

15.6.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.).
[15.6.15.3 NMAC – N, 03-23-2002]

15.6.15.4 DURATION:
Permanent.
[15.6.15.4 NMAC – N, 03-23-2002]

15.6.15.5 EFFECTIVE DATE:
March 23, 2002, unless a later date is cited at the end of a Section.
[15.6.15.5 NMAC – N, 03-23-2002]

15.6.15.6 OBJECTIVE: The objective of Part 15 of Chapter 6 is to set forth all Commission regulations regarding the use of prohibited drugs and foreign substances by Commission licensees and the penalties adjudged by the Commission for such use.
[15.6.15.6 NMAC – N, 03-23-2002]

15.6.15.7 DEFINITIONS:
[RESERVED]

[15.6.15.7 NMAC – N, 03-23-2002]

15.6.15.8 WATER ALLOWED:

A. During the contest, only water is to be used in the corners.

B. No substance, other than plain drinking water, shall be given to or ingested by a contestant during the course of a match.

[15.6.15.8 NMAC – N, 03-23-2002]

15.6.15.9 [RESERVED]

[15.6.15.9 NMAC – N, 03-23-2002]

15.6.15.10 INSPECTION OF DRUGS, CONTAINERS, AND EQUIPMENT:

A. Subject to Inspection: Drugs, containers, and other equipment used in conjunction with the match, regardless of why or how they are used, or where they are located, shall be available at all times for inspection by the physician, the referee, or the Commission representative.

B. Subject to Seizure: These items are subject to seizure by the physician, the referee, or the Commission representative if there is any evidence that they have been used to violate this rule; or are in violation of any provision of the Professional Athletic Competition Act (Sections 60-2A-1 through 60-2A-33) or the Commission's Rules and Regulation.

15.6.15.11 RESPONSIBILITY OF LICENSEES:

Every person under the Commission's jurisdiction has the responsibility to immediately advise the physician, the referee, or the Commission representative of any knowledge that any contestant scheduled for engagement in any match has, in violation of this rule, ingested or is under the influence of any drug or foreign substance prohibited by this rule, 15.6.15.13 NMAC.

[15.6.15.11 NMAC – N, 03-23-2002]

15.6.15.12 PROHIBITED USE OF DRUGS OR FOREIGN SUBSTANCES:

A. It is expressly prohibited for any event contestant licensed by the Commission to use or be under the influence, at any time, of any drug, stimulant, or foreign substance designed to be ingested that would unfairly increase or decrease his performance; or impair his or the physician's ability to recognize a potentially serious injury or physical condition.

B. Use by a contestant of any prohibited drugs or stimulants before or during a contest shall be cause for disquali-

fication.

[15.6.15.12 NMAC – N, 03-23-2002]

15.6.15.13. PROHIBITED DRUGS OR FOREIGN SUBSTANCES DESIGNED FOR INGESTION:

The following drug or foreign substance classifications are prohibited except as otherwise indicated:

A. Stimulants: All stimulants are banned with the following exceptions:

(1) **Caffeine** – Provided, however, that an amount greater than 12 mcg/ml in the urine is prohibited.

(2) **Beta 2 Agonist** – Provided that it is selected from the following list and is in aerosol or inhalant form only:

(a) Drug Chemical: Bitolterol Mesylate; Brand Name: Tonalate

(b) Drug Chemical: Metaproterenol Sulfate; Brand Name: Alupent or Metaprel

(c) Drug Chemical: Albuterol Sulfate; Brand Name: Ventolin or Proventil

(d) Drug Chemical: Terbutaline Sulfate; Brand Name: Brethaire

B. Narcotics

C. Anabolic Steroids, Including Growth Hormone

D. Diuretics

E. Alcohol

F. Local Anesthetics

G. Corticosteroids

[15.6.15.13 NMAC – N, 03-23-2002]

15.6.15.14 EXAMINATION OF CONTESTANT FOR DRUG USE BY INGESTION:

Any contestant may be required to submit to drug testing, or any other testing required by the Commission.

A. Physician's Observations: After each match, the physician shall advise the Commission representative as to whether or not he observed any behavior or other signs that would indicate the advisability of processing a contestant's urine sample.

B. Decision To Conduct

Drug Test: The Commission representative shall make the final decision as to the processing of a contestant's urine sample.

C. Commission Representative Initiates Drug Test: Whenever the Commission representative has reason to believe that a contestant has ingested or used a prohibited drug or foreign substance, he shall request, and the contestant shall provide, under the supervision of the physician, Commission representative, or inspector, a sample of his urine taken not more than one (1) hour after the

conclusion of the match.

D. Integrity of Urine

Sample To Be Maintained: Urine samples shall be taken in accordance with the protocol agreed upon, in writing, between the Commission and the laboratory employed to process urine samples.

E. Contestant's

Cooperation Required: The contestant being tested shall not use any substances or methods that would alter the integrity of the urine sample.

[15.6.15.14 NMAC – N, 03-23-2002]

15.6.15.15 PENALTIES FOR FAILURE TO PROVIDE URINE SAMPLE:

Failure or refusal to provide a urine sample immediately upon request shall result in the revocation of the contestant's license.

A. Losing Contestant:

Any contestant who has been adjudged the loser of a match, and who subsequently refuses or is unable to provide a urine sample, shall forfeit his share of the purse to the Commission.

B. Winning Contestant:

Any contestant who is adjudged the winner of a match, and who subsequently refuses or is unable to provide a urine sample, shall forfeit the win and shall not be allowed to engage in any future match in this state.

(1) A "no decision" result shall be entered into the official record of the match.

(2) The purse shall be redistributed as though the contestant found to be in violation of this Subsection had lost the match.

C. Forfeit Of Purse:

If redistribution of the purse is not necessary; or if the distribution of the purse has been accomplished and the contestant is found to be in violation of Subsections A or B of this Section, the contestant shall forfeit his share of the purse to the Commission.

[15.6.15.15 NMAC – N, 03-23-2002]

15.6.15.16 [RESERVED]

[15.6.15.16 NMAC – N, 03-23-2002]

15.6.15.17 DRUGS OR FOREIGN SUBSTANCES DESIGNED FOR EXTERNAL USE:

No other drug or foreign substance designed for external use except as expressly provided in this rule or as directed by the physician, shall be used by any contestant while participating in an event contest. Under the conditions described herein, participants may use the following drugs or foreign substances

designed for external use:

A. Petroleum Jelly: Only discretionary use of petroleum jelly [e.g. Vaseline], and nothing else, will be allowed on the face, arms, or any other part of the contestant's body. The excessive use of petroleum jelly is strictly prohibited and the referee shall direct that any excessive petroleum jelly be removed.

B. Adrenalin, Thrombin, and Avitine: In case a contestant sustains a cut or laceration, only the discretionary, topical use of the following, *or their generic equivalents as approved by the physician*, shall be allowed to stop the bleeding:

- (1) A 1/1000 solution of Adrenalin;
 - (2) Avitine; or
 - (3) Thrombin.
- [15.6.15.17 NMAC – N, 03-23-2002]

15.6.15.18 PENALTIES FOR PROHIBITED DRUG OR FOREIGN SUBSTANCE USE:

A. Losing Contestant: Any contestant determined to have been using, or to have been under the influence of a prohibited drug or foreign substance, and who has been adjudged the loser of a match, shall forfeit his share of the purse to the Commission.

B. Winning Contestant: Any contestant determined to have been using, or to have been under the influence of a prohibited drug or foreign substance, and who has been adjudged the winner of a match, shall forfeit the win, and shall not be allowed to engage in any future match in this state.

(1) A "no decision" result shall be entered into the official record of the match.

(2) The purse shall be redistributed as though the contestant found to be in violation of this Subsection had lost the match.

C. Forfeit Of Purse: If redistribution of the purse is not necessary; or if the distribution of the purse has been accomplished and the contestant is found to be in violation of Subsections A or B of this Section, the contestant shall forfeit his share of the purse to the Commission.

D. Additional Penalties: The following additional penalties shall be assessed against any contestant found to be in violation of this Section:

(1) Penalty For The First Occurrence: The contestant's license shall be suspended for a period of one hundred eighty (180) calendar days, during which

time the contestant shall be banned from participating in any manner in any match or activity regulated by this Commission.

(2) Penalty For The Second Occurrence: The contestant's license shall be suspended for a period of one (1) year, during which time the contestant shall be banned from participating in any manner in any match or activity regulated by this Commission.

(3) Penalty For The Third Occurrence: The contestant's license shall be permanently revoked and he shall be permanently banned from participating in any manner in any match or activity regulated by this Commission.

[15.6.15.18 NMAC – N, 03-23-2002]

15.6.15.19 [RESERVED]:
[15.6.15.19 NMAC – N, 03-23-2002]

15.6.15.20 PENALTIES FOR AIDING AND ABETTING THE VIOLATION OF THIS RULE:

A. Grounds For Suspension Or Revocation: Participation in or contributing to the violation of 15.6.15 NMAC (this rule) by any person licensed by the Commission shall be grounds for suspension or revocation of all Commission licenses held by that licensee.

B. Forfeit Of Purse: Any licensee found to be in violation of this Section shall forfeit his share of the purse to the Commission.

C. Suspension and Revocation Penalties: The following penalties shall be assessed against any licensee found to be in violation of this Section:

(1) Penalty For The First Occurrence: The licensee's license shall be suspended for a period of one hundred eighty (180) calendar days, during which time the licensee shall be banned from participating in any manner in any match or activity regulated by this Commission.

(2) Penalty For The Second Occurrence: The licensee's license shall be suspended for a period of one (1) year, during which time the licensee shall be banned from participating in any manner in any match or activity regulated by this Commission.

(3) Penalty For The Third Occurrence: The licensee's license shall be permanently revoked and the licensee shall be permanently banned from participating in any manner in any match or activity regulated by this Commission.

[15.6.15.20 NMAC – N, 03-23-2002]

HISTORY of 15.6.15 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC Rule 92-16, Drugs And Foreign Substances – Penalties, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-16 (aka 15 NMAC 6-15), Drugs And Foreign Substances – Penalties, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-16 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.15 and named Drugs And Foreign Substances – Penalties.

15.6.15 NMAC, Drugs And Foreign Substances – Penalties, replaced 15 NMAC 6.15, Drugs And Foreign Substances – Penalties, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 GAMBLING AND LIQUOR CONTROL CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 16 DISCIPLINARY ACTIONS

15.6.16.1 ISSUING AGENCY: New Mexico Athletic Commission,
[15.6.16.1 NMAC – N, 03-23-2002]

15.6.16.2 SCOPE: The provisions in Part 16 apply to all licensees of the Commission.
[15.6.16.2 NMAC – N, 03-23-2002]

15.6.16.3 STATUTORY AUTHORITY: Part 16 of Chapter 6 of Title 15 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pam.); specifically Sections 60-2A-4, 60-2A-8, 60-2A-10, 60-2A-13, 60-2A-14, 60-2A-15, 60-2A-19, 60-2A-27, 60-2A-28, and 60-2A-31.
[15.6.16.3 NMAC – N, 03-23-2002]

15.6.16.4 DURATION: Permanent.
[15.6.16.4 NMAC – N, 03-23-2002]

15.6.16.5 EFFECTIVE DATE:

March 31, 2002, unless a later date is cited at the end of a Section.
[15.6.16.5 NMAC – N, 03-23-2002]

15.6.16.6 OBJECTIVE: The objective of Part 16 of Chapter 6 is to set forth the disciplinary authority of the Commission over its licensees and disciplinary procedures and actions that the Commission's licensees are subject to.
[15.6.16.6 NMAC – N, 03-23-2002]

15.6.16.7 DEFINITIONS:

A. "Complaint" means a complaint filed with the Commission against an applicant for licensure or against a licensee.

B. "Complainant" means the party who files a complaint against a licensee or against an applicant for licensure.

C. "Respondent" means the licensure applicant or the licensee who is the subject of the complaint filed with the Board.

D. "Hearing" means the formal process whereby the respondent is afforded the opportunity to be heard by the Commission, or its designated hearing officer, before the Commission takes action which might result in disciplinary action against the respondent's license or application for license.

E. "Violation" means a violation of the Professional Athletic Competition Act or the rules and regulations duly adopted by the Commission

F. "Notice of Contemplated Action or NCA" means the process provided whereby the respondent is notified of the Commission's intent to take action against the respondent's license, and whereby the respondent is afforded the opportunity for a hearing before the Commission.

G. "Shall" means mandatory; a requirement.

H. "Should" means a suggestion or recommendation; not a requirement.

I. "License Revocation" means to prohibit the conduct authorized by the license.

J. "License Suspension" means to prohibit, for a stated period of time, the conduct authorized by the license.
[15.6.16.7 NMAC – N, 03-23-2002]

15.6.16.8 AUTHORITY OF COMMISSIONER OR DEPUTY:

A. The Commission may, in its discretion, take the following action or any combination of such actions deemed appropriate:

(1) Suspend the license for a peri-

od of time deemed appropriate.

(2) Revoke the license.

(3) Order future compliance and any remedial action as deemed appropriate by the Commission.

B. Each commissioner, or a representative or deputy designated by the Commission, shall have full power to act as an official on behalf of the Commission at all contests and exhibitions to fully enforce all of the rules of the Commission. Furthermore, each such official has the power and authority to immediately suspend a license, without prior notice, for any violation of this chapter of the laws of this State.
[15.6.16.8 NMAC – N, 03-23-2002]

15.6.16.9 VIOLATORS SUBJECT TO DISCIPLINARY ACTION:

Any Commission licensee or permit holder who violates the laws of the State of New Mexico or the rules and regulations of the Commission, may have his license or permit revoked, suspended, or otherwise disciplined, in such a manner as the Commission may direct.
[15.6.16.9 NMAC – N, 03-23-2002]

15.6.16.10 LICENSE OR PERMIT SUSPENSION:

The Commission may suspend any license or permit it has issued by issuing a dated notice to that effect, served by certified mail, return receipt requested to the licensee or permit holder.

A. Such suspension shall be without any advance hearing and shall take effect upon issuance of such notice of suspension by the Commission.

B. The notice shall specify the effective date and term of the suspension.

C. The suspended licensee or permit holder may apply to the Commission for a hearing on the matter to determine whether the suspended license or permit shall be revoked as specified in this Section.

D. The application for hearing must be in writing and must be received by the Commission within twenty (20) days of the licensee's or permit holder's receipt of the Commission's notice of suspension, as recorded on the return receipt for the certified notice.
[15.6.16.10 NMAC – N, 03-23-2002]

15.6.16.11 LICENSE OR PERMIT REVOCATION:

Before the

Commission may revoke a license or permit, the subject licensee or permit holder shall be served, by certified mail, return receipt requested, a notice of contemplated action to revoke the license.

A. In the notice, the licensee or permit holder will be advised to appear before the Commission or hearing officer appointed by the Commission at a hearing scheduled within twenty (20) days.

B. The notice of such hearing shall state the alleged misconduct upon which the contemplated license or permit revocation is based.

C. The licensee or permit holder may appear in person or be represented by his attorney to answer to the charges specified in the notice of contemplated action and to show cause as why his license or permit should not be revoked.

D. At any stage of the hearing proceedings, the Commission may require the licensee or permit holder to take the stand and give sworn testimony.

E. All witnesses, licensees, or permit holders must testify under oath at any disciplinary hearing convened and conducted by the Commission. The oath may be administered by any Commissioner present or by the court reporter, if one is available to record the proceedings.

F. The Commission shall be the sole judge of the relevancy and competency of the testimony given, the credibility of the witnesses, and the sufficiency of the evidence presented.

G. In the event that the licensee or permit holder does not appear at the scheduled hearing; or if having appeared, the facts and evidence presented at the hearing warrant, in the discretion of the Commission, a revocation of the license or permit, the license or permit shall be revoked and a notice of revocation shall be promptly served on the licensee by certified mail, return receipt requested.
[15.6.16.11 NMAC – N, 03-23-2002]

15.6.16.12 FORFEITURE OF PURSE:

A. The Commission shall have the power to declare forfeiture of any purse, or any part or share thereof, belonging to both or either of the contestants or of any manager, if it has reason to believe such contestant or contestants, or manager of the contestant or contestants, has committed an act in violation of any rules or regulation of the Commission.

B. The amount forfeited shall be paid to the Commission within forty-eight (48) hours of the declaration of forfeiture. The Commission shall hold the purse until there is a final determination whether a violation has been committed. [15.6.16.12 NMAC – N, 03-23-2002]

15.6.16.13 IMPOSITION OF FINES: The Commission may, in its discretion impose fines for violations of the laws of the State of New Mexico or of the Commission's Rules and Regulations (15.6 NMAC). In the event that the licensee has a fine imposed upon his license by the Commission, the Commission may, in its discretion, suspend the license until the fine has been paid. [15.6.16.13 NMAC – N, 03-23-2002]

15.6.16.14 [RESERVED]
[15.6.16.14 NMAC – N, 03-23-2002]

15.6.16.15 WITHHOLDING OF PURSE: In accordance with Section 60-2A-19 of the Professional Athletic Competition Act, the Commission delegates to the Chairman or his designee, the authority to order a promoter to withhold any part of a purse or other funds belonging or payable to any contestant, manager or second, if in the judgment of the Chairman or his designee, there has been a violation of the Act or of the Commission's Rules and Regulations (15.6 NMAC).

A. Upon the withholding of any part of a purse, the Commission will inform the licensee in writing of the alleged violation(s), the rights of the licensee, and schedule a hearing at the next regularly scheduled Commission meeting.

B. If the Commission determines after a hearing that the licensee is not entitled to any part of the purse or other funds, the withheld purse or funds shall not be returned to the promoter, but shall be deposited in the Commission's funds. [15.6.16.15 NMAC – N, 03-23-2002]

15.6.16.16 SEVERABILITY REMEDIES: If anything designated herein shall be held contrary to the law or unconstitutional, the action taken shall be changed to suspension of less than one (1) month and not more than one (1) year for each offense, and the penalties for multiple violations are to run consecutively. [15.6.16.16 NMAC – N, 03-23-2002]

15.6.16.17 COMMISSION BUL-

LETINS: The Commission shall, from time to time, issue bulletins regarding suspension, revocations, fines, penalties, and promulgation of rules and regulations. All licensed corporations and matchmakers must keep the Commission bulletin on file. [15.6.16.17 NMAC – N, 03-23-2002]

15.6.16.18 SUSPENSIONS REPORTED NATIONALLY:

A. The Commission shall report nationally all suspensions, except those imposed locally for minor infractions of local rules.

B. The Commission shall report any suspensions to championship sponsoring organizations within ten (10) days of the suspension. [15.6.16.18 NMAC – N, 03-23-2002]

15.6.16.19 COSTS OF DISCIPLINARY ACTIONS: Licensees shall bear **all costs** of disciplinary proceedings unless they are excused by the board from paying all or part of the costs, or if they prevail at the hearing and an action specified in Section 61-1-3 NMSA 1978 is not taken by the commission. [15.6.16.19 NMAC – N, 03-23-2002]

HISTORY of 15.6.16 NMAC: Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives: NMAC 80-1, The Commission, Its Powers and Procedures, filed 9-24-80; Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers and Procedures, filed 8-17-92; NMAC Rule 92-17, Disciplinary Actions, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers and Procedures, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-17 (aka 15 NMAC 6.16), Disciplinary Actions, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-2 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions; NMAC Rule 92-17 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.16 and renamed Disciplinary Actions; 15.6.16 NMAC, Disciplinary Actions,

replaced 15 NMAC 6.16, Disciplinary Actions, effective 03-23-2002.

NEW MEXICO ATHLETIC COMMISSION

TITLE 15 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 6 BOXING, WRESTLING, AND MARTIAL ARTS PART 17 LICENSURE PROVISIONS

15.6.17.1 ISSUING AGENCY: New Mexico Athletic Commission. [15.6.17.1 NMAC – N, 03-23-2002]

15.6.17.2 SCOPE: The provisions in Part 17 of Chapter 6 apply to all license applicants of the New Mexico Athletic Commission. [15.6.17.2 NMAC – N, 03-23-2002]

15.6.17.3 STATUTORY AUTHORITY: Part 17 of Chapter 6 is promulgated pursuant to the Professional Athletic Competition Act, Sections 60-2A-1 through 60-2A-30, NMSA 1978 (1980 Repl. Pamp.). [15.6.17.3 NMAC – N, 03-23-2002]

15.6.17.4 DURATION: Permanent. [15.6.17.4 NMAC – N, 03-23-2002]

15.6.17.5 EFFECTIVE DATE: March 23, 2002, unless a later date is cited at the end of a Section. [15.6.17.5 NMAC – N, 03-23-2002]

15.6.17.6 OBJECTIVE: The objective of Part 17 of Chapter 6 is to establish the requirements for licensure by the New Mexico Athletic Commission. [15.6.17.6 NMAC – N, 03-23-2002]

15.6.17.7 DEFINITIONS: **[RESERVED]** [15.6.17.7 NMAC – N, 03-23-2002]

15.6.17.8 LICENSE REQUIRED.

A. The Commission must first grant a license to any person participating, either directly or indirectly, in any professional contest regulated by the Commission.

B. All applications for permits and licenses shall be made under oath.

C. The Commission may require that anyone applying for a license or permit furnish the Commission with a duplicate set of fingerprints. [15.6.17.8 NMAC – N, 03-23-2002]

15.6.17.9 PREREQUISITE LICENSURE REQUIREMENTS FOR REFEREES: All applicants for a referee's license must:

A. Submit a completed Commission-approved application for licensure that has been executed under oath and in the presence of a notary public;

B. Submit proof of performance or a written reference as to his qualifications to act as a referee;

C. Submit the applicable license fee as set forth in Paragraph (3) of Subsection B of 15.6.14 NMAC; and

D. Take and satisfactorily pass a written exam designated by the Commission.

[15.6.17.9 NMAC – N, 03-23-2002]

15.6.17.10 PREREQUISITE LICENSURE REQUIREMENTS FOR JUDGES: All applicants for a judge's license must:

A. Submit a completed Commission-approved application for licensure form that has been executed in the presence of a notary public;

B. Submit the applicable license fee as set forth in Paragraphs (13) or (14) of Subsection B of 15.6.14 NMAC;

C. Take and satisfactorily pass a written exam designated by the Commission before being assigned to a required actual training period of no less than three professional boxing shows where he will actually score bouts under the supervision of a Commission-designated instructor.

D. The judge applicant shall be designated as a "Judge-Trainee" until completion of the training period.

[15.6.17.10 NMAC – N, 03-23-2002]

15.6.17.11 FAILURE TO PASS THE EXAM: Each applicant for licensure who takes the test and fails to pass it shall be eliminated from the list of officials and may not take the exam again for at least thirty (30) days.

[15.6.17.11 NMAC – N, 03-23-2002]

15.6.17.12 REGISTERED ADDRESS OF LICENSEE: All Commission notices and bulletins will be sent to the licensee at the last address on file in the Commission office. The licensee shall be responsible for notifying the Commission of any change in address.

[15.6.17.12 NMAC – N, 03-23-2002]

15.6.17.13 PERSONNEL CHANGES OF A CORPORATE LICENSEE: The Commission shall be notified immediately of any new or addi-

tional officers, stockholders, or directors of a corporate licensee; and any changes in such corporate licensees shall be upon notice to and with the approval of the Commission.

[15.6.17.13 NMAC – N, 03-23-2002]

HISTORY of 15.6.17 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMAC 80-1, The Commission, Its Powers And Procedures, filed 9-24-80;

Those relevant portions of NMAC Rule 92-2, The Commission, Its Powers And Procedures, filed 8-17-92;

NMAC 80-4, Conduct of Licensees, filed 9-24-80;

Those relevant portions of NMAC Rule 92-6, Conduct of Licensees, filed 8-17-92.

History of Repealed Material:

NMAC Rule 92-2 (aka 15 NMAC 6.1), The Commission, Its Powers And Procedures, filed 8-17-92; **repealed** effective 03-23-2002.

NMAC Rule 92-6 (aka 15 NMAC 6.4), Conduct of Licensees, filed 8-17-92; **repealed** effective 03-23-2002.

Other History:

NMAC Rule 92-2 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.1 and named General Provisions;

NMAC Rule 92-6 was recompiled into the first version of the New Mexico Administrative Code as 15 NMAC 6.4 and named Conduct of Licensees;

15.6.17 NMAC, License Provisions, replaced those relevant portions of 15 NMAC 6.1, General Provisions, and 15 NMAC 6.4, Conduct of Licensees, effective 03-23-2002.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

Notice of Repeal

7 NMAC 20.11, Certification Requirements for Child and Adolescent Mental Health Services, is repealed effective 03/29/02 and repromulgated as 7.20.11 NMAC effective 03/29/02.

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT

**TITLE 7 HEALTH
CHAPTER 20 MENTAL HEALTH**

PART 11 CERTIFICATION REQUIREMENTS FOR CHILD AND ADOLESCENT MENTAL HEALTH SERVICES

7.20.11.1 ISSUING AGENCY: Children, Youth and Families Department
[7.20.11.1 NMAC - Rp 7 NMAC 20.11.1, 03/29/02]

7.20.11.2 SCOPE: This policy applies to all child and adolescent behavioral health programs described herein.
[7.20.11.2 NMAC - Rp 7 NMAC 20.11.2, 03/29/02]

7.20.11.3 STATUTORY AUTHORITY: 1978 NMSA Sections 32A-12.1 et seq.
[7.20.11.3 NMAC - Rp 7 NMAC 20.11.3, 03/29/02]

7.20.11.4 DURATION:: Permanent
[7.20.11.4 NMAC - Rp 7 NMAC 20.11.4, 03/29/02]

7.20.11.5 EFFECTIVE DATE: March 29, 2002 unless a later date is cited at the end of section.
[7.20.11.5 NMAC - Rp 7 NMAC 20.11.5, 03/29/02]

7.20.11.6 OBJECTIVES:
A. To establish Certification Requirements for Behavioral Health Services provided to children and adolescents of New Mexico through the Medicaid Program (Title XIX of the Social Security Act);

B. To provide for monitoring of agency compliance with these Certification Requirements to identify any factors that could affect the health, safety, and welfare of the clients or the staff;

C. To assure that the agency establishes and follows written policies and procedures that specify how these Certification Requirements are met; and

D. To assure that adequate supervision is provided at all times.
[7.20.11.6 NMAC - Rp 7 NMAC 20.11.6, 03/29/02]

7.20.11.7 DEFINITIONS:
A. **ABUSE** means an intentional or negligent infliction of physical or psychological harm; intentional or negligent sexual contact or sexual exploitation; intentional or negligent behavior that jeopardizes life or health; torture, cruel confinement or corporal punishment.

B. **ACCREDITED** means written acknowledgement from a national organization that an agency or program meets the published standards of the organization issuing the accreditation.

C. **ACCREDITED RESIDENTIAL TREATMENT CENTER (ARTC)** means a facility with 16 beds or less that may be attached to, or housed within, a hospital or other institution; that provides Residential Treatment Services pursuant to these requirements; and that is accredited by JCAHO.

D. **ACTION PLAN** means a written document that may be required by the Licensing and Certification Authority (LCA) detailing an agency's proposed actions for resolving deficiencies identified by the LCA.

E. **ACTIVE STATUS** means a type of certification granted to a program currently serving clients.

F. **ADMINISTRATOR** means the person in charge of the day-to-day operation of an agency. The administrator may also be referred to as the director or operator.

G. **ADMISSIONS HOLD** means a type of sanction under which a program is prohibited from admitting new clients until the LCA determines that identified deficiencies are corrected, and lifts the sanction.

H. **AGENCY** means the legally responsible organizational entity administering the facility and/or program(s) of specific services identified and certified pursuant to these Certification Requirements.

I. **ASSISTANCE WITH SELF-ADMINISTRATION OF MEDICATION** means the supervision and assistance given to a client in the self-administration of a drug.

J. **BEHAVIORAL HEALTH SERVICES** means services designed to meet behavioral and/or mental health and/or substance abuse needs of Medicaid recipients in certified services.

K. **BEHAVIOR MANAGEMENT** means the use of basic techniques, such as reinforcement, redirection and/or voluntary time-outs to teach clients skills for managing and improving their own behavior; and/or the use of verbal de-escalation, therapeutic holds, personal restraint and/or seclusion in order to maintain a safe and therapeutic environment and to enhance the abilities of clients and care givers to manage client behavior.

L. **BEHAVIOR MANAGEMENT SKILLS DEVELOPMENT SERVICES (BMS)** means services provided on a staff-to-child ratio of at least 1:1. Behavior Management Skills Development Services are for children and adolescents with psychological, emotional, behavioral, neurobiological or substance abuse problems in the home, community and/or school when such problems are of such severity that highly supportive and structured thera-

peutic behavioral interventions are required. These services are designed to maintain the client in his/her home, community or school setting.

M. **BEHAVIOR MANAGEMENT SERVICES PLAN** means a service plan used in Behavior Management Skills Development Services.

N. **CANCELLATION** means an LCA action nullifying a program's certification.

O. **CAPACITY** means the maximum number of clients allowed to receive services in a licensed facility at any specified time in accordance with these Certification Requirements.

P. **CASE MANAGEMENT SERVICES** means services provided in order to assist children and adolescents with identifying and meeting multiple and complex, special physical, cognitive and behavioral health care needs through planning, securing, monitoring, advocating and coordinating services.

Q. **CARF** means Council on Accreditation of Rehabilitation Facilities.

R. **CERTIFICATION** means an authorized status conferred by the Department on a program that meets these Certification Requirements for providing service(s) to children and adolescents.

S. **CHEMICAL RESTRAINT** means the administration of a medication(s) which is neither a standard treatment for the client's medical or psychiatric condition nor a part of the client's daily medication regimen, and is used for the primary purpose of controlling a client's behavior or restricting a client's freedom of movement.

T. **CHILD/ADOLESCENT** means a person under the chronological age of 21 years.

U. **CLEARED STAFF MEMBER** means an individual who has been approved by the Department for employment in the immediate presence of children and adolescents by means of a State and federal criminal background clearance.

V. **CLIENT** means any child or adolescent who receives treatment from a service certified by the Department.

W. **COA** means Council on Accreditation for Children and Family Services.

X. **CLINICAL STAFF** means Licensed Mental Health Practitioners and treatment coordinators.

Y. **CLINICAL SUPERVISOR** means a staff member who is a Licensed Independent Practitioner and who has responsibility and authority for supervising other clinical staff.

Z. **CONTRACTOR** means

an individual who provides direct services to clients through contracts with the agency.

AA. **CORPORAL PUNISHMENT** means a form of discipline or behavior control that involves forced exercise or touching a child's body with the intent to induce pain and includes, but is not limited to, shaking, spanking, hitting, hair pulling, and/or ear pulling.

AB. **CRIMINAL RECORDS CHECK (CRC)** means the process of submitting State and FBI approved fingerprint cards and any additional required background information to the Department for the purpose of determining whether or not an individual has State or federal convictions on record that may disqualify the individual from direct unsupervised contact with children/adolescents and, when applicable, for the purpose of obtaining and reviewing a record of convictions.

AC. **CRIMINAL RECORDS CLEARANCE** means a determination made by the Department, based on the results of the criminal records check, that an individual may work directly and unsupervised with children and adolescents.

AD. **DAY TREATMENT SERVICES (DTS)** means a coordinated and intensive set of structured individualized therapeutic services, in a school, or a facility licensed by the LCA, provided for children, adolescents and their families who are living in the community.-

AE. **DEFICIENCY** means a violation of, or failure to comply with, a provision(s) of these Certification Requirements.

AF. **DENIAL** means a sanction imposed by the LCA to refuse to issue a certification, based on a determination made by the LCA.

AG. **DEPARTMENT** means the New Mexico Children, Youth and Families Department.

AH. **DIRECT PHYSICAL SUPERVISION** means, with reference to criminal records clearances, either continuous visual observation or live video observation of a non-cleared agency staff member by a cleared agency staff member or by the client's legal guardian, while the non-cleared staff is in immediate presence of the client.

AI. **DIRECT SERVICE STAFF** means supervisors, physicians, nurses, therapists, client care workers, coordinators or other agency personnel who work in immediate direct unsupervised contact with children.

AJ. **DIRECT UNSUPERVISED CONTACT** means physical proximity to clients, such that physical contact or abuse could occur, without being observed or noticed by another staff member who has been cleared by the Department.

AK. DIRECTED ACTION means a formal action(s) specified by the LCA that the agency is required to undertake and/or complete in order to correct a deficiency(ies) within a specified time frame.

AL. DISCHARGE CRITERIA means specific clinically-based indicator(s) used to measure the client's degree of readiness for release from a given level of care stated in terms of achievement of treatment goals and/or reduction of symptoms; discharge criteria may also include indicators that a given level of care is inappropriate for a client due to such factors as dangerousness or non-responsiveness to treatment.

AM. DISCHARGE PLAN means a written section of a treatment plan/service plan and treatment plan/service plan reviews containing the following elements: behavioral and/or other clinical criteria that describe the conditions under which discharge will occur, identification of barriers to discharge; the level of care, specific services to be delivered, and the living situation into which discharge is projected to occur; the projected date of discharge, individuals responsible for implementing each action specified in the discharge plan, and, when indicated, revisions.

AN. DISCIPLINE means non-abusive training that enables a client to develop self-control and orderly conduct in relationship to others.

AO. DOCUMENTATION means the written or printed record of information supporting the facts related to the certified services being provided to clients found in client files, personnel files, and other pertinent printed sources.

AP. EARLY AND PERIODIC, SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) means periodic, comprehensive services to persons under 21 years of age; these services are defined in the Medicaid Program Policies.

AQ. EMERGENCY SAFETY INTERVENTION means personal restraint or seclusion.

AR. EMERGENCY SANCTION means an immediate requirement that is imposed on a program by the LCA in response to a finding of health or safety deficiency(ies).

AS. EMERGENCY SERVICE means an unanticipated admission to an acute medical or psychiatric facility or the provision of other medical services by paramedics or other emergency and/or urgent care personnel.

AT. EMERGENCY SUSPENSION means an immediate and temporary cancellation of a certification due to an existing health or safety deficiency(ies), pending an appeal hearing and/or correction

of health or safety deficiencies. During a period of emergency suspension, the Medicaid provider agreement is not in effect.

AU. EMPLOYMENT HISTORY means a verifiable written summary of employment including names, addresses and telephone numbers of employers, immediate supervisors as well as dates of and explanations for any period(s) of unemployment for a minimum of three years immediately prior to hire for employment by a certified program.

AV. ENHANCED SERVICE means, in the Medicaid Managed Care System, any and all services beyond the scope of the Medicaid (fee-for-service) benefit package available to recipients in the Medicaid Managed Care Program.

AW. EXCLUSIONARY CRITERIA means agency-written criteria that define the diagnoses, behaviors, or conditions that preclude admission to the certified program.

AX. EXEMPLARY means a certified status conferred by the LCA on a program that has no history of temporary certification, sanctions or loss of certification in the previous two years and meets all of the Certification Requirements with minor or no deficiencies.

AY. EXPANSION HOLD means a type of sanction under which an agency is prohibited from obtaining certification for additional services until the LCA determines that identified deficiencies are corrected and lifts the sanction.

AZ. EXPLOITATION means the act or process of using a client or client's property for another person's profit, advantage or benefit.

BA. FACILITY means the physical plant and building(s) licensed by the LCA in which Residential or Day Treatment mental health services are provided.

BB. GENERAL PROVISIONS means the series of Certification Requirements found in Sections 9 through 25 of these Certification Requirements.

BC. GOVERNING BODY means the organizational entity of an agency that has the ultimate responsibility for all planning, direction, control, and management of the activities and functions of a program certified pursuant to these Certification Requirements.

BD. GROUP HOME SERVICES (GHS) means mental and behavioral health services offered in a supervised, licensed facility that provides structured therapeutic group living for children/adolescents with moderate behavioral, psychological, neurobiological, or emotional problems, when clinical history and opinion establish that the needs of the client cannot

be met in a less restrictive environment.

BE. HEALTH AND/OR SAFETY DEFICIENCY means a deficiency that poses an immediate threat to the welfare of clients up to and including loss of life; physical harm; physical, sexual, psychological abuse and/or exploitation.

BF. HOME-BASED SERVICES (HBS) means a program, operated pursuant to these Certification Requirements, that provides services in family homes and/or other community settings in order to enhance mental/behavioral functioning of clients.

BG. INACTIVE STATUS means a type of certification granted to a program that is not currently serving clients.

BH. INCIDENT REPORT means the document(s) describing a serious incident or alleged serious incident.

BI. INFORMAL RESOLUTION CONFERENCE means an informal meeting and problem-solving process between the Department and an agency to resolve any filed or potential appeal arising from the imposition or potential imposition of a sanction(s).

BJ. INFORMED CONSENT means a document that reflects that a client and the legal guardian(s) are advised of the benefits, risks, and alternatives of a given medication and/or treatment and agree to the use of the medication and/or treatment. Clients age 14 and above may consent to the use of a medication and/or treatment without the approval of their legal guardian(s).

BK. INITIAL CERTIFICATION means a type of certification granted to a program that has met the minimum requirements to implement a program to provide services pursuant to these requirements.

BL. INVESTIGATION means a formal process of inquiry used by the LCA to: determine the validity of complaints or allegations made against certified agencies; and/or to determine whether trends in incidents reported to the LCA that affect the health and safety of clients are the result of negligent practices, insufficient supervision of personnel or clients, or any other factor that requires correction; and/or to determine whether or not an agency has made corrective responses to resolve matters of threat to client health and safety substantiated by the LCA.

BM. JCAHO means the Joint Commission on Accreditation of Healthcare Organizations.

BN. LICENSE means the written authorization issued by the LCA pursuant to 7.20.12 NMAC granting right to operate the designated facility for a specified period of time; or, in context, any necessary authorization by the appropriate cre-

denial authority to undertake the professional activity in question.

BO. LICENSED INDEPENDENT PRACTITIONER means New Mexico-licensed clinical staff who are authorized to practice at the independent level.

BP. LICENSED INDEPENDENT MEDICAL PRACTITIONER means a New Mexico licensed Medical Doctor (MD), doctor of osteopathy (DO), Certified Nurse Practitioner (CNP), Clinical Nurse Specialist (LCNS), or Physician Assistant (PA).

BQ. LICENSING AND CERTIFICATION AUTHORITY (LCA) means the Licensing and Certification Unit of the Children's Behavioral Health and Community Services Bureau of the Prevention and Intervention Division of the Department.

BR. MAINTENANCE OR REDUCTION IN PROGRAM CAPACITY means a sanction that directs the agency to maintain or reduce the capacity of the program to a designated census until the LCA determines that deficiencies resulting in the sanction have been corrected.

BS. MECHANICAL RESTRAINT means use of a mechanical device(s) to physically restrict a client's freedom of movement, performance of physical activity, or normal access to his or her body, and is distinct from personal restraint as defined below.

BT. MEDICAID means Title XIX of the Social Security Act; the joint federal-State program that pays for medical care for low-income persons.

BU. MONITORING means the ongoing review of a program's progress in correcting deficiencies. During a period of certification, monitoring is done at the discretion of the LCA. Monitoring may be implemented by means of a monitoring plan, and may require that specified documentation be submitted to the LCA by the agency or may include the use of on-site surveys by the LCA to ascertain compliance in specified areas.

BV. MONITORING PLAN means a written set of guidelines and instructions specified by the LCA for a program to follow for the purpose of correcting deficiencies.

BW. MORAL TURPITUDE means conduct contrary to justice, honesty, modesty or good morals, as further specified in 8.8.3 NMAC.

BX. NEGLECT by individuals or an agency means:

(1) Failure to provide any treatment, service, care, medication or item that is reasonably necessary to maintain the health or safety of a client; or

(2) Failure to take any reasonable

precaution that is necessary to prevent damage to the health or safety of a client; or

(3) Failure to carry out a duty to supervise properly or control the provision of any treatment, care, good service or medication reasonably necessary to maintain the health or safety of a client; or

(4) Failure to take any reasonable precaution that would prevent the physical abuse, sexual abuse, or sexual exploitation of a client, as defined in the Children's Code at 1978 NMSA 32A-4-2, or the lack of which causes the client to become an abused child or neglected child as defined in the Children's Code at NMSA 1978 32A-4-2.

BY. NON-ACCREDITED RTC means a program that provides Residential Treatment Services pursuant to these requirements that is not accredited by JCAHO.

BZ. NON-RENEWAL means a sanction whereby certification is cancelled on or about the date of expiration.

CA. NON-RESIDENTIAL SERVICES means a program that provides certified services other than twenty-four-hour continuous care within the confines of a facility or treatment foster home.

CB. NOTICE OF CONTEMPLATED ACTION means a letter issued by the LCA identifying grounds for sanction of a program.

CC. NOTICE OF EMERGENCY SANCTION means a letter issued by the LCA when an emergency sanction is imposed.

CD. NOTICE OF FINAL ACTION means a letter issued by the LCA stating that the sanctions proposed in a previous notice of contemplated action are in effect. This letter is issued upon the conclusion of any appeal/informal resolution proceeding or the expiration of the appeal period to the notice of contemplated action.

CE. PARTIAL COMPLIANCE means a determination by the LCA that a program is found to have moderate and few deficiencies, none of which immediately compromises the health or safety of the clients.

CF. PARTIALLY SUBSTANTIATED COMPLAINT means a complaint that the LCA has determined is factually accurate in part, but not factually accurate in its entirety.

CG. PERMANENCY PLAN means the long-term plan for the child/adolescent developed by the Protective Services Division of the Department with one of the following outcomes: reunification, permanent guardianship, adoption, permanent placement with a fit and willing relative, or planned permanent living arrangements.

CH. PERSONAL

RESTRAINT means the application of physical force without the use of any device, for the purposes of restraining the free movement of a client's body. The term personal restraint is distinct from therapeutic hold and mechanical restraint as defined herein and does not include briefly holding a client, without undue force, in order to calm or comfort him or her, or holding a client's hand to safely escort a client from one area to another.

CI. PHYSICAL ESCORT means the temporary touching or holding of the hand, wrist, arm, shoulder and/or back for the purposes of inducing a client who is exhibiting unsafe or potentially unsafe behavior to walk to a safe location.

CJ. PHYSICAL HARM means physical injury that requires treatment beyond basic first aid; or that results in loss of functional use of a bodily member or organ or of a major life activity for a prolonged period of time; or results in loss of consciousness for any amount of time.

CK. PHYSICIAN means an individual who has received a degree of doctor of medicine or doctor of osteopathic medicine and is licensed to practice medicine in the State of New Mexico.

CL. POLICY means a statement of principle that guides and determines present and future decisions and actions.

CM. PREMISES means all parts of buildings, grounds, vehicles and equipment of a facility.

CN. PRE-SERVICE TRAINING means training that is provided to a newly hired employee prior to the employee's provision of direct services.

CO. PROCEDURE means the action(s) that will be taken to implement a policy; and/or the written description of such action(s) that serves as instruction to agency staff.

CP. PROGRAM means an agency, or subdivision of an agency, operated with the intent to provide certified services.

CQ. PROVIDER means an agency or its personnel who have a Medicaid provider number and deliver direct services to clients.

CR. PSYCHIATRIST means a physician who specializes in the treatment of psychiatric disorders, has completed an accredited psychiatric residency program, and holds a current license to practice medicine in the State of New Mexico.

CS. PSYCHOLOGICAL HARM means harm that causes symptoms of mental or emotional trauma, or that causes distress of sufficient magnitude to cause behavioral change, or physical symptoms

that may require psychological or psychiatric evaluation or treatment.

CT. **PSYCHOLOGIST** means a doctoral level psychologist who specializes in assessing and treating psychological disorders and holds a current license to practice in the State of New Mexico.

CU. **PUNISHMENT** means a penalty imposed on a child/adolescent by one in authority for wrongdoing.

CV. **REFERENCE CHECK** means a documented contact with previous employers, supervisors, co-workers, and/or other sources, initiated by the agency to evaluate a prospective employee prior to hire by establishing the accuracy of his/her employment history and to obtain other information relevant to potential hire.

CW. **RESIDENTIAL FACILITY** means a facility licensed by the LCA, in which 24-hour continuous therapeutic care is provided to a group of children/adolescents in accordance with these Certification Requirements.

CX. **RESIDENTIAL TREATMENT SERVICES** means a program that provides 24-hour therapeutic care to children/adolescents with severe behavioral, psychological, neurobiological, or emotional problems, who are in need of psychosocial rehabilitation in a residential facility.

CY. **RESTRAINT/SECLUSION CLINICIAN** means a New Mexico licensed medical doctor (MD), doctor of osteopathy (DO), Certified Nurse Practitioner (CNP), Clinical Nurse Specialist (LCNS), Physician Assistant (PA) or doctoral level Psychologist (Psy.D., Ph.D., or Ed.D.), who is trained in the use of emergency safety interventions.

CZ. **REVOCATION** means a type of sanction making a certification null and void through its cancellation.

DA. **SANCTION** means a measure imposed by the LCA on a certified program, pursuant to these Certification Requirements, in response to findings(s) of a deficiency(ies), with the intent of obtaining increased compliance with these Certification Requirements.

DB. **SECLUSION** means a behavior management technique that involves locked isolation. Seclusion is distinct from therapeutic time-out.

DC. **SERIOUS INCIDENT** means an incident involving the death of a client, suicide attempt by a client; psychological or physical harm to a client; serious homicidal threat to or by a client; physical or sexual abuse/perpetration to, or by, a client or a staff member; the use, possession, or distribution of illegal substances by clients or staff; neglect or exploitation of a client by staff; AMA or emergency dis-

charge; arrest or detention of a client; natural disasters, and/or contagious disease outbreaks; or agency knowledge that a staff member has been charged with, or convicted of, a felony or of a misdemeanor involving moral turpitude, including but not limited to convictions referenced in 8.8.3 NMAC.

DD. **SEXUAL ABUSE** means any intentional and uninvited contact, demand or enticement of a sexual nature, including contact with another person's clothed or unclothed genital area, anus, buttocks, or breast(s) if the recipient is female; or, intentional causing of another person to touch any of these areas on one's own or a third party's body; or, consensual contact with any of these areas if the initiator is in a position of significant influence over the recipient by reason of differences in age, physical size, development, intellectual sophistication, sexual sophistication, or position of authority; or, a verbal request, offer, or demand such as would initiate such contact when the initiator of the verbal behavior is in a position of significant influence as described above. Physical contact, as described above, includes contact between clothed or unclothed body parts of individuals, or may be between clothed or unclothed body parts of one person and an object.

DE. **STAFF** means a person who has contact with children in a certified program and includes the owner, operator or director of a program, volunteers, full-time, part-time, contract employees, and treatment foster parents.

DF. **STAY** means the Department is temporarily refraining from taking an action on a sanction, revocation, or suspension of certification.

DG. **SUBSTANTIAL COMPLIANCE** means a determination by the LCA that a program is found to be without deficiencies, or with minor and few deficiencies, none of which compromise the health and safety of clients.

DH. **SUBSTANTIATED COMPLAINT** means a complaint or allegation that the LCA has determined is factual.

DI. **SUPERVISION** means one of the following, as indicated by context: the monitoring of clients' whereabouts and activities by the program staff in order to ensure their health, safety, and welfare; or the clinical and/or managerial oversight of staff.

DJ. **SURVEY** means examination, and/or other review, of a program's premises, records and/or other documents; and/or interview of client(s) and/or staff, at the discretion of the LCA, pursuant to these Certification Requirements.

DK. **SUSPENSION** means a type of sanction whereby certification is

temporarily revoked, during which time the Medicaid provider agreement is not in effect.

DL. **THERAPEUTIC HOLD** means the brief physical holding of a client, without undue force, used as part of a behavioral plan by an individual trained and certified by a State recognized body in the use of therapeutic holds and personal restraints, in a manner consistent with written agency policy, for the purpose of providing emotional comfort and/or calming to the client, or physical safety to the client, other clients, staff member(s) or others. Therapeutic hold is distinct from personal restraint and mechanical restraint as defined above.

DM. **THERAPEUTIC LEAVE** means a period of time during which a Treatment Foster Care Services client is temporarily placed in a different treatment foster home. This affords the primary treatment foster parents a period of authorized leave.

DN. **THERAPEUTIC TIME-OUT** means a technique involving individual isolation used as part of a written behavioral plan to prevent or decrease the potential for unsafe behavior and to give the client the opportunity to regain control.

DO. **THERAPIST** means a person who has a license from an appropriate licensing authority to provide direct clinical care services such as individual, family, or group therapy.

DP. **TREATMENT FOSTER CARE SERVICES (TFC) LEVEL I** means a program that provides therapeutic services to children or adolescents who are psychologically or emotionally disturbed, and/or behaviorally disordered, in a foster family setting, pursuant to these Certification Requirements.

DQ. **TREATMENT FOSTER CARE SERVICES LEVEL II** means a program that provides therapeutic services to children or adolescents who are psychologically or emotionally disturbed, and/or behaviorally disordered, in a foster family setting, pursuant to these Certification Requirements. It is distinct from Treatment Foster Care Services Level I in that it is provided to children and adolescents who have successfully completed Treatment Foster Care Services Level I as determined by the treatment team, and are in the process of returning to biological family and community, or who meet other established criteria.

DR. **TREATMENT FOSTER HOME** means a licensed residence overseen by a certified program and licensed child placement agency in which Treatment Foster Care Services are being provided to agency clients by licensed treatment foster parents.

DS. **TREATMENT PLAN**

means a written document formulated on an ongoing basis by a treatment team that guides and records for each client: individualized therapeutic goals and objectives; individualized therapeutic services provided; individualized discharge plans and after-care plans.

**DT. TREATMENT PLAN-
NING** means an ongoing process, based on assessment and regular reassessment of a client's needs, of documenting those needs, the interventions intended to address those needs, and the client's behavioral responses to interventions. Treatment planning includes initial treatment plans, comprehensive treatment plans, treatment plan reviews and discharge plans.

DU. TREATMENT TEAM means the group of individuals that assesses, plans, coordinates, implements, evaluates, reviews, and adjusts all aspects of a client's care over the course of treatment in a certified program. The treatment team includes the client, and as applicable, the client's family and/or legal guardian(s), therapist, direct service staff, treatment coordinators, treatment foster parents, the Department's social worker or juvenile probation/parole officer, case manager, a representative from an educational agency, and/or other significant individuals in the client's life.

**DV. UNSUBSTANTIATED
COMPLAINT** means a complaint or allegation that could not be verified by the LCA based on its investigation.

DW. VARIANCE means a deviation from a portion(s) of these Certification Requirements approved in writing at the sole discretion of the LCA. It is based upon stipulated conditions to be met by the agency, for an unlimited time period, provided that the health, safety, and welfare of the clients and staff are not in danger.

DX. VOLUNTEER means an individual who works without compensation at an agency in the physical presence or proximity of clients.

DY. WAIVE / WAIVER means a deviation(s) from any part of these Certification Requirements approved in writing by the LCA, at the sole discretion of the LCA. It is based on stipulated conditions to be met by the agency, for a limited period of time, provided the health, safety, and welfare of clients and staff is not in danger.

[7.20.11.7 NMAC - Rp 7 NMAC 20.11.7, 03/29/02]

**7.20.11.8 RELATED REGU-
LATIONS, LAWS AND CODES:** These Certification Requirements supplement and apply in conjunction with the following regulations laws and codes and any future

amendments to such regulations or superseding regulations.

A. Licensing
Requirements for Child and Adolescent Mental Health Facilities, 7.20.12 NMAC.

B. Health Facility
Sanctions and Civil Monetary Penalties, 7 NMAC 1.8 (1996).

C. New Mexico Children's
Code NMSA 1978 32A-1-1 et Seq. (1997).
[7.20.11.8 NMAC - Rp 7 NMAC 20.11.8, 03/29/02]

7.20.11.9 ISSUANCE OF CER- TIFICATION:

A. Application for initial
certification:

(1) Applications for the initial certification of a new program offering Case Management Services, Behavior Management Skills Development Services, Day Treatment Services, Group Home Services, Home-Based Services, all Residential Treatment Services, or Treatment Foster Care Services are submitted to the LCA for review and approval. The application for initial certification of a program includes, but is not limited to, the following:

(a) A letter of intent naming the service for which the agency is requesting initial certification and describing how and where the proposed service will be delivered.

(b) Policies and procedures showing that the agency complies with both the general provisions and the service-specific requirements of the program for which the agency is requesting initial certification; and an index that references each policy and procedure by the applicable certification requirement that the policy is designed to meet.

(c) Job descriptions, required qualifications, resumes, current licenses, proof of credentials, and criminal records clearances for professional staff;

(d) Job descriptions, required qualifications and criminal records clearances for direct service staff; and

(e) A complete set of the forms that will be used to document the services being provided.

(2) At the discretion of the LCA, the application process may include interviews with staff, administrators, or program directors.

(3) When applicant agencies have an established in-state or out-of-state history of providing mental health or substance abuse services for children and adolescents, whether or not the agency is currently providing such services, the agency's record with regulatory compliance will be considered during review of the new application;

(4) Applications will be reviewed

by the LCA within 15 business days and a written response will be sent to the agency. The findings of the review will determine which of the following responses will be issued by the LCA:

(a) Complete applications that comply with all the requirements of these Certification Requirements will be issued an initial certification for a period of up to 120 days.

(b) Incomplete applications will be returned with a letter detailing what elements of the application are missing. initial certification will not be issued.

(c) When an application is complete, but fails to show that the agency has fully or substantially complied with all of these Certification Requirements, the LCA will issue a letter detailing the findings of the review, with a list of the changes required to show the new program to be in compliance with these Certification Requirements. An initial certification will not be issued.

(5) If, three months subsequent to the issuance of an LCA letter detailing missing or insufficient elements of an application, the agency has not responded with a completed application or has not achieved compliance with these Certification Requirements sufficient to warrant initial certification, the application will be considered void. The agency may reapply for certification of the service, but will be required to begin a new application process.

(6) COA/CARF/JCAHO Accreditation does not confer State certification status on a program.

B. Types of Certification:

(1) **FULL CERTIFICATION:** Full certification is granted to a program currently serving clients and found by the LCA to be in substantial compliance with these Certification Requirements. At the discretion of the LCA, the duration of full certification status is 12 to 24 months.

(2) **EXEMPLARY STATUS** is a type of full certification that may be granted to a program that has no history of temporary certification, sanctions or loss of certification in the previous two years and that, based on a determination made by the LCA, adheres to these Certification Requirements with only minor deficiencies, which pose no health and safety risks to clients. Exemplary status may be granted for up to 24 months.

(3) **FULL CERTIFICATION:** This certification is granted to a program currently serving clients and found to be in substantial compliance with these Certification Requirements, when only minor and few deficiencies, none of which compromise client health and safety, are identified in the LCA certification report. The program submits an action plan for the

LCA's approval within the time frame specified by the LCA, detailing the measures that will be used to correct the deficiencies. At the discretion of the LCA, the program may also be required to implement a directed action(s) within specified time frames; or may be required to comply with monitoring as specified by the LCA during the period of certification. Based on a determination made by the LCA, the program produces proof of correction of deficiencies and/or compliance with directed action(s) and/or monitoring through submission of relevant documentation and/or by subsequent on-site review. The terms and the timeframes for monitoring are established in writing in the certification report.

(a) The LCA provides written notification indicating whether the program's action plan is approved. Action plans may be approved with amendments recommended and/or required within a time frame specified by the LCA. If an action plan is not approved, the LCA will specify items that require revision or supplementation in order to receive LCA approval.

(b) If another survey reveals additional deficiencies, the LCA may require amendment of the action plan, and/or issue new written directed actions, and/or implement a revised monitoring plan, and/or sanction the program based on new deficiencies identified.

(4) **TEMPORARY CERTIFICATION:** Temporary certification is granted to a program currently serving clients that is found by the LCA to be in partial compliance with the Certification Requirements, or to a program that has been on inactive status and is returning to active status.

(a) The LCA determines the duration of a temporary certification. Temporary certification may be granted for a period of up to 180 days. The LCA determines the duration of temporary certification based on factors that may include severity of deficiencies and the program's history of compliance with Certification Requirements.

(b) The program submits an action plan for the LCA's approval within 14 days of receipt of the LCA certification report detailing its findings of deficiencies, unless otherwise specified by the LCA. At the discretion of the LCA, the program may also be required to implement directed action(s) within specified time frames. The program may be required to comply with terms of monitoring specified by the LCA during the period of temporary certification, based on a determination made by the LCA.

(c) Items 9.B(3)(a) and (b) above are applicable for action plans that accompany temporary certification.

(d) For programs returning to active status, an action plan, directed action, and/or monitoring are not required unless

specified by the LCA.

(e) If the program does not achieve substantial compliance with these Certification Requirements at the end of a temporary certification period, a sanction(s) may be imposed including non-renewal of certification.

(f) At the discretion of the LCA, a second consecutive temporary certificate may be issued for a period of up to 180 days, or certification may be allowed to expire without renewal.

(5) **INITIAL CERTIFICATION:** This certification is granted for a period of 120 days to a program that has met the minimum requirements to provide child and adolescent mental health or substance abuse services as determined by the application process described in Certification Requirement 9.A above. If the program has no clients at the end of 120 days, a second 120-day initial certification may be granted. If the program remains without clients beyond 240 days, the program's initial certificate expires and re-application for certification is required; or, at the discretion of the LCA, inactive status may be granted.

(6) **INACTIVE STATUS:** This certification is granted to a program not presently serving clients, but which has served clients within the current period of certification. A certificate of inactive status covers a period of time not to exceed 180 days from the date of issue. If the program continues without clients beyond 180 days, a second 180-Day certificate of inactive status may be granted upon request. If the program remains without clients beyond 365 days, the program's inactive status expires and re-application for initial certification is required.

(a) To return to active status from inactive status for a certified service, the program must notify the LCA in writing at least two weeks prior to its intended admission of clients. In addition to the written notice, the agency must submit the following to the LCA: information on any changes in personnel or agency policies and procedures during inactive status; proof of criminal records clearances, qualifications, and, as applicable, licensure for new supervisory and direct service staff of the certified program.

(b) Upon review of the submitted information, the LCA may grant temporary certification. The agency will not admit any client(s) until the LCA issues and the program receives temporary certification.

(7) **AMENDED CERTIFICATE:** This certification is granted to a program currently serving clients that has had a change of ownership or licensee, or that chooses to change its name. The agency submits a written request for an amended certificate to the LCA ten business days

prior to the change.

(8) **DEEMED CERTIFICATION:** The LCA has discretion to grant deemed certification when a program is accredited by the Council on Accreditation (COA), the Council on Accreditation of Rehabilitation Facilities (CARF), or for Residential Treatment Services, by the Joint Commission on Accreditation of Health Care Organizations (JCAHO), and the LCA determines that the standards of the accrediting body apply substantially to the program for which deemed certification is being considered. A certified program that is accredited by one of these organizations and wishes to request deemed certification must provide a copy of the accreditation report to the LCA within 30 days of receipt of the report, and must provide any other accreditation-related documentation to the LCA upon request. Upon receipt and review of the COA, CARF or JCAHO survey reports, the LCA, at its discretion, may issue deemed certification status effective for up to 24 months. For those intervening years that the above-mentioned accrediting bodies do not conduct on-site visits, the LCA may conduct annual or biennial certification on-site surveys.

(a) **EXCEPTION:** The deemed certification may not apply when COA, CARF or JCAHO identify any condition that the LCA, at its sole discretion, determines to be a significant violation of certification or accreditation standards, or that requires follow-up by the accrediting body; or when any condition reported to the LCA appears to pose a threat to health and/or safety; or when there is any other information indicating the existence of such a threat.

(b) All agencies and programs that receive deemed certification must comply with all applicable provisions of the Children's Health Act of 2000 and these Certification Requirements.

C. AUTOMATIC EXPIRATIONS OF A CERTIFICATION:

(1) A certificate automatically expires at midnight on the day a certified program discontinues or suspends operation or changes location.

(2) A certificate automatically expires at midnight on the tenth day after a certified program is sold, leased, or otherwise changes ownership and/or licensee, unless the agency has made a timely written request for amended certification. In such a case, the automatic expiration is stayed, and previous certification remains in effect if the agency has until the LCA acts on the application or takes other certification action.

D. **WAIVERS AND/OR VARIANCES:** Upon written request of the agency and at the discretion of the LCA, the

LCA may issue a waiver and/or variance.

E. **CERTIFICATION REVIEWS:** When possible, the LCA schedules on-site program reviews prior to expiration of certification. If the LCA does not perform a certification on-site review of a program prior to the expiration of its certification, and the program has not received a written report from the LCA recommending that the program's certification be allowed to expire, the certification continues in effect until the LCA performs a certification review.

F. The LCA, at its sole discretion, may extend any certification for a period of up to 12 months.

G. In the event that a program's certification is revoked, suspended, denied, or not renewed, the Medicaid provider agreement terminates on the date of the revocation, suspension or denial. [7.20.11.9 NMAC - Rp 7 NMAC 20.11.9, 03/29/02]

7.20.11.10 EMERGENCY REVOCATION, SUSPENSION, NON-RENEWAL OF CERTIFICATION OR IMPOSITION OF EMERGENCY SANCTIONS, WITHOUT PRIOR HEARING: If immediate action is required to protect human health and/or safety, the LCA may immediately revoke, suspend, not renew, or impose an emergency sanction(s) against the certification status of a program pending a hearing, provided that such hearing is held within five business days of the above-mentioned action and/or sanction(s), unless the program waives its right to a hearing. The Medicaid provider agreement terminates on the date of the revocation, suspension, or non-renewal of certification. [7.20.11.10 NMAC - Rp 7 NMAC 20.11.10, 03/29/02]

7.20.11.11 GROUNDS FOR IMPOSITION OF SANCTIONS: Sanctions may be imposed by the LCA based on its specific findings, including but not limited to any of the following:

A. Failure to comply with any provision(s) of these Certification Requirements;

B. Failure to allow surveys by authorized representatives of the LCA; Employment of any person convicted of a felony or misdemeanor without clearance by the Department, including a misdemeanor involving moral turpitude;

C. Allowing any agency personnel to work under the influence of alcohol or mood-altering drugs (if after employment, a staff member is charged and/or convicted of a felony or misdemeanor involving moral turpitude and this fact is known to the agency, it must be immediately reported to the LCA);

D. Purposeful, deliberate or intentional misrepresentation(s) or falsification(s) of any information on application forms or other documents provided to the LCA;

E. Repeated violations of these Certification Requirements, or failure to correct deficiencies of survey findings in current or past contiguous or noncontiguous certification periods;

F. Presence of, and/or a history of, certification/licensure revocation, suspension, non-renewal, or denial of certification, sanction(s) or penalties or other similar disciplinary actions taken by regulatory bodies in other states or countries and/or within New Mexico regardless of whether any of these actions resulted in a settlement in lieu of a sanction;

G. Failure to provide a client in the program with care, supervision and services or to protect client rights as outlined in these Certification Requirements;

H. Any neglect as defined in these Certification Requirements;

I. Presence of, and/or a history of health and/or safety deficiencies found in current or previous surveys or on-site visits;

J. Death or serious injury to a client;

K. Psychological harm or cruelty and indifference to the welfare of a client;

L. Incidents that include acts of physical harm to a client(s) by staff;

M. Regulatory deficiencies that jeopardize the health and/or safety of a client;

N. Numerous deficiencies, that in combination, jeopardize the health and/or safety of a client; or

O. Non-disclosure and/or deceit regarding condition of a facility/program or the services it provides.

[7.20.11.11 NMAC - Rp 7 NMAC 20.11.11, 03/29/02]

7.20.11.12 SANCTIONS:

A. Sanctions, as follows, may be imposed for the reasons listed in Section 11. The severity of the action taken by the Department depends upon the specific facts in each case, the seriousness and history of the events prompting the Department to take action, and the ability and willingness of the agency to promptly take adequate corrective action.

(1) **REVOCATION:** The LCA cancels certification, making it void. The Medicaid provider agreement terminates on the date of revocation.

(2) **SUSPENSION:** The LCA temporarily revokes certification until the identified deficiencies are corrected and the

LCA approves the corrections. The Medicaid provider agreement terminates on the date of suspension.

(3) **NON-RENEWAL:** The LCA refuses to renew certification and issues a notice stating that the certification is void as of a specific date, on or about the date of expiration. The Medicaid provider agreement terminates on the effective date of non-renewal.

(4) **DENIAL:** The LCA refuses to issue certification.

(5) **ADMISSIONS HOLD:** The LCA restricts the program from accepting any new clients until the identified deficiencies are corrected and the LCA approves the corrections.

(6) **EXPANSION HOLD:** The LCA restricts the program from expanding into additional services until the identified deficiencies are corrected and the LCA approves the corrections.

(7) **MAINTENANCE OR REDUCTION IN PROGRAM CAPACITY:** The LCA directs the program to maintain or reduce the capacity of the program to a designated client census until the LCA determines that all of the deficiencies resulting in the sanction have been corrected.

(8) **COMPLIANCE MONITOR:** The LCA may select and assign a compliance monitor and assign it to an agency for a specified period of time to oversee an agency's compliance efforts. The compliance monitor has the authority to review all applicable facility records, including financial records and policies, and the authority to interview facility staff and clients. The compliance monitor may also advise the program regarding steps to correct violations and improve overall clinical programming. The compliance monitor reports to the LCA on a weekly basis or more often when indicated. The agency pays all costs of the compliance monitor.

(9) **TEMPORARY MANAGEMENT:** The LCA appoints temporary professional management with expertise in the field of the child and adolescent mental health and/or substance abuse services provided by the program. The temporary management assumes primary responsibility to oversee the operation of the program; to protect the health and safety of its clients; to assess and direct the correction of deficiencies; and/or to facilitate an orderly closure. The temporary management reports to the LCA. The agency pays all costs of temporary management.

B. **EXTENUATING CIRCUMSTANCES:** In assessing the appropriateness or severity of sanctions, the LCA may consider any relevant factor(s) that may mitigate or exacerbate the situation precipitating the sanction.

C. **CORRECTION OF DEFICIENCIES:** When the LCA determines that deficiencies exist, the program must correct the deficiencies according to the following time frames or further sanctions may be imposed:

(1) Health and/or safety deficiencies are corrected immediately.

(2) Deficiencies that do not compromise health and/or safety are corrected within a period of time specified by the LCA.

D. **SERVICE OF NOTICE:** The Department provides notification, by fax and certified mail or personal service/delivery, of its imposition of any emergency sanction against a program. A notice of contemplated action under these Certification Requirements may be sent by fax and mail, personal service or delivery, or by certified mail. Each notice of emergency sanction or contemplated action will be forwarded by fax to the Medical Assistance Division immediately. (The Medical Assistance Division of the Human Services Department is responsible for any notices related to Medicaid payments sent to the provider.)

E. **NEW OWNERSHIP:** In the event a provider sells or otherwise transfers its interest in its certified program to another entity, and a sanction or other corrective measure is pending, the sale of the certified program does not stay or otherwise impact the pending sanction. The new owner/entity must comply with all areas of correction noted in the sanction or action plan. If a sanction(s) is pending, the LCA will proceed with the appeals process and may issue a notice of final action pursuant to these Certification Requirements.

[7.20.11.12 NMAC - Rp 7 NMAC 20.11.12, 03/29/02]

7.20.11.13 APPEALS AND HEARINGS

A. **HEARING OFFICER:** The Department appoints an impartial hearing officer to conduct any administrative appeal.

B. **PROCEDURES:** Adjudicatory Hearing procedures, 7.1.2 NMAC, apply in all administrative appeals.

C. **ADDRESS FOR REQUESTING AN ADMINISTRATIVE APPEAL:** All requests for appeal must be addressed to: Licensing and Certification Unit; Children's Behavioral Health and Community Services Bureau; Children, Youth and Families Department; Post Office Drawer 5160; Santa Fe, New Mexico 87502-5160 (facsimile 505-827-4595).

D. **APPEALS OF EMERGENCY SANCTIONS:**

(1) If an emergency sanction is imposed, the LCA conducts a hearing with-

in five business days of the Notice. The LCA notifies the agency of the name of the hearing officer and the date and time of the hearing.

(2) The emergency sanction takes effect immediately, and is not stayed by any request for administrative hearing or for an informal resolution conference.

(3) Any informal resolution conference, if requested, will be held within five business days of the date of the notice of emergency sanction.

E. **APPEALS OF ADVERSE ACTIONS OTHER THAN EMERGENCY SANCTIONS:**

(1) A program may appeal any adverse action set forth in a notice of contemplated action. The notice of contemplated action will include instructions and time frames for the program to request an appeal and/or

an informal resolution conference. The program must request the appeal in writing within ten business days of receipt of the notice of contemplated action.

(2) When an appeal has been requested, the adverse action(s) is stayed until either of the following events occurs:

(a) The administrative hearing officer has conducted the hearing and issued an opinion; or

(b) The LCA and the program reach agreement through an informal resolution process.

(3) The administrative hearing will be held within 30 calendar days, unless both the LCA and the program agree to an extension. The LCA will inform the program of the date and location of the administrative hearing, and will identify the hearing officer.

(4) After the appeal process is concluded, or upon expiration of the time for appeal if no appeal is requested, the LCA will issue a notice of final action which will state the final decision of the LCA and the effective date of sanction(s) or any other adverse action. The notice of final action is not appealable.

F. **INFORMAL RESOLUTION CONFERENCE:** The Department and the program may resolve any filed or potential administrative appeal through an informal resolution conference. The informal resolution conference provides an opportunity for the program to present new evidence or arguments regarding the deficiencies cited by, or corrective action proposed by, the Department, and to present information regarding plans to remedy deficiencies and discuss possible pre-hearing disposition. The LCA has discretion to accept or reject any proposal made by the program. The informal resolution conference does not postpone any deadlines for appeal unless the LCA and the program

both explicitly agree in writing to the extension.

[7.20.11.13 NMAC - Rp 7 NMAC 20.11.13, 03/29/02]

7.20.11.14 PROGRAM SURVEYS, INVESTIGATIONS, AND REPORTS:

A. Application for certification, whether initial or renewal, constitutes permission for entry into, and surveys of a program by the authorized LCA representatives at reasonable times while the application is pending.

B. LCA surveyors may enter the premises of an agency at any time and review any and all records of Medicaid recipients, CYFD custody clients and agency staff; the LCA may conduct interviews with staff and/or clients in programs that are certified or required to be certified, whether or not an application for certification has been made, for the purpose of determining compliance with these Certification Requirements.

C. The LCA may conduct a survey(s) to assess/monitor progress with correction of violations found on previous surveys; or to investigate complaints or allegations of abuse, neglect or exploitation. The LCA may also conduct inquiry into matters of potential health and/or safety risk to clients as identified in serious incident reports or other information received by the LCA.

D. Findings made by the LCA during on-site surveys or investigations described in these Certification Requirements may result in changes of certification status, sanction(s), suspension, revocation, non-renewal, or denial of certification in accordance with all of the guidelines governing such actions as defined in these Certification Requirements.

E. When certification on-site surveys are conducted concurrently with licensing on-site surveys and there are violations found of both Licensing and Certification Requirements that do not directly overlap, the LCA may issue a single report citing deficiencies with reference to both Licensing and Certification Requirements.

F. When, during a certification survey, the LCA finds a violation(s) of these Certification Requirements that also constitute(s) a violation(s) of the Licensing Regulations of the Department, the LCA may issue a single report addressing the violation(s) with reference to Certification Requirements only.

G. **REPORTS:**

(1) The LCA issues a written report of the findings for all required certification surveys within 30 business days of completion of the survey.

(2) When a survey is conducted for purposes of investigation, the LCA issues a report in instances of partial or fully substantiated complaint(s)/allegation(s) within 30 business days of the completion of the investigation.

(3) When a survey is conducted for purposes of investigation and the complaint(s)/allegation(s) are unsubstantiated, the LCA issues a letter indicating that the complaint was not substantiated, but does not issue a report.

(4) When a survey is conducted for the purposes of inquiry into questions of compliance arising from incident reports or other reports, the LCA may issue a report of any findings of noncompliance. If such a report is issued, it will be issued within 30 calendar days after completion of the survey.

(5) When a survey is conducted for purposes of following-up a monitoring plan, the LCA issues a follow up letter, but does not issue a report unless information obtained during such a visit indicates the need for a full program review and/or additional investigation(s).

(6) When a survey is conducted for purposes of technical assistance, the LCA does not issue a report.

(7) A report of a survey or investigation may be combined with a notice of contemplated action or notice of emergency sanction.

[7.20.11.14 NMAC - Rp 7 NMAC 20.11.14, 03/29/02]

7.20.11.15 C R I M I N A L RECORDS CHECKS AND CLEARANCES:

A. Every program that provides child/adolescent mental health and/or substance abuse services pursuant to these Certification Requirements, operating in the State of New Mexico, must initiate and provide to the Department two completed State-and FBI-approved fingerprint cards for each employee who will serve as direct services staff. The agency must have received the criminal records clearance from the Prevention and Intervention Division of the Department prior to the employee's direct, unsupervised contact with clients of the program. Non-compliance with this requirement may result in sanction up to loss of certification as referenced in NMSA 1978 32A-15-3.

B. All Agencies must comply with 8.8.3 NMAC Regulations governing criminal records checks.

C. Student trainees in psychiatry, psychology, social work and/or nursing, or other related health, social or human-services disciplines who are enrolled in a clinical training program of a New Mexico State accredited institution of

higher learning, and who are under the supervision of a cleared licensed independent practitioner, may be allowed to work with children without direct physical supervision during their enrolled student tenure if the trainee signs a sworn affidavit attesting that he or she has never been convicted of a crime that would disqualify him or her from providing direct services to children.

D. The Certification Requirements governing criminal records clearances remain in effect while a program is accredited by COA, CARF or JCAHO.

E. If a prospective employee has not lived in the United States continuously for the five years previous to hire, the equivalent of a criminal records clearance is required from any country in which he/she has lived within the last five years, for a period longer than one year.

F. If the agency receives reliable evidence that indicates that an employee or prospective employee poses a potential risk of child abuse, sexual abuse, exploitation, moral turpitude, cruelty, or indifference to children, the agency is in violation of these Certification Requirements and subject to sanction up to loss of certification if that individual is hired or retained.

G. Upon request by the LCA, the agency will provide a list of employees who are not required to have a criminal records clearance, and the reason why not.

H. Non-compliance with any Certification Requirement relating to criminal records checks and clearances may result in sanction or loss of certification. In addition to the foregoing, the following Certification Requirements relate to criminal records checks and clearances:

(1) 16.G.1(f) concerning prospective employee history verification and reference checks;

(2) 16.G.1(h) concerning letters of attestation for employees pending clearances;

(3) 16.G.2 concerning disclosure of arrests/convictions;

(4) 16.H.1-5 concerning staff schedules.

[7.20.11.15 NMAC - Rp 7 NMAC 20.11.15, 03/29/02]

7.20.11.16 PERSONNEL:

A. The agency provides personnel who are trained, supervised and in all respects qualified to perform the functions for which they are responsible.

B. Each position, or group of like positions, is detailed in a written job description that clearly states qualifications, responsibilities and requirements.

C. Each agency employee meets all State Registration, Licensing

and/or Certification Requirements applicable to his or her position and/or use of professional title(s) and the agency has copies of such licenses, etc. on file.

D. Orientation of Personnel:

(1) The agency orients its personnel to the agency's goals, services, policies and procedures, and to the responsibilities of the staff member's position. Initial and ongoing orientation is documented in the personnel record.

(2) Orientation includes training on the establishment and maintenance of appropriate and responsive relationships and boundaries with clients.

E. Personnel Training, Development, Responsibilities and Supervision:

(1) The agency provides a training and development program to allow personnel to improve their knowledge, skills and abilities and to promote awareness and appreciation of the cultural background and need of persons served by the agency. This training will be documented in the personnel file.

(2) The agency provides staff development opportunities for personnel, including in-service training.

(3) Staff who require training to qualify for a position in which they are responsible for the care of children do not have sole responsibility for the care of children until after the successful completion of the training.

(4) Staff designated as direct service staff under service-specific Certification Requirements receive ongoing training related to the age and/or emotional development of the children for whom they are responsible.

(5) All certified services are provided under supervision of a clinical director who provides clinical oversight of the program, by way of documented supervision and consultation to all agency staff. Supervision may be direct, or may occur through a clinical supervisor who is directly supervised by the clinical director.

(6) All clinical supervision/consultation is documented and documentation includes the theme, date, length of time of supervision and signatures of those participating.

(7) In the event that the therapist and clinical supervisor are the same person, another properly credentialed clinician, either from within the agency or from outside the agency, provides supervision at least one time per month to the clinical supervisor.

(8) The responsibilities of the therapist include providing therapy and participating in the development of a treatment plan. These activities are documented.

(9) When the agency utilizes the services of professionals on a per interview, hourly, part-time, or independent contractor basis, the agency documents regular assessment of the quality of services provided.

F. Accountability:

(1) The agency ensures that the performance of all employees, consultants, contractors, and volunteers is consistent with agency policy and these Certification Requirements.

(2) At least once a year, written performance reviews are conducted jointly between each staff member, including volunteers, and the person's supervisor.

G. Personnel Records:

(1) A personnel record is maintained for each employee and volunteer. Each personnel record is readily accessible to the LCA at each site visit, and contains, at a minimum:

(a) Documentation of all orientation and training, including dates, hours or credits, names of trainer and trainee, and written confirmation by trainer or training organization that the training has occurred;

(b) Employee's name, current address, telephone number and emergency contact(s);

(c) Job title and description;

(d) Evidence of licensure for those employees required to be licensed;

(e) Date first employed and dates of transfers or changes in position;

(f) Documentation of a minimum of three employment reference checks within three weeks prior to employment (if this process yields fewer than three employment reference checks, additional professional and/or personal references are obtained to achieve the required minimum of three references);

(g) A copy of the employee's current CPR and first aid certificates;

(h) For cleared staff, the criminal records clearance letter, or for uncleared staff, a signed statement by the administrator, director, or operator attesting to direct supervision of the uncleared employee by a cleared employee until the clearance is received;

(i) Application for employment or resume consistent with agency policy;

(j) Performance reviews, as applicable;

(k) A current certificate stating that the employee is free from tuberculosis in a transmissible form, obtained prior to the first date of direct service, as required by the New Mexico Department of Health regulations, Control of Communicable Disease in Health Facility Personnel, 7.4.4 NMAC.

(2) The agency's written policies and practices require that an applicant for employment disclose any prior criminal convictions, and employees report any

arrests and/or convictions that occur while employed.

(3) The agency's written policies provide personnel with access to their records and a process to review the record and to make additions and corrections to the record.

H. Schedules of direct service staff in Day Treatment and Residential Facilities:

(1) Each facility or licensed unit maintains a written, legible schedule clearly identifying direct service staff responsible for care of clients.

(2) Each uncleared employee is identified on the staff schedule.

(3) The staff schedule is updated daily to reflect actual hours staff are present and changes in attendance as they occur.

(4) Original updated staff schedules are kept on file for at least 12 months.

(5) The updated schedule documents the client census for each unit of a Residential Treatment Services Center or Group Home Service on a daily basis.

[7.20.11.16 NMAC - Rp 7 NMAC 20.11.16, 03/29/02]

7.20.11.17 ALLEGATIONS OF ABUSE/NEGLECT, COMPLAINTS, AND SERIOUS INCIDENT REPORTING:

A. The agency maintains and follows policies and procedures consistent with these Certification Requirements for timely reporting of any serious incidents and allegations of abuse or neglect. The agency immediately reports allegations of abuse or neglect to all appropriate entities, including but not limited to the Protective Services Division of the Department via Statewide Central Intake/Tribal Social Services Agency, the client's legal guardian, the jurisdictional law enforcement agency, and the LCA.

B. The agency reports all serious incidents to the LCA by fax within 24 hours of any staff member becoming aware of the incident or allegation of incident. Incidents involving minor illnesses or injuries not requiring emergency services do not need to be reported to the LCA. Day Treatment Services, Home-Based Services, Case Management Services, and Behavioral Management Skills Development Services are not required to report serious incidents that do not occur during program hours, with the exception that all deaths must be reported.

C. Additional Reporting Requirements for Deaths: Deaths are reported to the LCA immediately by telephone and followed by fax within 24 hours, whether or not the death occurs during program hours. Agencies are required to report any client death to the regional office of the

federal Centers for Medicare and Medicaid Services by no later than by the close of business the next business day after the client's death, and must document in the client's record that the death was reported to the Centers for Medicare and Medicaid Services.

D. Each serious incident report is written by the staff who have personal or firsthand knowledge of the incident/allegation, and is signed and dated by that person(s). Once written, the report is not altered, but may be amended. Any amendment is signed and dated by its author and filed with the original report. The report clearly distinguishes between events witnessed by the reporter and statements made to the reporter. The report contains, but is not limited to the following information regarding the incident: date, time, and location of the incident, behavioral description(s) of relevant event(s), descriptions of health/safety risk(s) relevant to the incident, identification of person(s) present, birth date(s) of client(s) involved, level of care of the client(s) involved, initial actions in response to the incident, names of persons providing information to the reporter, and identification of other entities receiving the report.

E. Each serious incident for which a report to the LCA is required herein and that involves possible criminal activity is reported immediately to the appropriate law enforcement agency.

F. The agency responds in a timely manner to protect its clients from physical or psychological risks of which it is or reasonably should be aware, in order to reduce and prevent future risks.

G. Outcomes, dispositions, and descriptions of any voluntary corrective action(s) taken by the agency in response to serious incidents are faxed or mailed to the LCA in a timely manner.

H. The program will not rely on the fact that it has made a serious incident report to the LCA, or the fact that it may not have received a response from the LCA, to delay appropriate corrective or protective action in response to an incident.

I. The agency maintains and follows policies and procedures for investigating and responding to allegations of abuse or neglect in a confidential and timely manner.

J. The agency maintains and follows policies and procedures for investigating and responding to complaints in a timely manner.

K. The agency provides a written response, in a timely manner, to the complaining party and, as applicable, the parent, legal or treatment guardian, regarding the resolution of each complaint or allegation.

[7.20.11.17 NMAC – N, 03/29/02]

7.20.11.18 AGENCY IN THE COMMUNITY

A. The agency identifies a defined purpose, uses a multi-disciplinary approach in which services are coordinated within the agency and within the provider community, and collaborates with other agencies in provision of services for its clients.

B. Agency Purpose: The agency's statement of purpose includes a description of its primary function as providing services that:

(1) Serve those clients in need of treatment who are most vulnerable or at risk;

(2) Are habilitative in focus; and

(3) Are consistent with the least restrictive means principle.

C. Community Access to Services:

(1) The agency provides culturally competent services and serves the needs of those clients who are bicultural and/or who are non-English speaking through the use of:

(a) Bilingual/bicultural professional and qualified paraprofessional personnel;

(b) Translators to meet the clients' communication needs.

(2) The agency provides public information concerning its services to persons in the community who are non-English-speaking. This information is designed to encourage full participation of non-English speaking clients.

[7.20.11.18 NMAC - Rp 7 NMAC 20.11.18, 03/29/02]

7.20.11.19 AGENCY GOVERNANCE AND ADMINISTRATION:

A. The agency is legally authorized to operate, identifies the members of its governing body, and administers its program in accordance with its own policies, which support compliance with these Certification Requirements.

B. The agency's governing body is responsible for adopting bylaws and policies and defining the scope of its services. The agency is legally authorized to operate as one of the following:

(1) Not-profit agency, incorporated in the state in which it operates, with a charter, constitution, and by laws;

(2) Not-profit agency operated by its own independent governing body, under the aegis of a religious body or other organization recognized under the laws of the State;

(3) Public agency authorized and established by statute, or a sub-unit of a public agency with which clear administrative relationship exists;

tive relationship exists;

(4) Proprietary agency organized as a legal entity as a corporation, partnership, or association, but excluding therefrom sole proprietors; or

(5) Agency of a tribal government, or subdivision thereof.

C. Policies and procedures: The agency maintains a manual containing current policies and procedures for agency administration, service delivery, and protection of consumer rights.

(1) The agency makes a copy of its policies and procedures manual available to new personnel upon employment.

(2) The agency documents that it keeps all personnel advised regularly of revisions to its policies and procedures manual as revisions occur.

(3) The agency conducts annual reviews of its policies and procedures and makes revisions as necessary to maintain compliance with applicable laws, regulations, and these Certification Requirements. [7.20.11.19 NMAC - Rp 7 NMAC 20.11.19, 03/29/02]

7.20.11.20 QUALITY IMPROVEMENT AND UTILIZATION REVIEW:

A. The agency has a continuous quality improvement process, reviewed annually, through which the agency systematically evaluates the effectiveness of services provided by determining whether its services meet pre-determined quality improvement expectations and outcomes, and corrects any observed deficiencies identified through the quality improvement process.

B. The agency explicitly details the desired expectations and service outcomes for each of its programs and has a written plan to achieve them.

C. The agency establishes a committee or other mechanism for the timely and regular evaluation of serious incidents, complaints, grievances, and related investigations. Committee evaluations include identification of events, trends and patterns that may affect client health, safety, and/or treatment efficacy. Committee evaluation findings and recommendations are documented and submitted to agency management for corrective action. Actions implemented and outcomes are documented, and trends are analyzed over time. The agency has a well-defined plan for correcting problems. When problems (or potential problems) are identified, the facility acts as soon as possible to avoid any risks to clients by taking corrective steps that may include, but are not limited to:

(1) Changes in policies and/or procedures;

(2) Staffing and assignment

changes;

(3) Additional education or training for staff;

(4) Addition or deletion of services.

D. The agency develops a system to utilize its collected data regarding the outcome of its activities for delivering continuously improving services.

E. Formal and informal feedback from consumers of services and other collateral sources is aggregated and used to improve management strategies and service delivery practices.

F. The agency collects and maintains information necessary to plan, manage, and evaluate its programs effectively. The outcomes are evaluated on a quarterly basis, the results of which are used continuously to improve performance.

G. The agency implements and maintains ongoing utilization review processes.

[7.20.11.20 NMAC - Rp 7 NMAC 20.11.20, 03/29/02]

7.20.11.21 LEGAL, REGULATORY, AND ACCREDITATION COMPLIANCE FOR PROGRAM OPERATION, INCLUDING HEALTH, SAFETY AND PHYSICAL PLANT REQUIREMENTS:

A. The agency promotes and protects the health and safety of its clients, demonstrates compliance with all applicable laws and regulations, adheres to the requirements of its accrediting bodies, if any, and possesses all applicable licenses required by law and Departmental policy.

(1) License(s) Required: The agency possesses a license(s) and complies with applicable licensing requirements for each service required by State and local law and Departmental Regulation including, but not limited to the following:

(a) Each treatment foster care child placement agency is licensed by the Protective Services Division of the Department as a child placement agency.

(b) All Residential Facilities are licensed by the Department. Each maintains a separate license.

(c) Day Treatment Services are licensed as Day Treatment Centers by the Department. Each Day Treatment Services facility maintains a separate license. Exception: Day Treatment Services provided in a public school facility do not require licensure by the Department.

(2) Residential Treatment Services and Group Home Services are certified only when provided in a facility licensed by the LCA for 16 beds or fewer per unit.

B. An agency accredited

by an accrediting organization recognized by the LCA complies with the current requirements of the accrediting organization. The accrediting organizations recognized by the LCA are:

(1) Council on Accreditation for Children and Family Services (COA);

(2) Joint Commission on Accreditation of Healthcare Organizations (JCAHO); and

(3) Council on Accreditation of Rehabilitation Facilities (CARF).

[7.20.11.21 NMAC - Rp 7 NMAC 20.11.21, 03/29/02]

7.20.11.22 CLIENT PARTICIPATION, PROTECTION, AND CASE REVIEW:

A. The agency takes all reasonable action(s) to protect the health, safety, confidentiality, and rights of its clients. The agency informs the client of his or her rights and responsibilities and develops and implements policies and procedures that support and facilitate the client's full participation in treatment and related agency activities. The agency protects the confidentiality of client records through adherence to its own set of policies and procedures governing access to, and release of, confidential information.

B. Materials describing services offered, eligibility requirements and client rights and responsibilities are provided in a form understandable to the client and client's legal guardian(s) with consideration of the client's/guardian's primary language, and the mode of communication best understood by persons with visual or hearing impairments.

(1) If the client is unable to understand the materials for any reason, every effort is made to explain his or her rights and responsibilities in a manner understandable to the client. These efforts will be documented in the client's record.

(2) Materials are available or posted in the agency's reception area and/or handed to potential clients during their initial contact with the agency.

C. The agency explains to each client what his or her legal rights are in a manner consistent with the client's ability to understand and makes this information available to the client in writing, or in any other medium appropriate to the client's level of development. A written explanation of these rights is given to the parent/legal guardian upon admission.

(1) A client who receives Residential Treatment Services has the rights enumerated in the New Mexico Children's Mental Health and Developmental Disabilities Code, NMSA 1978, Sections 32A-6-1 et seq. (1995). Explanation of rights to the client and par-

ents/legal guardian is documented in the client's record.

(2) The agency maintains and follows written policy affirming that clients may refuse any treatment or medication, unless the right to refuse treatment(s) has been limited by law or court order. The agency informs the individual of the risks of such refusal. Client refusal of treatment and advisement of risks of the refusal is documented in the client's record.

(3) The agency specifies in written policies and procedures the conditions under which it serves minors without parental/legal guardian consent, and when parental/legal guardian consent is not possible, designates who is authorized to give consent to treat the minor.

(a) The client record contains all applicable consents for treatment, including consent for emergency medical treatment and informed consent for prescription medication.

(b) Exception: Day Treatment Services, Home-Based Services, Behavioral Management Skills Development Services and Case Management Services programs are not required to file consents for prescription medications that are not taken during program hours unless the medications are prescribed by a program physician.

(c) Consent forms must contain the information identifying the specific treatment, prescription medication, information release, or event for which consent is being given prior to being signed by a client or guardian.

(4) Upon admission, each client receives an orientation to the agency's services that includes the basic expectations of the clients, the hours during which services are available, and any rules established by the agency regarding client conduct, with specific reference to behavior that could result in discontinuation of a service. Orientation of the client and parents/legal guardians is documented in the client's record.

(5) The agency maintains a written grievance/complaint procedure that is reviewed with the client and parent/legal guardian upon admission. The client's record contains documentation of the agency's explanation of the grievance procedure to the client and the parent/legal guardian.

(6) Financial arrangements are fully explained to the client and/or his or her parent/legal guardian upon admission, and at the time of any change in the financial arrangements.

(7) Procedures for protecting Client Assets: The agency establishes and follows written policies and procedures to identify how it manages, protects, and maintains accountability for client assets,

including the segregation of client funds when an agency assumes fiduciary responsibility for a client's assets and/or disburses funds such as maintenance or allowance funds to clients.

(8) The agency establishes written procedures for providing client access to emergency medical services.

(9) Written agency policy specifies clinically appropriate and legally permissible methods of behavior management and discipline and provides training in their use to all direct service staff. The agency prohibits in policy and practice the following:

(a) Degrading punishment;

(b) Corporal or other physical punishment;

(c) Group punishment for one individual's behavior;

(d) Deprivation of an individual's rights and needs (e.g., food, phone contacts, etc.) when not based on documented clinical rationale;

(e) Aversive stimuli used in behavior modification;

(f) Punitive work assignments;

(g) Isolation or seclusion, except as delineated in Section 24;

(h) Harassment; and

(i) Chemical or mechanical restraints, except as delineated in Section 24.I.

(10) The agency establishes and follows written policies and procedures for the use of therapeutic time-out in accordance with these Certification Requirements, including the following directives:

(a) Therapeutic time-out can only be used for the length of time necessary for the client to resume self-control and/or to prevent harm to the client or others;

(b) Therapeutic time-out is not used as a means of punishment;

(c) Therapeutic time-out is not used for the convenience of staff; and

(d) Therapeutic time-out is monitored closely and frequently to ensure the client's safety.

D. The agency prohibits the use or depiction of individuals (residents, clients, etc.), either personally or by name or likeness (e.g., photograph), in material (photographs, videotape or audiotape), presented in a context that is either commercial or public-service oriented in nature. An exception to this prohibition applies to children presented on the "Wednesday's Child" television program, Los Ninos or other adoption exchange publications, in which case any participation and presentation is in accordance with the Department's rules and regulations and with the knowledge, consent and active participation of the Department.

E. Client Information and Case Review: The agency maintains records and follows policies and procedures governing the access to, and release of, confidential information. The agency provides adequate facilities for the storage, processing and handling of clinical records, including suitably locked and secured rooms.

(1) The agency's written policies govern the retention, maintenance, and destruction of board administrative records, and records of former clients and personnel. These policies address:

(a) Protection of the privacy of former clients and personnel; and

(b) Legitimate future requests by former personnel or clients for information, particularly information that may not be available elsewhere.

(2) The agency has policies governing the disposition of records, security of records and timely access and retrieval of records in case of the agency's dissolution. The retention of records is required for the later of:

(a) Four years after the client is released from treatment; or

(b) Two years after the client reaches age 18; or

(c) Two years after a client has been released from most recent legal guardianship, and is no longer under legal guardianship.

(3) The agency specifies in written policies and procedures how it releases information. Any release is in accordance with applicable State and federal laws. The agency does not request or use any information release form that has been signed by a client, parent, guardian or other party prior to pertinent information being completed on the form.

(4) In the event of a medical emergency that warrants immediate intervention in order to protect the life or safety of the client, access to information regarding the client's diagnoses and treatment plan/service plan may be provided to medical personnel.

F. Contents of the Client Record:

(1) Agency policy defines information to be contained in the client record. At the time of admission, the client's date of admission to each and any certified service is documented in a consistent location in the client record.

(2) Agency policy and practice provide that entries in the client record are made in an accurate, objective, factual, legible, timely, and clinically-based manner.

(a) Entries made in the client record pursuant to these Certification Requirements clearly identify the person completing the entry and his or her credentials.

(b) Late entries are identified as such; late entries include the actual date of the entry and the signature of the person completing the entry.

G. When prescribing medication or other treatments, the prescribing professional documents the indication for any medical procedures and/or prescription medications.

(1) When a client is seen by the prescribing professional, subsequent to a medical prescription or treatment, the professional documents the response to the prescription or treatment and any observed side effects.

(2) Medication, including non-prescription medication that is administered by a nurse or is self-administered, is documented by the agency staff with the date and time of administration, the name and dosage and any side effects observed.

H. A written discharge summary is placed in the client's record within 15 days of termination of services and includes:

(1) Clinical and safety status;

(2) Medications being taken at discharge;

(3) Documentation of notification to Primary Care Physician;

(4) Specification of referrals/appointments made with specific names;

(5) Target behaviors addressed;

(6) Services provided;

(7) Progress attained, or lack thereof;

(8) Description of interventions to which the client did and did not respond, including medications;

(9) Recommendations for continued treatment and services.

I. Client Review of Case Record:

(1) An individual may review his or her case record in the presence of a therapist or Licensed Independent Practitioner of the agency on the agency's premises unless to do so would not be clinically indicated. The reasons why review is not clinically indicated are documented in the client's record. The confidentiality of other individuals is protected.

(2) The agency's policies and procedures allow the client to insert a statement into the record about his or her needs or about services he or she is receiving or may wish to receive. Any agency statements or responses are documented with evidence that the client was informed of insertion of such responses.

[7.20.11.22 NMAC - Rp 7 NMAC 20.11.22, 03/29/02]

7.20.11.23 INTAKE, ASSESSMENT, TREATMENT PLANNING,

DISCHARGE PLANNING, AND DISCHARGE:

A. The agency establishes criteria for admission, conducts ongoing clinical assessments, and develops, reviews, revises treatment plans and provides ongoing discharge planning with the full participation of the treatment team.

B. Clinical decisions are made only by qualified clinical personnel.

C. Intake and Screening:

(1) The agency establishes and follows written criteria for admission to its program(s) and service(s), including Exclusionary criteria.

(2) The agency establishes and follows written intake procedures to address clinical appropriateness for admission.

(3) The agency's eligibility criteria are consistent with EPSDT requirements and Licensing Requirements for Child and Adolescent Mental Health Facilities, 7.20.12 NMAC.

D. Assessments: The following applies to all certified services, except Case Management Services. Each client is assessed at admission and reassessed at regularly specified times to evaluate his or her response to treatment, and specifically when significant changes occur in his or her condition or diagnosis. The assessment process is multidisciplinary, involves active participation of the family or guardian, whenever possible, and includes documented consideration of the client's and family's perceptions of treatment needs and priorities. Assessment processes include consideration of the client's physical, emotional, cognitive, educational, nutritional, and social development, as applicable. At a minimum, the following assessments are conducted and documented:

(1) An initial screening, conducted at admission, of physical, psychological, and social functioning, to determine the client's need for treatment, care, or services, and the need for further assessment; and assessment of risk of behavior that is life-threatening or otherwise dangerous to the client or others, including the need for special supervision or intervention.

(2) A full EPSDT screen (Tot-to-Teen Health check) within 30 days of the initiation of services, unless such an examination has taken place and is documented within the 12 months prior to admission. The documented content of the history and physical examination must meet EPSDT requirements.

(3) The agency conducts a comprehensive assessment of each client's clinical needs. The comprehensive assessment is completed prior to writing the comprehensive treatment plan, and includes the following:

(a) Assessment of the client's personal, family, medical and social history, including:

(i) Relevant previous records and collateral information.

(ii) Relevant family and custodial history, including non-familial custody and guardianship;

(iii) Client and family abuse of substances;

(iv) Medical history, including medications;

(v) History, if available, as a victim of physical abuse, sexual abuse, neglect, or other trauma;

(vi) History as a perpetrator of physical or sexual abuse.

(vii) The individual's and family's perception of his or her current need for services;

(viii) Identification of the individual's and family's strengths and resources; and

(ix) Evaluation of current mental status.

(b) A psychosocial evaluation of the client's status and needs relevant to the following areas, as applicable:

(i) Psychological functioning;

(ii) Intellectual functioning;

(iii) Educational/vocational functioning;

(iv) Social functioning;

(v) Developmental functioning;

(vi) Substance abuse;

(vii) Culture; and

(viii) Leisure and recreation.

(c) Evaluation of high risk behaviors or potential for such;

(d) A summary of information gathered in the clinical assessment process, in a clinical formulation that includes identification of underlying dynamics that contribute to identified problems and service needs.

(4) If the comprehensive assessment is completed prior to admission, it is updated at the time of admission to each certified service.

(5) Assessment processes include the following:

(a) Within 30 days of admission, an educational evaluation or current, age-appropriate Individualized Educational Plan (IEP), or documented evidence that the client is performing satisfactorily at school;

(b) When indicated by clinical severity, a psychiatric evaluation;

(c) A psychological evaluation, when specialized psychological testing is indicated;

(d) Monthly updates on mental

status and current level of functioning, performed by a New Mexico licensed master's or doctoral level behavioral health practitioner.

(6) Assessment information is reviewed and updated as clinically indicated, and is documented in the client's record. For clients who have been in the service for one year or longer, an annual mental status exam and psychosocial assessment are conducted and documented in the client's record as an addendum to previous assessment(s). The agency makes every effort to obtain all significant collateral information and documents its efforts to do so. As collateral information becomes available, the comprehensive assessment is amended.

E. Treatment planning and discharge planning: The treatment planning process is individualized and ongoing, and includes initial treatment planning, comprehensive treatment planning, discharge planning, and regular re-evaluation of treatment plans and discharge criteria.

(1) For certified services other than Case Management Services and Behavior Management Skills Development Services, an initial treatment plan is developed and documented within 72 hours of admission to each service. Based on information available at the time, the initial treatment plan contains the treatment planning elements identified above in 23.E (3) (a) through (j) below, with the exception that individualized treatment goals and objectives are targeted the first 14 days of treatment.

(2) For certified services other than Case Management and Behavior Management Skills Development Services, a comprehensive treatment plan based on the comprehensive assessment is developed within 14 days of admission. The comprehensive treatment plan contains the treatment planning elements identified above in 23.E (3) (a) through (j) below.

(3) Each initial and comprehensive treatment plans fulfill the following functions:

(a) Involves the full participation of treatment team members, including the client and his or her parents/legal guardian, who are involved to the maximum extent possible; reasons for nonparticipation of client and/or family/legal guardian are documented in the client's record;

(b) Is conducted in a language the client and/or family members can understand, or is explained to the client in language that invites full participation;

(c) Is designed to improve the client's motivation and progress, and strengthen appropriate family relationships;

(d) Is designed to improve the client's self-determination and personal

responsibility;

(e) Utilizes the client's strengths;

(f) Is conducted under the direction of a person who has the authority to effect change and who possesses the experience and qualifications to enable him/her to conduct treatment planning. Treatment plans meet the provisions of the Children's Code, NMSA 1978, Sections 32A-6-10, as amended, and are otherwise implemented in accordance with the provisions of Article 6 of the Children's Code;

(g) Documents in measurable terms the specific behavioral changes targeted, including potential high-risk behaviors; corresponding time-limited intermediate and long-range treatment goals and objectives; frequency and duration of program-specific intervention(s) to be used, including medications, behavior management practices, and specific safety measures; the staff responsible for each intervention; projected timetables for the attainment of each treatment goal; a statement of the nature of the specific problem(s) and needs of the client; and a statement and rationale for the plan for achieving treatment goals;

(h) Specifies and incorporates the client's permanency plan, for clients in the custody of the Department;

(i) Provides that clients with known or alleged history of sexually inappropriate behavior, sexual aggression or sexual perpetration are adequately supervised so as to ensure their safety and that of others; and

(j) Documents a discharge plan that:

(i) requires that the client has achieved the objectives of the treatment plan;

(ii) requires that the discharge is safe and clinically appropriate for the client;

(iii) evaluates high risk behaviors or the potential for such;

(iv) explores options for alternative or additional services that may better meet the client's needs;

(v) establishes specific criteria for discharge to a less restrictive setting; and

(vi) establishes a projected discharge date, which is updated as clinically indicated.

(4) For Residential Treatment Services and Group Home Services, the comprehensive treatment plan also includes the following elements: a statement of the least restrictive conditions necessary to achieve the purposes of treatment, and an evaluation of the client's cultural needs and provision for access to cultural practices, including culturally traditional treatment.

(5) For Case Management

Services, a service plan is developed and written within 30 days of the initiation of services (see 26.F.1).

(6) For Behavior Management Skills Development Services, a service plan is developed within 14 days of initiation of services (see 28.C (1) (c)).

F. The treatment plan is reviewed by the treatment team at intervals not to exceed 30 days and is revised as indicated by changes in the child's behavior or situation, the child's progress, or lack thereof.

(1) Each treatment plan review documents assessment of the following, in measurable terms:

(a) Progress, or lack thereof, toward each treatment goal and objective;

(b) Progress toward and/or identification of barriers to discharge;

(c) The client's response to all interventions, including specific behavioral interventions;

(d) The client's response to medications;

(e) Consideration of significant events, incidents, and/or safety issues occurring in the period under review;

(f) Revisions of goals, objectives, and interventions, if applicable;

(g) Any change(s) or updates in diagnosis, mental status or level of functioning;

(h) The results of any referrals and/or the need for additional consultation;

(i) The effectiveness of behavior-management techniques used in the period under review.

(2) Some or all of the required elements of a treatment planning document may be recorded in a document other than the treatment plan/review, such as a clinical review form or format provided by, or to a payor, when the following conditions are met:

(a) All required elements are performed and documented in a timely manner by qualified clinical personnel;

(b) The client's record contains evidence of participation of treatment team members in each phase of the treatment planning process.

G. When aftercare is indicated at the time of non-emergency discharge, the agency involves the client, case manager (if applicable), the parent, legal guardian, or guardian ad litem, if applicable; and assists the client, family, or guardian in arranging appointments, obtaining medication (if applicable), transportation and meeting other identified needs as documented in the treatment/discharge plan.

H. Prevention, Planning, and Processing of Emergency Discharge:

(1) The agency establishes poli-

cies and procedures for management of a child who is a danger to him/herself or others or presents a likelihood of serious harm to him/herself or others. The agency acts immediately to prevent such harm. At a minimum, the policies and procedures provide that the following be documented in the client's file:

(a) That the agency makes all appropriate efforts to manage the child's behavior prior to proposing emergency discharge;

(b) That the agency takes all appropriate action to protect the health and safety of other children and staff who are endangered.

(2) In the event of a proposed emergency discharge, the agency provides, at a minimum, procedural due process including written notice to the family/legal guardian, guardian ad litem and Department, if applicable, and provision to stop the discharge action until the parent/legal guardian, guardian ad litem and/or the Department exhausts any other legal remedy they wish to pursue. The agency documents the following in the client record:

(a) Provision for participation of the parent/legal guardian, and guardian ad litem in the discharge process, whenever possible; and

(b) Arrangement for a conference to be held including all interested persons or parties to discuss the proposed discharge, whenever possible.

(3) If the child's parent/legal guardian is unavailable to take custody of the child and immediate discharge of the child endangers the child, the agency does not discharge the child until a safe and orderly discharge is effected. If the child's family refuses to take physical custody of the child, the agency refers the case to the Department.

I. Discharge: Non-emergency discharge occurs in accordance with the client's discharge plan, unless precipitated by a client's or guardian's refusal to consent to further treatment, or other unforeseen circumstances. Prior to discharge, the agency:

(1) Evaluates the appropriateness of release of the client to the parent/legal guardian;

(2) Provides that any discharge of the client occurs in a manner that provides for a safe and orderly transition; and

(3) Provides for adequate pre-discharge notice, including specific reason for discharge.

[7.20.11.23 NMAC - Rp 7 NMAC 20.11.23, 03/29/02]

7.20.11.24 BEHAVIOR MANAGEMENT, PERSONAL RESTRAINT,

AND SECLUSION PRACTICES:

Certain provisions of this section are included to implement regulations of the federal Centers for Medicare and Medicaid Services (CMS) and may be amended when appropriate to reflect subsequent changes in the federal CMS regulations. These provisions are intended to implement, and to be consistent with the Child Health Act of 2000 and the CMS Interim Final Rule issued May 22, 2001, and are subject to further modifications as dictated by CMS.

A. The agency protects and promotes the rights of each client in the program, including the right to be free from physical or mental abuse, corporal punishment, and any personal restraint or seclusion imposed for purposes of discipline or convenience. The agency establishes and follows policies and procedures governing the use of behavior management practices including therapeutic hold, personal restraint and seclusion (when allowed as delineated below). This will include documentation of each therapeutic hold, personal restraint and seclusion in the client's record.

B. For those behavior management practices that are allowed for each type of program and are described above, the program supports their limited and justified use through:

(1) Staff orientation and education that create a culture emphasizing prevention of the need for therapeutic hold, personal restraint and seclusion and their appropriate use;

(2) Assessment processes that identify and prevent potential behavioral risk factors; and

(3) The development and promotion of preventive strategies and use of less restrictive alternatives.

C. Agency policy and procedures identify qualified staff authorized to approve the protocols and apply the criteria for use of therapeutic hold, personal restraint and seclusion.

D. Performance-improvement processes identify opportunities to reduce or eliminate the use of personal restraint or seclusion.

E. The agency establishes and follows policies and procedures for the safe, effective, limited, and least restrictive use of behavior management practices. The policies and procedures include measures to ensure that treatment planning includes regular review of the necessity for, type and frequency of behavior management practices used in individual cases.

F. When behavior management practices are used, the agency protects the safety, dignity, and privacy of clients to the maximum extent possible at

all times during each procedure.

G. Treatment plans document the use of seclusion, personal restraint and therapeutic holds and include: consideration of the client's medical condition(s); the role of the client's history of trauma in his/her behavioral patterns; the treatment team's solicitation and consideration of specific suggestions from the client regarding prevention of future physical interventions.

H. Seclusion, personal restraint and therapeutic holds are implemented only by staff who have been trained and certified by a State recognized body in the prevention and use of therapeutic holds, personal restraint and seclusion. This training emphasizes de-escalation techniques and alternatives to physical contact with clients as a means of managing behavior. Clients do not participate in the therapeutic holding, personal restraint or seclusion of other clients.

I. Mechanical and chemical restraints are prohibited in all programs except the program created under the Adolescent Treatment Hospital Act, which has been mandated by NMSA 1978 Sections 23-9-1 et seq., to serve adolescents who are violent or have a history of violence, and which provides 24-hour on-site professional medical services in accordance with Section 3207 of the Children's Health Act of 2000.

J. Personal restraint and seclusion, as defined in these Certification Requirements, are used in JCAHO-accredited or non-JCAHO-accredited Residential Treatment Centers and Group Homes; in emergency circumstances to ensure the immediate physical safety of the client, other clients, staff member(s) or others; and when less restrictive interventions have been determined to be ineffective. Personal restraint and seclusion are used in accordance with these provisions and with federal law, rule or regulation which may supersede State or accreditation regulations. Personal restraint and seclusion are imposed only by an individual trained and certified by a State-recognized body in the prevention and use of personal restraint and seclusion and in the curriculum that may be set forth in federal regulations to be promulgated under Title V of the Public Health Service Act (42 U.S.C. 290aa et seq. as amended by section 3208, Part I, section 595). When federal regulations are promulgated under Title V as described above, the curriculum set forth there shall be included in the training.

K. Physical escort is allowed as a safe means of moving a client to a safe location.

L. Personal restraint or seclusion are not to be used for staff convenience and/or as coercion, discipline, or

retaliation by staff.

M. This sub-section (M) applies, for personal restraint, to facilities accredited by JCAHO, and to all Residential Treatment Centers for seclusion. These entities require orders that are consistent with Department regulation, agency policy, and regulations of the Centers for Medicare and Medicaid Services (CMS) 42 CFR, Parts 441 and 483. These orders are issued by a restraint/seclusion clinician within one hour of initiation of personal restraint or seclusion, and include documented clinical justification for the use of personal restraint or seclusion.

(1) If the client has a treatment team physician and he or she is available, only he or she can order personal restraint or seclusion.

(2) If personal restraint or seclusion is ordered by someone other than the client's treatment team physician, the restraint/seclusion clinician will consult with the client's treatment team physician as soon as possible and inform him or her of the situation requiring the client to be restrained or placed in seclusion and document in the client's record the date and time the treatment team physician was consulted and the information imparted.

(3) The restraint/seclusion clinician must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the situation.

(4) If the order for personal restraint is verbal, the verbal order must be received by a restraint/seclusion clinician or a New Mexico licensed registered nurse (RN) or practical nurse (LPN). The restraint/seclusion clinician must verify the verbal order in a signed, written form placed in the client's record within 24 hours after the order is issued.

(5) A restraint/seclusion clinician's order must be obtained by a restraint/seclusion clinician or New Mexico licensed RN or LPN prior to or while the personal restraint or seclusion is being initiated by staff, or immediately after the situation ends.

(6) Each order for personal restraint or seclusion must be documented in the client's record and will include:

(a) The name of the restraint/seclusion clinician ordering the personal restraint or seclusion;

(b) The date and time the order was obtained;

(c) The emergency safety intervention ordered, including the length of time;

(d) The time the emergency safety intervention actually began and ended;

(e) The time and results of any one-hour assessment(s) required; and

(f) The emergency safety situa-

tion that required the client to be restrained or put in seclusion; and

(g) The name, title, and credentials of staff involved in the emergency safety intervention.

(7) Supervision and assessment of personal restraint or seclusion

(a) The restraint/seclusion clinician must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

(b) A New Mexico Registered Nurse or a restraint/seclusion clinician other than a doctoral level psychologist, must conduct a face-to-face assessment of the physical well being of the client within one hour of the initiation of the emergency safety intervention and immediately after the personal restraint is removed or the client is removed from seclusion. When the personal restraint or seclusion is less than one hour in duration, and the restraint/seclusion clinician is not immediately available at the end of the period of restraint or seclusion, the restraint/seclusion clinician will evaluate the client's well-being as soon as possible after the conclusion of the restraint/seclusion, but in no case later than one hour after its initiation.

(c) If the situation requiring emergency safety intervention continues beyond the time limit of the order for the use of personal restraint or seclusion, the New Mexico RN or LPN must immediately contact the ordering restraint/seclusion clinician or the client's treatment team physician to receive further instructions. If clinical circumstances justify renewal of personal restraint or seclusion, then the renewal order must be obtained within the time frames outlined in 24.O (1) below.

N. This sub-section (N) applies to personal restraint in Residential Treatment Services not accredited by JCAHO. In these Residential Treatment Services, personal restraint requires the following, which is consistent with Department regulation and agency policy.

(1) A New Mexico Licensed Independent Practitioner, Licensed Professional Mental Health Counselor (LPC), Licensed Master Social Worker (LMSW), or Registered Nurse must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

(2) A New Mexico Licensed Independent Practitioner, or a Licensed Professional Mental Health Counselor

(LPC), Licensed Master Social Worker (LMSW), in consultation with a Licensed Independent Practitioner, or a Registered Nurse trained in the use of emergency safety interventions must conduct a face-to-face assessment of the well-being of the client within one hour of the initiation of the emergency safety intervention and immediately after the personal restraint is removed or the client is removed from seclusion. When the personal restraint or seclusion is less than one hour in duration, and the restraint/seclusion clinician is not immediately available at the end of the period of restraint or seclusion, the restraint/seclusion clinician will evaluate the client's well-being as soon as possible after the conclusion of the restraint/seclusion, but in no case later than one hour after its initiation.

O. The following sub-section (O) applies to all Residential Treatment Centers and Group Homes.

(1) The personal restraint or seclusion is limited to a maximum of two hours for clients age of 17 and one hour for clients under nine years of age.

(2) Post-intervention debriefings with the client will take place after each emergency safety intervention and the staff will document in the client's record that the debriefing sessions took place.

(3) The agency will have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that:

(a) A client will be transferred from the facility to the hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

(b) Medical and other information needed for care of the client in light of such transfer will be exchanged between the organizations in accordance with State medical privacy law, including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

(c) Services will be available to each client 24 hours a day, seven days a week.

(4) The agency will document in the client's record all client injuries that occur as a result of an emergency safety intervention.

(5) All agencies will attest in writing that the facility is in compliance with CMS standards governing the use of personal restraint and seclusion. This attestation will be signed by the agency director.

(6) If the client is a minor, the agency will notify the parent(s) or legal guardian(s) that personal restraint or seclusion has been ordered as soon as possible

after the initiation of each emergency safety intervention. This will be documented in the client's record, including the date and time of notification, the name of the staff person providing the notification, and who was notified.

(7) Agencies will provide for client health and safety by requiring direct service staff to demonstrate competencies related to the use of emergency safety interventions on a semiannual basis. Direct service staff will demonstrate, on an annual basis, their competency in the use of cardiopulmonary resuscitation. The agency will document in the staff personnel records that the training required was successfully completed.

(8) The agency must maintain an aggregate record of all situations requiring emergency safety intervention, the interventions used and their outcomes.

(9) Programs must report the death of any client to the CMS regional office by no later than close of business the next business day after the client's death. The report must include the name of the client and the name, street address and telephone number of the agency. The parent or legal guardian will also be notified. Staff must document in the client's record that the death was reported to the CMS regional office.

[7.20.11.24 NMAC - N, 03/29/02]

7.20.11.25 MEDICATIONS:

A. The agency establishes and follows policies and procedures governing the storage, handling, use, administration and disposal of all medications that are consistent with applicable laws, regulations, and accepted professional practices.

B. Prescription orders are verified and individuals are identified before medications are administered or self-administered.

C. Medications are administered only by qualified, licensed medical staff, or are self-administered by the client with supervision of staff who have been trained in assisting with self-administration.

D. Policies and procedures support self-administration of medications. Staff trained in these procedures provide supervision of self-administration of medications and document the time the medications are taken, the side effects observed, and client response, as well as any medications refused or held. When medications are self-administered by clients, a staff member may hold the container for the client and/or assist with opening the container, but may not place the medication in the client's hand or mouth.

E. The agency has controls in place for locked storage of medication and for access by authorized personnel.

F. The agency has controls in place to ensure that medications are properly labeled with name of person served, dosage, name of medication, name of prescribing physician, and number or code identifying the written order.

G. The agency has controls in place for the destruction of out-of-date medications and proper disposal of unused medication and syringes.

H. When adverse or unusual conditions are observed, appropriate consultation and/or medical response must be sought in a timely manner.

I. Medication monitoring may include input from various disciplines and the client and family. This information is used to maintain and improve the outcomes of medication therapy while minimizing any drug-related problems or adverse effects.

J. When medications that require periodic testing of drug levels are used, such laboratory test results are accurately recorded in the client record, as applicable.

K. The physician documents in the client record the indication for, response to, and the potential and observed side effects of any prescription medication(s).

[7.20.11.25 NMAC - Rp 7 NMAC 20.11.30.2, 03/29/02]

7.20.11.26 CASE MANAGEMENT SERVICES:

A. Case Management Services: facilitate a client's access to necessary care and the quality of such care; use a medical and psycho-social service model that advocates for, and builds upon, a client's and family's strengths and needs; facilitate the use of a client's natural helping resources in the community; ensure continuity of care; promote coordination of physical, behavioral-health and social services; and problem-solve with clients, family care givers, legal guardians and other significant parties to assist them, if possible, in setting goals for themselves. The Case Management Services agency provides case consultation to its direct service providers through the availability of a supervisor or case manager during all of the hours in which the service is provided.

B. Case Management Services agencies demonstrate direct experience in serving children/adolescents in the target population. The eligible target population is children/adolescents with, or at high risk for, multiple and complex special physical, cognitive and/or behavioral health care needs.

C. Personnel: All Case Management Services are provided by, and under the supervision of, personnel who are

qualified by the professional training listed below to coordinate the provision of services needed by the service population.

(1) The supervisor provides documented supervision, support and consultation to the case managers, as appropriate to training and performance of responsibilities, and commensurate with clinical difficulty of a caseload.

(2) Supervisors possess one of the following:

(a) A master's or doctoral degree in social work, psychology, nursing, sociology, education, counseling, special education, cultural anthropology or another related health, social or human service field from an accredited college or university, and a minimum of one year experience with the target population; or

(b) A bachelor's degree from an accredited college or university in the above stated fields and two years experience with the target population; or

(c) Current New Mexico licensure as a Registered Nurse (RN) and two years experience with the target population.

(3) The case manager provides services at all times in accordance with client and family needs. The case manager to client ratio is no more than one to twenty.

(4) Case managers provide the following:

(a) Case management assessment;

(b) Service planning;

(c) Accessing, coordinating, linking, monitoring, and advocacy of services; and

(d) Measuring and evaluating outcomes.

(5) The case manager holds one of the following minimum qualifications:

(a) A bachelor's or higher degree in social work, counseling, psychology, sociology, education, special education, cultural anthropology, or a related health, social or human service field from an accredited college or university;

(b) A bachelor's or higher degree in another field and two years of direct social service, human service, or health experience serving the target population;

(c) Current New Mexico licensure as a Registered Nurse (RN), or licensed as a Practical Nurse (LPN) as defined by the NM Board of Nursing, with a minimum of one year direct social service, human service, or health experience serving the target population;

(d) An associate degree and a minimum of three years experience in community health, social service or human service including one year experience serving the target population; or

(e) A high school diploma (or GED) and a minimum of four years experi-

ence in community health, social services or human services including one year of that experience serving the target population. An individual with this qualification level must work under the direct supervision of an experienced case manager within the agency.

(6) A family assistant paraprofessional may be an employed member of a case management team under the direct supervision of a case manager. The family assistant paraprofessional may assist the case manager in coordinating or directly providing basic human services for the clients and their families. Direct services include such tasks as driving families to appointments, ordering durable medical equipment or supplies for clients, etc.

D. Training: Case managers and supervisors receive 24 hours of training within the first 60 days of employment related to their functions and responsibilities. Those employees who, prior to beginning employment, can provide documentation of training in one or more of these specified areas within the past year are not required to repeat that training; their training requirements may be adjusted as justified and documented by the clinical director or designee. All training provided is documented and includes:

(1) Establishing a client/case manager relationship;

(2) Confidentiality and abiding by organizational and professional ethics;

(3) Eligibility standards and an understanding of service programs, purposes, and elements;

(4) Knowledge of entitlement programs, eligibility requirements and benefits;

(5) Organization structure, service mandates, policies, and limitations;

(6) Case advocacy skills;

(7) Availability of community resources; and

(8) Inventory assessment, service planning, tracking, and in the case of supervisors, supervisory tools.

E. Documentation of Case Management Services functions and contacts with client/family/legal guardian indicate:

(1) Type and place of contact (face-to-face, in home, school or office, telephone, etc.);

(2) Service furnished;

(3) Date and length of contact/service;

(4) Purpose, content and result of contact/service;

(5) Relationship of the service furnished to the goals identified in the plan of care/service plan.

F. Case Management Assessment:

(1) The organization conducts a case management assessment of each client as the basis for service planning and service delivery.

(a) Case Management Services programs are not responsible for performing the comprehensive assessment as described in the general provisions section of these requirements, but are responsible for the acquisition of information for the case management assessment and the case management service plan.

(b) Case management assessment includes the collection of information from the client and/or family/legal guardian served through face-to-face interview(s) in the client's usual living environment. The case management assessment identifies the client's range of problems and functional needs and what is or is not being done to resolve problems and needs. The information is documented in the client's record.

(2) The initial case management assessment is completed within 10 days admission to Case Management Services and involves input from the client, parent/legal guardian, treatment guardian (if applicable) and significant others currently involved in the client's life. An assessment includes documented consideration of the client's needs in the following domains:

(a) Fundamental activities of daily living (eating, bathing, mobility, continence, etc.);

(b) Instrumental daily living activities (shopping, cooking, cleaning, money management, use of medication, etc.);

(c) Psycho-social functioning and emotional well-being, which includes, when necessary, a cognitive screen;

(d) Physical health status (medical and dental problems, current medications, physical disabilities, provision of care, and use of care);

(e) The potential for exploitation, neglect, or injury of clients who are partially or totally unable to protect their own interests;

(f) Financial status and eligibility for entitlements and other services or resources;

(g) Social and physical environment;

(h) Availability and use of formal and informal support systems.

G. Service Planning:

(1) An individualized, goal-directed service plan is developed and written within 30 days of admission to Case Management Services and is based on the needs identified in the case management assessment; it specifies the Case Management Services functions necessary to address the identified needs. A Case

Management Services program is not required to develop and review a treatment plan as specified in the general provisions of these Certification Regulations. A program providing both case management and other certified services must develop a treatment plan for the other certified services being provided.

(2) The client, family, legal guardian, informal care givers, and significant others are included in the development of the Service Plan. This involvement is documented by participants' signatures on the service plan.

(3) The Service Plan specifies:

(a) Strengths and needs;
(b) Goals and measurable objectives for each need; interventions/services necessary to meet the goals and measurable objectives;

(c) Identification of persons responsible for implementing each intervention/service;

(d) Scheduled delivery of service;

(e) Goal, amount, scope and expected duration of each service element and anticipated outcomes.

(4) A copy of the service plan is provided to the client and/or his or her parent/legal guardian and to any or all of those who sign(s) the service plan.

(a) Any person(s) involved in the service planning may request a review of the service plan.

(b) The service plan is reviewed and/or revised at a minimum of every six months, or more often as indicated by events and/or circumstances.

H. Community Access, Advocacy, Coordinating, Linking, and Monitoring of services:

(1) The case manager documents the individual's and family's participation in accessing, coordinating and linking of appropriate, necessary resources and services to the maximum extent possible.

(2) The case manager assists, educates and advocates for the individual and family in identifying appropriate, necessary providers from both community resources/services and natural helping resources, such as family members, friends, church members, and support groups.

(3) The case manager assists in coordinating services and resources as well as linking the individual to those services and resources that meet his or her needs in the least restrictive setting/conditions possible in the most cost-effective manner.

(4) All efforts including advocacy, accessing, coordinating, linking and monitoring of necessary services/resources is documented.

(5) The individual's progress toward the service goals and objectives is documented.

I. Termination of Service:

(1) Termination of services is conducted in an orderly and timely manner. Necessary aftercare plans are developed and referrals and transitions to other appropriate entities are completed.

(2) Service is terminated when:

(a) Those receiving services no longer need or want the service; or

(b) Clients receiving services are unavailable for a time period specified in the Case Management Services agency's procedures, due to hospitalization and/or other reasons; or

(c) The client no longer meets the eligibility criteria.

(3) The client receiving services and his or her parent(s)/legal guardian are provided with a written statement identifying the reason for any involuntary discharge, generally within five business days of the date service was terminated.

(4) The case manager prepares a narrative discharge summary that is documented in the client's case record within 15 days of case closure, unless an earlier discharge summary is indicated in order to meet the needs identified during discharge planning.

(5) The case manager and, when available, the client, parent, legal guardian or treatment guardian and other relevant persons participate in the termination of services process. When the client and/or legal guardian(s) are not available for the termination process, the agency notifies them in writing that the services are being terminated.

[7.20.11.26 NMAC - Rp 7 NMAC 20.11.25, 03/29/02]

7.20.11.27 DAY TREATMENT SERVICES

A. Day Treatment Services as defined herein are provided in a school or other community setting and are distinct from partial hospitalization services provided in a psychiatric hospital. Education services are provided through the public school system or through a New Mexico accredited private school in coordination with the Day Treatment Services.

B. Personnel:

(1) Direct service staff may be unlicensed or uncertified paraprofessionals such as teacher aides, mental health workers, psychiatric technicians or similar direct service workers. At least one staff member who has received all training required in 27.B (a) through (f) is present during program hours. The direct service staff receives documented clinical supervision for a minimum of two hours per month. The agency's direct service staff must have at least a high school education or GED and 20 hours of documented pre-service training, including,

but not limited to crisis management/intervention, behavior management, and emergency procedures, that include current CPR and first aid certificates. Within 90 days of hire, the staff will receive an additional 20 hours of documented training, including but not be limited to:

(a) Etiology and symptoms of emotional disturbances and neurobiological disorders;

(b) Family systems;

(c) Basic communication and problem solving skills;

(d) Child and adolescent development;

(e) Issues related to ethnic and cultural considerations of the clients served; and

(f) Action and potential side effects of medications.

(2) Clinical Director:

(a) Clinical Director qualifications: The clinical director possesses one of the following New Mexico licenses: Physician (Physicians must be Board-certified in Psychiatry or eligible to attain such certification), Psychologist, Licensed Independent Social Worker (LISW), Licensed Master Social Worker (LMSW), Clinical Nurse Specialist in Child Psychiatric Nursing, Registered Nurse (RN) with a Master's degree in Psychiatric Nursing, Licensed Professional Clinical Mental Health Counselor (LPCC), Licensed Marriage and Family Therapist (LMFT), or Licensed Independent School Psychologist.

(b) In addition to having one of the above licenses, the clinical director is required to have a minimum of two years of experience in clinical practice with children, adolescents and families.

(c) Clinical director responsibilities: The responsibilities of the clinical director are to provide clinical oversight of the services, as well as to provide supervision, support, and consultation to all agency direct service staff.

(3) Clinical Supervisor:

(a) Clinical Supervisor qualifications: The clinical supervisor possesses one of the following New Mexico licenses: Physician (Physicians must be Board-certified in Psychiatry or eligible to attain such certification), Psychologist, Licensed Independent Social Worker (LISW), Clinical Nurse Specialist in Child Psychiatric Nursing, Registered Nurse (RN) with a Master's degree in Psychiatric Nursing, Licensed Professional Clinical Mental Health Counselor (LPCC), Licensed Marriage and Family Therapist (LMFT), or Licensed Independent School Psychologist.

(b) In addition to having one of the above licenses, the clinical supervisor is required to have a minimum of two years of experience in clinical practice with chil-

dren, adolescents and families.

(4) Therapist: Therapist Qualifications: The therapist possesses one of the following New Mexico licenses: Physician (Physicians must be board-certified in Psychiatry or eligible to attain such certification), Psychologist, Licensed Independent Social Worker (LISW), Licensed Master Social Worker (LMSW), Clinical Nurse Specialist in Child Psychiatric Nursing, Registered Nurse (RN) with a Master's degree in Psychiatric Nursing, Licensed Professional Clinical Mental Health Counselor (LPCC), Licensed Marriage and Family Therapist (LMFT), Licensed Independent School Psychologist, Licensed Professional Mental Health Counselor (LPC), Licensed Professional Art Therapist (LPAT), Licensed Entry Level School Psychologist, or Licensed Mental Health Counselor (LMHC).

C. Services:

(1) Assessment and treatment planning conform to Section 23 of these Certification Requirements.

(2) The agency provides adequate care and continuous supervision of the client at all times in accordance with the client's developmental and clinical needs.

(3) The structured program of care is scheduled for a minimum of four hours per day, two to five days per week based on the acuity and the clinical needs of the client and family. The agency provides the following, pursuant to the client's treatment plan:

(a) Individual, family, group or other therapy, in whatever combination is appropriate to meet the needs of the client;

(b) Other services as provided in the treatment plan;

(c) Development of life skills activities;

(d) Crisis intervention;

(e) Therapeutic recreation, when indicated by the child's needs;

(f) Documentation of services provided, and of the client's progress or lack thereof on each day that service is provided.

(4) The agency documents that:

(a) The child has access to the appropriate educational services;

(b) The child has opportunities for involvement in community, social, athletic and recreational programs;

(c) The child has opportunities to pursue personal, ethnic or cultural interests; and

(d) Advance schedules are posted for structured and supervised activities which include individual, group and family therapy, and other planned activities appropriate to the age, behavioral and emotional needs of the client pursuant to the treatment plan.

(5) The agency maintains a written agreement with the public school district or private school so that appropriate educational services are provided to clients in the Day Treatment Services program.

[7.20.11.27 NMAC - Rp 7 NMAC 20.11.26, 03/29/02]

7.20.11.28 BEHAVIOR MANAGEMENT SKILLS DEVELOPMENT SERVICES:

A. Behavior Management Skill Development Services are delivered through an individualized Behavior Management Skills Development service plan designed to develop, restore, or maintain skills and behaviors that result in improved function or which prevent deterioration of function. Behavior Management Skills Development Services are delivered to clients up to age 21 who:

(1) Are in need of Behavior Management Skills Development intervention to avoid inpatient hospitalization, residential treatment or separation from his/her family; or

(2) Require continued intensive or supportive services following hospitalization or out-of-home placement as a transition to maintain the client in the least restrictive environment possible.

B. Personnel

(1) The Behavior Management Skills Development specialist meets the following criteria:

(a) Is at least 21 years of age; and

(b) Demonstrates the ability to independently implement and document the outcome of the goals, measurable objectives and interventions as defined in a Behavioral Management Skills Development service plan.

(2) The Behavior Management Skills Development specialist receives 20 hours of documented pre-service training, to include, but not limited to:

(a) Crisis management/intervention;

(b) Behavior management;

(c) Emergency procedures, which include current CPR and first aid certificates.

(3) Within 90 days of hire, the Behavior Management Skills Development specialist receives an additional 20 documented hours of training, including but not limited to:

(a) Etiology and symptoms of emotional disturbances and neurobiological disorders;

(b) Family systems;

(c) Basic communication and problem solving skills;

(d) Child and adolescent development;

(e) Issues related to ethnic and

cultural interests of the clients served;

(f) Action and potential side effects of medications.

(4) Behavior Management Skills Development specialists receive supervision by a New Mexico licensed practitioner with a doctoral or master's degree from an accredited institution in a human service related field who has at least two years experience working with children, adolescents and families. Exception: If a supervisor with the above qualifications cannot be recruited, the supervisor must possess, at a minimum, a B.S.W., B.A., B.S., or B.U.S. in a human service related field plus four years experience working with seriously emotionally disturbed or neurobiological disordered children and adolescents.

(5) Supervision is provided for a minimum of two hours per month depending upon the complexity of the needs presented by clients and the supervisory needs of the Behavior Management Skills Development Specialist. Supervision is documented with dates, times, and content of contacts.

C. Services:

(1) Behavior Management Skills Development Services focus on acquisition of skills and improvement of the client and/or family's performance related to targeted behaviors. The agency:

(a) Conducts a clinical assessment, or acquires clinical information that guides the development of the Behavior Management Skills Development Services Plan;

(b) Documents clinical review of information that enables the agency to complete the Behavior Management Skills Development service plan;

(c) Develops a Behavior Management Skills Development service plan, including: client needs, measurable goals, interventions, discharge criteria, and a discharge plan, within 14 days of admission to the service;

(d) Reviews the Behavior Management Skills Development service plan every 30 days and revises as necessary; and

(e) Works in partnership with other agencies or individuals involved in the client's care to implement the discharge plan and link the client to aftercare, as indicated;

(f) Provides services to one or more child(ren) from the same or different home(s), provided that a staff-to-client ratio of 1:1 is maintained at all times.

(2) The Behavior Management Skills Development Specialist provides the following services:

(a) Participation in the development, review and revision of the behavior management service plan;

(b) Implementation of the Behavior Management Skills Development service plan to include teaching of behavior enhancing skills;

(c) Documentation of each client contact, including date, time, duration, and the client's progress and/or response to the interventions each day service is provided, stated in terms of service plan goals and objectives; and

(d) Coordinating with the family and school personnel, if appropriate, to assist the client to achieve and/or to maintain appropriate behavior management. [7.20.11.28 NMAC - Rp 7 NMAC 20.11.27, 03/29/02]

7.20.11.29 TREATMENT FOSTER CARE SERVICES:

A. Treatment Foster Care Services, Level I and Level II, are specifically designed to accommodate the needs of psychologically or emotionally disturbed and/or behaviorally disordered clients. Eligible clients are those who are at risk for failure or have failed in regular foster homes, are unable to live with their own families, or are going through a transitional period from residential care as part of the process of return to family and community.

(1) Treatment Foster Care Services, Level I and II, are targeted to children who meet the following criteria:

(a) Are at risk for placement in a higher level of care or are returning from a higher level of care and are appropriate for a lower level of care; or

(b) Have complex and difficult psychiatric, psychological, neurobiological, behavioral, psychosocial problems; and

(c) Require, and would optimally benefit from, the Behavioral Health Services and supervision provided in a treatment foster home setting.

(2) Treatment Foster Care Services Level II (TFC II) Services are targeted to children who, besides, meeting the criteria in 29.A.1. (A). (c), also meet one of the following criteria:

(a) Have successfully completed Treatment Foster Care Services Level I (TFC I), as indicated by the treatment team; or

(b) Require the initiation or continuity of the treatment and support of the treatment foster family to secure or maintain therapeutic gains; or

(c) Require this treatment modality as an appropriate entry level service from which the client will optimally benefit.

(3) A client eligible for Treatment Foster Care Services, Level I or Level II, may change treatment foster homes only under the following circumstances:

(a) An effort is being made to reunite siblings; or

(b) A change of treatment foster home is clinically indicated, as documented in the client's record by the treatment team.

B. P e r s o n n e l Qualifications and Responsibilities:

(1) Treatment Coordinator Qualifications: The treatment coordinator possesses one of the following: a master's degree from an accredited program in social work or another human-services field; or a bachelor's degree in social work or another related human-service field and two years experience with this population.

(2) Treatment Coordinator Responsibilities:

(a) Treatment planning: Under supervision, and in coordination with the rest of the treatment team, the treatment coordinator:

(i) Prepares the initial and comprehensive treatment plans in accordance with the timelines established in these Certification Requirements;

(ii) Coordinates the implementation of the treatment plan;

(iii) Monitors the client and his/her situation for events related to the treatment plan or otherwise significant to provision of treatment;

(iv) Documents revisions to the treatment plan;

(v) Assures that all members of the treatment team, including the client as clinically indicated, participate in the treatment planning process, as documented by the signatures of treatment team members on the treatment planning documents; and

(vi) Involves the client's parents or legal guardians in treatment team meetings and in all plans and decisions affecting the client and keeps them informed of the client's progress in the program unless prohibited by the court or otherwise contraindicated according to documentation in the client's record.

(b) Contact with client: The treatment coordinator has a private face-to-face visit with the client within the first two weeks of placement, and at least twice monthly thereafter for TFC I clients and once monthly for TFC II clients. These contacts are conducted both in-home and out-of-home.

(c) Contact with Treatment Foster Parent(s): The treatment coordinator has a face-to-face interview with the client's treatment foster parents within the first two weeks of placement and at least twice monthly thereafter TFC I clients and once monthly for TFC II clients. The treatment coordinator has a minimum of one phone contact with the treatment foster parent(s) weekly. Phone contact is not necessary in the same week that face-to-face contact has been made.

(d) All contacts are documented in the client's record and include a summary related to the treatment plan, significant events and the communications between treatment coordinator, client, treatment parent(s) and the biological/adoptive family. All documentation includes the date, time, location of the contact, and names of persons present.

(e) Support of the client's relationship with his or her biological/adoptive family: The treatment coordinator supports and enhances the client's relationship with his or her family to the extent determined by the treatment team. The treatment team reviews any restrictions at the time of the writing of the comprehensive treatment plan or at the time the restriction is imposed. The treatment coordinator documents in the client's case record the reason(s) for any restriction, and the treatment team's involvement. Thereafter, the restriction is reviewed at least every 30 days and documented in the treatment plan review.

(f) Assistance to Treatment Foster Parents: The treatment coordinator assists the treatment foster parents in the implementation and development of treatment strategies, including goal-setting and planned interventions. This assistance is done through the following:

(i) The provision of ongoing client-specific training and problem solving;

(ii) Facilitation of professional development training for the treatment foster parents as described in Section 29.B(10) of these Certification Requirements;

(iii) Observation/assessment of family interactions;

(iv) Assessment of safety issues involving the client(s) in the home.

(g) Community Liaison and Advocacy: Based upon an assessment of the client's and biological/adoptive family's needs, the treatment coordinator advocates for and coordinates the provision of community-based services, as related to identified goals, and provides technical assistance to community providers as needed to maximize the utilization of services by the client and family.

(h) A treatment coordinator is physically available within 60 minutes of a treatment foster home so that quality of care, appropriate supervision and timely responsiveness to the treatment foster family are possible.

(3) Clinical Supervisor Qualifications: An individual providing supervision to the treatment coordinator possesses one of the following New Mexico licenses: Physician (Physicians must be Board-certified in Psychiatry or eligible to attain such certification), Psychologist,

Registered Nurse (RN) with a masters degree in Psychiatric Nursing, Clinical Nurse Specialist in a related field, Licensed Independent Social Worker (LISW), licensed Professional Clinical Mental Health Counselor (LPCC), Licensed Marriage and Family Therapist (LMFT) or other Licensed Independent Practitioner in a related field. In addition to having one of the above licenses, the clinical supervisor is required to have a minimum of three years experience in clinical practice with children, adolescents and families.

(4) Clinical Supervisor Responsibilities: The role of the clinical supervisor is to provide support, consultation and oversight to the treatment coordinator(s) and therapist(s) through a minimum of four hours of supervision each month.

(a) The clinical supervisor is responsible for supervising ongoing treatment planning and implementation of the treatment plan for each client. The clinical supervisor evaluates progress in treatment and signs the treatment plan documents.

(b) The clinical supervisor provides coordination and back up coverage allowing for 24-hour on-call crisis intervention services for treatment parents, clients and their families.

(c) The Clinical supervisor monitors the caseload of each treatment coordinator, and monitors each treatment coordinator in fulfilling his/her responsibilities. The maximum number of Treatment Foster Care Services client(s) that maybe assigned to a single treatment coordinator shall not exceed eight. Caseloads are reduced based on case complexity, travel times and non-direct service times. The actual number of clients in a single caseload is based upon the ability of the treatment coordinator and/or agency to meet all applicable regulations as well as on the following considerations:

(i) The difficulty of the total client caseload; including the amount of time needed for support of, contact with, and assistance to the treatment foster parent(s) based on the complexity of client needs;

(ii) The availability of paraprofessional support and assistance;

(iii) The skills and abilities of the treatment foster parent(s);

(iv) Geographical areas to be served; and

(v) Additional duties assigned to the treatment coordinator.

(5) Therapist Qualifications: Therapists providing individual, family, and/or group therapy meet either the necessary licensing qualifications as listed for clinical supervisor or possess one of the following New Mexico licenses: Licensed Master Social Worker (LMSW), Licensed

Professional Mental Health Counselor (LPC), Licensed Art Therapist (LAT) or Licensed Mental Health Counselor (LMHC).

(6) Therapist responsibilities: The therapist provides individual, family and/or group psychotherapy to clients as described in the treatment plan. The therapist documents all therapeutic contacts in the client's record. Therapy notes will be kept current and submitted to the treatment coordinator for inclusion in the client's record within one week of the session date. The therapist is an active treatment team member and participates fully in the treatment planning process.

(7) Supervision/Consultation: An independently-licensed therapist consults with the supervisor for a minimum of two times per month. A non-independently licensed therapist receives supervision from the supervisor at a minimum of two times per month. All consultation/supervision is documented with the date, time, duration, and topics discussed.

(8) Staff Training:

(a) Therapists, treatment coordinators, and other professional staff participate in knowledge/skill based pre-service training relevant to the services provided including:

(i) Child and adolescent development;

(ii) Prevention and de-escalation of aggressive behavior and the use of therapeutic holds;

(iii) Crisis management, and intervention;

(iv) Grief and loss issues for client(s) in foster care;

(v) Cultural competence and knowledge of the means for obtaining and providing culturally responsive services;

(vi) Specific agency policies and procedures including documentation;

(vii) Recognition of abuse/neglect symptoms and State abuse/neglect/exploitation reporting requirements;

(viii) Actions and potential side-effects of medications;

(ix) Certification in emergency first aid and CPR; and

(x) Behavior management.

(b) Professional staff who can provide verifiable documentation of previous training in one or more of the above areas are not required to repeat the training if the staff and the clinical supervisor agree in writing as to which specific training is equivalent and therefore not required. This exception does not apply to training regarding an agency's policies and procedures.

(c) All professional staff attend annual, ongoing professional development/training relevant to the agency's treatment foster care model and to their individual job responsibilities.

(9) Treatment Parent Qualifications/Requirements: Prior to hiring or contracting with prospective Treatment Foster Parents, the agency documents that each prospective treatment foster parent, including those who provide therapeutic leave, meets and conforms to the Certification Requirements set forth in 8.27.3 NMAC (Licensing Requirements for Treatment Foster Care Services), as well as the following qualifications and requirements:

(a) Hold a current and valid license as treatment foster parent issued by an agency licensed by the Department as a child placement agency. No home can be licensed for Treatment Foster Care Services until any previous foster care license is surrendered to the issuing agency;

(b) Have signed a release of information that permits the Department to share with the Treatment Foster Care Services agency a summary of any substantiated complaints involving abuse/neglect pertaining to the prospective treatment foster family;

(c) Have signed a release to allow the agency to read prior foster home and prior treatment foster home records that exist through any previous foster home licensure or certification;

(d) Understand the placement in Treatment Foster Care Services as temporary, except when adoption by the treatment foster parents has become the permanency plan;

(e) Have access to reliable transportation, and when driving a car have a valid New Mexico driver's license and liability insurance;

(f) Have read, expressed understanding of, and agreed in writing to fulfill the requirements and responsibilities of a treatment foster parent.

(g) Prior to hiring or contracting with prospective treatment foster parent(s), the agency documents that it has requested and reviewed the prospective parent(s)' substantiated reports of abuse/neglect, if any, and previous foster-parent records, if any, and determined that such history does not disqualify the prospective parent(s) from becoming treatment foster parent(s). The agency will inquire about any previous Treatment Foster Care Services or regular foster care experience applicant families may have had.

(10) Treatment Parent Training: The training of treatment foster parents is systematic, planned, documented and may include modalities other than didactic

instruction. Training is consistent with the program's treatment philosophy and methods and equips treatment foster parents with the skills to carry out their responsibilities as agents of the treatment process. Prospective treatment foster parents are provided with a written list of duties clearly detailing their responsibilities prior to their approval by the program. The written professional development plan is placed in the treatment foster parent(s) record.

(a) All treatment foster parents receive 40 hours of training, at least 30 hours of which are completed prior to placement of client(s). Any remaining hours are completed within two months of first placement. The training, at a minimum, includes:

(i) First aid and CPR training, provided by a certified instructor before receiving a client for placement;

(ii) Child and adolescent development;

(iii) Behavioral management;

(iv) Prevention and de-escalation of aggressive behavior and the use of therapeutic holds;

(v) Crisis management/intervention;

(vi) Grief and loss issues for client(s) in foster care;

(vii) Cultural competence and culturally responsive services;

(viii) Specific agency policies and procedures including documentation,

(ix) Recognition of abuse/neglect symptoms, and State abuse/neglect/exploitation reporting requirements;

(x) Side-effects of psychotropic medication; and

(xi) Role of treatment foster parent in treatment planning.

(b) Treatment foster parents who can provide verifiable documentation of previous training in one or more of the above areas are not required to repeat the training if the staff and the clinical supervisor agree in writing which specific training is equivalent and therefore not required. This exception does not apply to training regarding an agency's policies and procedures.

(c) Twenty-four hours of inservice training is required annually after receiving a client for placement. The 24 hours may include:

(i) Up to four hours of video when supplemented by discussion in a classroom or clinical training setting.

(ii) Up to four hours of supplemental reading may be part of the 24-hour annual inservice training when supplemented by discussion in a classroom or clinical training setting.

(11) Treatment Foster Parent Responsibilities: The treatment foster parents work with the treatment team and with agency supervision to develop and implement the treatment plan. Treatment foster parents provide front-line treatment interventions. The family living experience is the basic service to which individualized treatment interventions are added. Treatment foster parents are responsible for meeting the client's basic needs, and providing daily care and supervision. In addition to their basic foster parenting responsibilities, treatment foster parents perform the following tasks and functions:

(a) Treatment Planning: Treatment foster parents actively participate in the treatment planning process and implement specified provisions of the treatment plan.

(b) Treatment foster parents work with the treatment team to maximize the likelihood that all services are provided in a culturally competent and culturally proficient manner.

(c) Contact with the Client's Family: Unless contraindicated in the client's treatment plan, or by court order, treatment foster parents assist the client in maintaining contact with his or her family, and actively work to support and enhance those relationships. When reunification with the client's family is planned, the treatment foster parents work in conjunction with the treatment team toward the accomplishment of the reunification objectives outlined in the treatment plan.

(d) Permanency Planning Assistance: The treatment foster parents assist with efforts specified in the treatment plan to meet the client's permanency planning goal(s).

(e) Record Keeping: The treatment foster parents systematically record information and document client behaviors/activities and significant events related to the treatment plan. Documentation occurs on a weekly basis at a minimum, and more often in response to the occurrence of significant events. Daily logging is preferable.

(f) Agency Contact: The treatment foster parents keep the agency informed of the occurrence of significant events. Daily logging is preferable.

(g) Confidentiality: Treatment foster parents maintain agency standards of confidentiality.

(h) Incident Reporting: Treatment foster parents report all serious incidents to the agency, consistent with agency policy and Certification Requirements.

(i) Availability: At least one treatment foster parent is readily accessible at all times and is able to be physically present, if

necessary, to meet the client's emotional and behavioral needs; e.g., a treatment foster parent responds if the school requires immediate parental attention. A single treatment foster parent may not schedule work hours when a client is normally at home.

(j) Care and Supervision: Treatment foster parents ensure that proper and adequate supervision is provided at all times. Guardians ad litem, court-appointed special advocates, and CYFD employees may meet privately with clients as necessary. Clients are not left in the care or unsupervised presence of friends, relatives, neighbors, or others who have not received both criminal records clearance and training. Treatment teams determine that all out-of-home activities are appropriate for the client's level of need, including the need for supervision.

(k) Community-based Resources: The treatment foster parents work with all appropriate and available community-based resources to secure services for and/or advocate for the client(s).

B. Assessment, pre-placement, and placement: Prior to placement of any treatment foster care client in any home, including therapeutic leave or interim placement, the agency will determine that the placement is therapeutically appropriate. The placement process includes documented consideration of the home and all residents.

(1) The comprehensive assessment includes face-to-face interviews with the client; with the client's biological or adoptive family whenever possible and when not contraindicated; and contact with any previous care providers. The comprehensive assessment meets the following requirements, in addition to those listed in the general provisions:

(a) The client's and his/her family's priorities and concerns, as appropriate, are documented; and

(b) If the client is in Department custody, the agency requests information from the client's social worker, including the permanency plan, collateral assessment(s), and any known or suspected history of abuse/neglect.

(2) Placement does not occur until after a comprehensive assessment of how the prospective treatment foster family can meet the client's needs and preferences, and a documented determination by the agency that the prospective placement is a reasonable "match" for the client.

(3) A documented match assessment includes, but is not limited to:

(a) The identified needs of the client;

(b) The strengths of the treat-

ment foster parents to implement the client's specific services and treatment plan;

(c) Composition of the treatment foster family; including the name, age, and gender of each person residing in the home or visiting on a regular basis;

(d) Treatment foster parents' specific knowledge, skills, abilities and attitudes as related to the specific needs of each client including high risk behaviors or the potential for such;

(e) Treatment foster family's ability to speak the primary language of the client;

(f) Treatment foster family's willingness and ability to work with the client's family;

(g) Proximity of the treatment foster parent to the client's family, friends and school. If the client is placed more than an hour's driving time from the family, the justification is documented in the client's record;

(h) Client and client's family's (if applicable) preference for placement;

(i) Availability of, and access to, community resources required to meet the client's needs; and

(j) A summary/rationale of the client's placement in the particular treatment foster home chosen. The clinical rationale includes consideration of all residents of the home, including anticipated effects of the placement on all clients present and potential health and safety risks, and is documented in each client record prior to the placement.

(4) Pre-Placement Processes:

(a) Prior to placement, the client's family of origin meets with his or her child's prospective treatment foster parent(s) unless clinically contraindicated, prohibited by court order, or prevented by refusal or unavailability. If a pre-placement meeting does not occur, the reasons are documented in the client's record.

(b) Following completion of the match assessment, the client visits with the treatment foster family for a full 72 hours. The dates and times of the visit are documented in the client's record. At the end of the 72 hours, the treatment coordinator documents an assessment of the visit and the therapeutic appropriateness of the match, including the client's reaction and the treatment foster parent(s) response. When it is clinically indicated, the client may remain in the placement at the end of the 72-hour visitation, provided that the clinically-based reasons are documented in the client's record.

(c) All information that the Treatment Foster Care Services agency receives concerning a client waiting for

placement is explained to the prospective treatment foster family prior to placement. Prospective treatment foster parents are responsible for maintaining agency standards of confidentiality regarding such information.

(d) For all clients in the custody of the Department, the Treatment Foster Care Services agency shares the home study of a prospective licensed treatment foster family with the client's Department social worker and invites the social worker to meetings in which the prospective placement is discussed.

(e) The treatment foster parent(s) can refuse placement of any treatment foster client whom they consider inappropriate for the home or to protect the safety of any children currently in the home.

(f) Treatment home composition and capacity, including capacity for therapeutic leave: Prior to any placement, the agency determines that the match is consistent with the following limits:

(i) A Treatment Foster family is eligible to care for Level I and Level II treatment foster clients, non-treatment siblings of treatment clients, and/or children who were previously treatment foster clients in the same home, but are no longer qualified for TFC. Non-treatment regular foster or shelter care children may be temporarily placed in the home for therapeutic leave or shelter care for up to 30 days, after the agency assesses and documents that such a temporary placement will not compromise the treatment of any current client. Regular foster care children who were in the home previously or foster children who are siblings or children of treatment foster clients currently in the treatment foster home may be placed without the 30 day limit pertaining to therapeutic leave or shelter care clients. Arrangements pertaining to placement of regular foster children are made with the Department social worker.

(ii) The total number of children in a Treatment Foster Care Services home, including treatment foster care clients, therapeutic leave children, and any other children, may not exceed six, except in rare circumstances such as placing sibling groups together. Such exceptions are approved in advance by the treatment teams, guardians of all children, and by the agency's clinical director. The clinical rationale for the exception is documented in each client's record.

(iii) The total number of treatment foster clients placed in a two-parent treatment foster care home is limited to three. At no time may more than two TFC I children be placed in the same home, except when they are siblings. In the case of multi-

ple treatment foster care children placements, at least one treatment foster care parent will not be employed outside the home.

(iv) The total number of treatment foster care clients placed in a single-parent treatment foster care home cannot exceed two. No more than one Level I treatment foster care client may be placed in a single-parent treatment foster care home, unless both are siblings.

(g) The agency obtains written agreement of the treatment team, including Guardians ad Litem (GALs), and legal guardians, for all placements.

(h) A client with a history of more than one incident of substantiated sexual aggression may not be placed in a home with any other client, including client(s) temporarily present for therapeutic leave or shelter purposes, without prior written approval by the treatment teams of all treatment clients in the home. In the case of non-treatment minors, written permission must be obtained from the legal guardian(s) prior to such placement. The rationale for such placement will distinguish the sexually reactive from the sexually aggressive client. The sexually reactive child may have presented with a history of symptoms such as public masturbation, sex play and/or developmentally incongruent preoccupation with sexual matters or topics. This behavior by itself should not present a barrier to the placement of other children. The sexually aggressive child has had more than one incident of using force or intimidation to make another child comply with a sexual activity. The treatment team is responsible for evaluating all collateral information, evaluating any high risk behaviors or the potential for such, regardless of when it occurred or when an evaluation was performed, and the severity of the force or intimidation, regardless of how recently it occurred, prior to placing the child in a home where there are other children.

(i) The agency trains the treatment foster family in cultural and physical care issues related to the client's race and culture prior to the client's placement.

(5) Therapeutic Leave: Agency policy and practice provide for treatment foster parent(s)' access to therapeutic leave, both planned and crisis-based.

(a) Treatment foster parents providing therapeutic leave placements are licensed and trained by the agency, are given a copy of the client's treatment plan, and are supervised by the treatment coordinator in the implementation of the in-home strategies.

(b) Therapeutic leave placements may be provided by a licensed and appropriately trained treatment foster family from another licensed and certified Treatment Foster Care Services agency, provided that

the placing agency ensures the client's treatment plan is implemented appropriately.

(c) It is the Treatment Foster Care Services agency's responsibility to determine that treatment foster parents into whose home a therapeutic leave client has been placed are sufficiently skilled to work with the mix of treatment clients in their home, and document this determination in their records prior to placement.

(d) If a Treatment Foster Care Services agency cannot secure a trained and licensed treatment foster care family to provide therapeutic leave for a client, the agency may place the client in a licensed Residential Treatment Services or licensed Group Home Services, if clinically appropriate and documented, for a period not to exceed seven days. The Residential Treatment Services or Group Home Services program must adhere to the client's treatment plan and document the services provided and the client's behavior, consistent with these Certification Requirements for treatment foster parent documentation.

(e) Therapeutic leave placements comply with all Certification Requirements stated herein, including capacity limits. The agency documents assessment of treatment home/family composition, physical and sexual safety issues, and language(s) spoken, prior to therapeutic leave placement.

D. Service Planning and Provision:

(1) All Treatment Foster Care Services, as described in these Certification Requirements, are the responsibility of the Treatment Foster Care Services agency. Services are furnished either through agency staff or contracted persons.

(2) The Treatment Foster Care Services agency provides intensive support, technical assistance, and supervision of all treatment foster parents.

(3) The agency provides clinically appropriate therapy services to the client, and involves the treatment foster parents and the client's family to achieve the goals of the treatment plan. Each treatment client receives regularly scheduled therapy, including family therapy, as clinically indicated and specified in the client's treatment plan. Family involvement in treatment, including family therapy is not required when contraindicated by court order, or temporarily contraindicated by the clinical judgement of the Department's legal guardian or treatment team.

(a) Therapy cannot be suspended or terminated unless there is concurrence by the treatment team that therapy is not presently indicated.

(b) All efforts are made to place a client in close enough proximity to biological/adoptive family so that family therapy will not be hindered.

(c) Family therapy is required when reunification is the goal.

(d) In cases where family involvement is contraindicated, the agency documents the clinical or legal basis for that determination and documents regular review of the determination.

(4) The professional/clinical staff provide or locate resources most suited to the individual needs of the client in Treatment Foster Care Services and helps the client, his or her parent(s) and the treatment foster families to make effective use of them.

(5) Client's access to agency staff: An agency staff person, who is a member of the client's treatment team, is designated as a contact person for each client. The client has direct access to that staff member. The client is informed of his or her designated staff person and how to reach that person. The means for such communication is available to the client for his or her use at all times. This is documented in the client's record at admission, and each time a change is made.

(6) Crisis on Call: The treatment coordinator, or another professional clinical staff member or contractor who meets the qualifications for treatment coordinator, is on-call to treatment foster parents, client(s) and their families on a 24-hour, seven-day-per-week basis.

(7) The agency works with the local school district to access for the client the most appropriate educational services in the least restrictive setting.

(8) The agency facilitates the creation of formal and/or informal support networks for its treatment foster parents through coordination of parent support groups and/or other systems.

(9) Documentation:

(a) All contacts between agency staff and clients' biological/adoptive parents, and/or treatment foster parent(s) are documented in the client's records.

(b) All therapy notes are documented and placed in the client's record within one week of the session date.

(c) Therapy notes explicitly address the goals/objectives identified in the treatment plan.

(10) The Treatment Foster Care Services agency provides intensive support, technical assistance and supervision to all treatment foster parents. The agency trains the treatment foster family in cultural and physical care issues related to the client's race and culture prior to placement and throughout its duration, with the intention of the treatment foster family becoming culturally competent.

(11) The agency is responsible for determining that the treatment foster parent(s) effectively manage the individual

treatment needs, acuity-based safety needs, and cultural needs of all clients placed in the home.

(12) The agency develops and implements a plan to connect the treatment foster client with other children and adults in the community who share the same culture, race and ethnicity.

(13) Services are provided to each client as determined by the treatment team. No one member of the treatment team has veto power except for those provision set forth in the Children's Code regarding change of placement notification. No services are terminated and/or suspended without the review and concurrence of the team. This Certification Requirement does not limit a managed care entity's right to determine, or the agency's or legal guardian's right to appeal, based on medical necessity criteria, the authorization of continued placement of a Treatment Foster Care Services client.

(14) The treatment plan is developed through a process that utilizes a treatment team comprised of the following individuals, as applicable and appropriate: the client, the client's family, treatment foster parent(s), treatment coordinator, Department social worker, juvenile probation/parole officer, education agency, guardian ad litem and other significant individuals in the client's life.

(15) The agency ensures that all treatment plans adhere to the treatment planning requirements contained in the general provisions section of these Certification Requirements.

(16) The initial treatment plan includes specific tasks to be carried out by the treatment team within the first 14 days of placement.

(17) The initial and comprehensive treatment plans address strategies to ease the client's adjustment to the treatment home and to assess directly the client's strengths, skills, interests and needs for treatment within the home.

(18) The treatment plan reviews address discharge planning and strategies to prepare for the client's return to the biological, or adoptive, regular foster care home or independent living as appropriate.

(19) The treatment plan is reviewed every 30 days by the treatment team, in accordance with the general provisions, and revised when clinically indicated. The review occurs face-to-face, telephonically or through teleconference.

E. Agency Oversight:

(1) Except in emergencies, a client is removed from a Treatment Foster Care Services home only after the treatment team has documented that the move is in the client's best interest. When such a move is necessary, the agency complies with pre-

placement, placement and treatment planning requirements.

(2) In the event that the treatment foster parents request that a treatment foster client be removed from their home, a treatment team meeting is held and there is agreement that a move is in the best interest of the involved client. Any treatment foster parent(s) who demands removal of a treatment foster client from his or her home without first discussing with and obtaining consensus of the treatment team will have their license revoked.

(3) If treatment foster parent(s) wish to transfer between agencies, there must be written documentation from both agencies that the transfer is in the best interest of any client(s) currently in the home, including consideration of change of treatment team members, and a written statement from the previous agency that the transferring treatment foster family is in good standing.

(a) If any clients are currently placed in the transferring treatment home, the receiving agency will evaluate the appropriateness of the match and update the treatment plan.

(b) The receiving agency completes a new home study, or an addendum to the original home study reflecting any changes that have occurred in the composition of the home since the date of the client's admission.

(c) The receiving agency notifies the previous agency that the treatment foster parent(s) has been hired, and the previous agency, upon receipt of that notice, cancels its previous license.

(4) At the time of new licensure of a treatment foster care home, if non-treatment foster care client(s) placed through prior licensing arrangements must be removed, the process is conducted through an orderly and purposeful plan which is approved in writing by the previous licensing agency as meeting the best interests of the clients.

F. Property Damage and Liability:

(1) Written Plan: The agency providing Treatment Foster Care Services has a written policy concerning compensation for damages to a treatment foster family's property by client(s) placed in their care. A copy of the written plan is provided and explained to the prospective treatment foster parents during the pre-service training.

(2) Liability Insurance: Treatment foster parent(s) document and verify on a regular basis that they continuously maintain liability insurance for automobiles, home and persons, including owner and occupants of the home.

(3) Property damage caused by

client(s) in CYFD custody may be reimbursed by the Protective Services Division of the Department, consistent with Protective Services "Maintenance Payments to Substitute Care Providers" PR 8.10.22.10.9 Property Loss and Damage.

G. Transition to Independent Living:

(1) Older adolescents in treatment foster care are provided with a series of developmental activities and supportive services designed to enable them to prepare to lead self-sufficient adult lives, in accord with their treatment plan. For those clients 16-20 years old for whom family reunification, placement with extended family or with previous caretakers, or adoption has been found to be infeasible or inappropriate, the agency provides or arranges for a set of service components to be delivered which are designed to enable the client to prepare for a successful transition to independent living.

(2) The services provided or coordinated address the client's identified needs for:

(a) life skills training;

(b) education with regard to health concerns including human sexuality;

(c) vocational and technical training;

(d) housing needs during transition and after discharge;

(e) legal services;

(f) arrangements for support services, aftercare services and socialization, and

(g) cultural, religious and recreational activities, as appropriate to the client's needs.

[7.20.11.29 NMAC - Rp 7 NMAC 20.11.28, 03/29/02]

7.20.11.30 RESIDENTIAL TREATMENT SERVICES AND GROUP HOME SERVICES:

A. Residential Treatment Services are provided to children/adolescents with severe behavioral, psychological, neurobiological, or emotional problems, who are in need of psychosocial rehabilitation in a residential setting. They require active residential psychotherapeutic intervention and a 24-hour therapeutic group living setting to meet their developmental, psychological, social, and emotional needs.

B. Group Home Services are provided to children/adolescents with moderate behavioral, psychological, neurobiological, or emotional problems, who are in need of active psychotherapeutic intervention, who require a twenty-four hour therapeutic group living setting to meet their developmental, social and emotional needs, and/or who are in transition from a higher level of care to a lower level of care.

C. The agency maintains and follows policies and procedures for emergency and non-emergency admissions. Admission policies and criteria are based on the client's identified need for Residential Treatment Services or Group Home Services.

D. At the time of admission or transfer to Residential Treatment Services or Group Home Services, the client is informed of the reasons for the placement/transfer and his/her treatment options. This discussion with the client is documented in the client's record by the admitting professional.

E. Personnel:

(1) Direct service staff providing Residential Treatment Services and/or Group Home Services receive a minimum of twenty hours of pre-service training, including training in:

(a) Crisis management/intervention, Behavioral Management, personal restraint and seclusion;

(b) The agency's emergency procedures, which include CPR and first aid.

(2) The direct service staff possess a high school diploma or G.E.D and one or more of the following:

(a) Two years experience working with clients and adolescents with severe psychological/ emotional disturbances/neurobiological disorders; or

(b) Two years of post-secondary education in a human service related field; or

(c) A minimum of 40 hours of documented training, including the twenty hours of pre-service training described in E above, and twenty additional hours including the following topics:

(i) Etiology and symptoms of emotional disturbances and neurobiological disorders;

(ii) Family systems;

(iii) Basic communication and problem solving;

(iv) Child and adolescent development;

(v) Ethnic and cultural considerations related to the clients served; and

(vi) Action and potential side effects of medications.

(3) The training in (c) (i) through (vi) above, when required, must be provided within three months of hire.

(4) Those direct service staff who, prior to beginning direct service work, can provide documentation of a current certificate of training in one or more of these specified areas are not required to repeat that training; their training requirements may be adjusted as justified and documented by the clinical director or designee.

(5) Clinical Director:

(a) Clinical Director
Qualifications: The clinical director possesses one of the following New Mexico licenses: Physician (Physicians must be Board-certified in Psychiatry or eligible to attain such certification); Psychologist; Licensed Independent Social Worker (LISW); Clinical Nurse Specialist in Child Psychiatric Nursing; Registered Nurse (RN) with a Master's in Psychiatric Nursing; Licensed Professional Clinical Mental Health Counselor (LPCC); and Licensed Marriage and Family Therapist (LMFT);

(b) In addition to having one of the above licenses, the clinical director is required to have a minimum of two years of experience in clinical practice with clients, adolescents, and families.

(c) Clinical Director responsibilities: The responsibilities of the clinical director are to provide clinical oversight of the services, as well as to provide supervision, support, and consultation to all agency staff.

(6) Clinical Supervisor
Qualifications: The clinical supervisor possesses one of the following New Mexico licenses: Physician (Physicians must be Board-certified in Psychiatry or eligible to obtain such certification); Psychologist; Licensed Independent Social Worker (LISW) or other Licensed Independent Practitioner in a related field; Clinical Nurse Specialist in Child Psychiatric Nursing; Registered Nurse (RN) with a Master's in Psychiatric Nursing; Licensed Professional Clinical Mental Health Counselor (LPCC); or Licensed Marriage and Family Therapist (LMFT). In addition to having one of the above licenses, the clinical supervisor is required to have a minimum of two years of experience in clinical practice with clients, adolescents and families.

(7) Therapists qualifications: Therapists providing individual, family and/or group therapy must meet either the necessary licensed requirements as listed for clinical supervisor or possess one of the following New Mexico licenses: Licensed Professional Mental Health Counselor (LPC); Licensed Master's Social Worker (LMSW); Licensed Art Therapist (LAT); or Licensed Mental Health Counselor (LMHC).

F. Services:

(1) Residential Treatment Services are provided through a treatment team approach and the roles, responsibilities and leadership of the team are clearly defined.

(2) The agency provides a daily structured program that meets clients' needs as identified in the comprehensive assessment and as prescribed in the treatment plan. The following services are provided:

(a) Individual, family, and group therapy, at the level of frequency documented in the treatment plan.

(b) Access to timely and necessary medical care;

(c) Supervision of self-administered medication, if appropriate;

(d) Crisis intervention;

(e) Educational services;

(f) Activities of daily living;

(g) Recreation, leisure time and other planned therapeutic activities; and

(h) Planning of discharge and aftercare services. To facilitate timely and appropriate post discharge care, regular assessments are conducted to support discharge planning and effect successful discharge with clinically appropriate aftercare services. This discharge planning begins when the client is admitted to Residential Treatment Services and is updated and documented in the client's record at every treatment plan review, or more frequently as needed.

(3) The agency provides services, care, and supervision at all times, including:

(a) The provision of, or access to, medical services on a 24-hour basis;

(b) Maintenance of a staff-to-client ratio appropriate to the level of care and needs of the clients.

(i) For Residential Treatment Services, the minimum ratios are one to six during the day and evening shifts and one awake staff to twelve clients during the night shift.

(ii) For Group Home Services, the minimum ratios are one to eight during the day and evening shifts and one awake staff to twelve clients during the night shift.

(iii) Additional staff must be provided if the clinical needs of the client population are high.

(iv) A written schedule must be maintained by the agency to document the staffing ratios.

(c) Arrangements for, and provision of, supervision for off-grounds activities, including transportation, in accordance with minimum and need-based ratios; and

(d) Arrangements for, and provision of responses to significant life events that may affect the client's treatment when out of the facility.

(4) Services and activities are appropriate to the age, behavioral, and emotional development level of the client.

(5) When not therapeutically or legally contraindicated, the agency encourages parent/client contact and makes efforts at family reunification. Such contacts and efforts are documented as they occur. If reunification is contraindicated, the reason is documented in the client's record at the time that determination is made, and the

issue is reconsidered when indicated.

(6) The following factors will be considered in determining the appropriate level of services and supervision.

(a) Risk of victimizing others;

(b) Risk of inappropriate consensual activity;

(c) Risk of being victimized by others;

(7) The treatment plans contain all the elements outlined in Section 23 of these Certification Requirements.

G. Residential Treatment Services and Group Home Services may be provided in the same licensed facility when the agency ensures the health and safety of all clients present.

(1) A program certified for Residential Treatment Services may provide Group Home Services in accordance with these Certification Requirements without requesting or receiving a separate certification for Group Home Services.

(2) When Residential Treatment Services and Group Home Services are provided in the same facility, the agency's policies and procedures specify clinically-based criteria under which the populations may be mixed.

(3) When Residential Treatment Services and Group Home Services populations are mixed, the agency documents that the clinically-based criteria have been met to address safety issues.

(4) When Residential Treatment Services and Group Home Services populations are mixed, the minimum staffing ratios for Residential Treatment Services apply.

[7.20.11.30 NMAC-Ro 7NMAC 20.11.29, 03/29/02]

7.20.11.31 JCAHO ACCREDITED RESIDENTIAL TREATMENT SERVICES: Residential Treatment Services programs that are accredited by JCAHO comply with the general provisions and Residential Treatment Services sections of these Requirements, and the following standards:

A. The agency provides services, care, and supervision at all times, including maintenance of a minimum staff-to-child ratio of one to five during the day and evening shifts and one awake staff to ten clients during the night shift. Additional staff is provided when warranted by client acuity or other conditions.

B. A physical examination is completed by a licensed independent medical practitioner within one week of admission, and includes medical history, physical examination, assessment of pain, motor and sensorimotor functioning, speech, hearing, and language functioning, vision, immunizations, oral health, history

of psychotropic medication use, and, when indicated an AIMS test. If a comprehensive medical history and physical examination have been completed within 30 days before admission, a durable, legible copy of this report may be used in the clinical record as a physical examination, but any subsequent changes must be recorded at the time of admission.

C. The agency evaluates the need for the following assessments, and when such assessments are indicated, they are completed in a thorough and timely manner: psychological, psychiatric, educational, vocational, legal, nutritional, developmental disabilities, and substance abuse.

D. The agency has a written plan to provide all necessary medical histories, physical examinations, and laboratory tests that the agency does not directly provide.

E. Infection Control

(1) The agency has a comprehensive and functioning infection-control program based on proven epidemiological methods for surveillance and prevention of adverse outcomes related to infection.

(2) The agency uses preventive processes such as Universal Precautions to reduce risks for endemic and epidemic infections in clients and staff.

(3) Infection Control policies, procedures, and practices include surveillance, identification, and control of infection, and required reporting to staff and public health authorities.

[7.20.11.30 NMAC - Rp 7 NMAC 20.11.30, 03/29/02]

7.20.11.32

H O M E -

BASED SERVICES:

A. Home-Based Services are provided to clients and their families for the purpose of strengthening and preserving families. Services are designed to provide for improved mental/behavioral functioning, to address conditions likely to lead to more restrictive care, and/or to provide a transition from a more restrictive level of care. Services are provided primarily in family homes and/or other community settings, and are delivered by a team including licensed professionals and trained paraprofessionals. Home-Based Services are provided in accordance with the general provisions of these Certification Requirements, as applicable.

B. Policies and procedures: The agency's policies and procedures include the following: a written, clinically-based model for its service interventions; a theoretical framework for the overall program; provision for interventions that include center-based, in-home, and community-based services, as indicated by client and family needs; and provision for services

designed to empower clients and families to solve problems, identify and access community resources, and increase self-sufficiency.

(1) The policies and procedures establish the basis for accepting or rejecting clients, resolving communication difficulties and disagreements specific to clients, and assigning supervisory responsibilities.

(2) The policies and procedures include: a written safety plan, including specific communication practices, for personnel in the field, and provisions for addressing the special needs of employees related to the nature and intensity of the work.

(3) Policies or procedures with regard to personnel management and working hours are designed to provide for the following: 24-hour client access to the agency or to a cooperating crisis service; effective response by practitioners to client crises; practices designed to use crises as opportunities for family growth and change; availability of service resources at times that reasonably accommodate clients' and families' schedules, including on weekends and evenings; and adjustment of work hours in response to caseload demands

C. Personnel Training, Supervision, and Caseloads: The agency seeks and hires personnel who reflect the cultural characteristics of the client population, and establishes realistic expectations regarding the nature of the employees' responsibilities and working conditions. When the agency provides a team-delivered service, it establishes role definitions and procedures for cooperative and efficient teamwork to support its personnel.

(1) Services are provided under the supervision of a clinical director who possesses one of the following: New Mexico licenses; Physician (Physicians must be Board-certified in Psychiatry or eligible to attain such certification), Psychologist, Licensed Independent Social Worker (LISW), Licensed Master Social Worker (LMSW), Clinical Nurse Specialist in Child Psychiatric Nursing, Registered Nurse (RN) with a Master's degree in Psychiatric Nursing, Licensed Professional Clinical Mental Health Counselor (LPCC), Licensed Marriage and Family Therapist (LMFT), or Licensed Independent School Psychologist; and who has a minimum of two years of documented experience in clinical practice with children, adolescents and families.

(2) The team includes one or more Licensed practitioners who possess a master's degree in social work or a related human services field, and at least two years of experience in family and children's services, and/or a Bachelor's degree in social work or a related human service field and at

least three years' post-degree experience in family and children's services.

(3) The team may include one or more paraprofessional practitioners who possess a high school diploma or GED and five years of direct service experience in family and children's services. Paraprofessionals may not provide services that require professional licensure.

(4) Prior to working with families without direct supervision of a fully-trained practitioner, direct-service providers/practitioners must receive a minimum of 30 hours of training in the following areas: the program's clinical model; family dynamics; child, adult, and family development; stress management for families and practitioners; communication and conflict resolution skills; crisis intervention; mandated reporting of suspected abuse and neglect; ethnic/cultural proficiency and responsiveness; practitioner boundaries; and the needs of children/adolescents and adults with the following conditions: mental/behavioral disorders; history of abuse, neglect, and/or exploitation; physical challenges/disabilities; developmental disabilities; and substance abuse/dependence.

(5) Each practitioner receives training in the following areas, when indicated by the needs of the client population, and when the practitioner does not possess specific related experience/training: family systems theory; behavioral theory; behavior management; cognitive restructuring techniques; assessment of risk; assessment; treatment planning; engaging reluctant family members; defusing violent situations; family empowerment; life skills; parenting skills; community resources; family-focused counseling skills; other interventions designed to address the assessed needs of the client population; roles and functions of community organizations; accessing financial and other concrete resources; applicable portions of the New Mexico Children's Code; the criminal justice system and the juvenile justice system; unemployment and employment resources; housing resources; and other community resources.

(6) The agency trains its practitioners in risk management, including personal safety measures and communication procedures, self-defense, and safety for clients, including requirements for transporting persons served such as accident procedures and seat-belt/car seat requirements.

(7) Agency policies and procedures provide that personnel with requisite knowledge and experience may be exempted from specific training when justification for the exemption is documented by the clinical director in the employee's personnel record.

(8) Agency policies and proce-

dures provide for a specified amount of experiential training prior to independent delivery of service, based on a documented assessment of the individual practitioner's experience and previous training.

(9) Supervision is provided and documented by a Licensed Independent Practitioner with two years of post-master's degree experience with the treatment population, and consists of individual and/or group supervision; or is conducted and documented in self-directed teams consisting of licensed staff under the guidance of the clinical director.

(10) Supervisors ensure that service delivery is performed according to and within the mission, policies, procedures, and treatment model of the agency.

(11) Practitioners who are not qualified by a master's degree receive documented supervision and support in accordance with a written supervision plan that reflects their individual experience, training, and needs; such support may include the opportunity to work in a team relationship with a more experienced practitioner for a probationary period.

(12) Practitioners who are not qualified by a master's degree receive a minimum of four hours per month of supervision; those qualified by a master's degree receive a minimum of two hours per month, except Licensed Independent Practitioners, who receive a minimum of one hour per month. Minimum supervision times are increased when indicated by client need, symptom difficulty, employee stress, or other relevant factors.

(13) Each full-time equivalent supervisor is responsible for no more than eight practitioners or teams; the supervisory load is reduced when indicated based on the number of clients supervised, experience of practitioners, geographic distances, size of teams, and/or other relevant factors. Supervisory loads are documented at least monthly.

(14) Employee supervision includes regular monitoring and measures for prevention of burn-out.

(15) All supervision activities are documented in the supervisee's personnel record; documentation includes the date, time, and duration of supervision, persons present, and topics and cases discussed.

(16) Practitioner caseloads are based, in part, on the assessed needs of client and the projected duration and intensity of service, are limited to a maximum of 12 clients per direct-service provider and are reduced when there are known health and safety risk(s) including, but not limited to suicide, homicide, self-harm, assault, failure-to-thrive, severe neglect, or unusual medical risks. Practitioner caseloads are

monitored by the supervisor, and are documented at least monthly.

D. Service Delivery: Home-Based Services provide flexibility with regard to length and availability of service, based on assessed client needs. The following service elements are documented in the client record.

(1) After the initial referral, the agency obtains permission from the parent/guardian to meet in the home to conduct an evaluation of risk factors to the children, family members, and practitioner; to determine whether the service is appropriate for the family; and to discuss the potential benefits of the service with the children and family members. Agency response to referrals is appropriate to the urgency of the known needs of potential clients. Initial contact occurs within two business days of the referral; exceptions justified in the record. When the agency is unable to make contact within its procedural guidelines, its efforts to do so are documented.

(2) Counseling and other services are provided to promote the safety of the child/adolescent, the family, and community members, and to prevent unnecessary out-of-home placement or hospitalization.

(3) A wide variety of service options is available, and are offered and planned in accordance with clients' assessed needs. These include:

(a) Education, teaching and/or modeling of skills in the following areas: parenting, child care, communication, household management, and/or other needed skills;

(b) The provision of specific services;

(c) Advocacy and other networking and supportive activities on behalf of clients/families; and

(d) Follow-up at specified points after case closing to determine whether additional services are needed.

(4) Financial and other concrete resources are made available by the agency either directly or through arrangement with other community agencies.

(5) When indicated, the agency teaches families to advocate for themselves and to identify and use community resources.

(6) The agency monitors service delivery to make sure that the service maintains a home based focus and that families are seen in their environment of choice.

(7) In addition to the functions described below, intake, assessment, treatment planning, and discharge planning are provided in accordance with Section 23 of these Requirements. All activities related to these functions are promptly documented in

the client record.

(8) The organization continually assesses the risk to the child, family, and community, evaluates impediments to service, and ensures that appropriate services are being provided.

(9) Treatment planning includes a specific estimated length of service; the estimate is regularly reviewed and updated, and changes are justified in the client record.

(10) Treatment planning is conducted by means of a collaborative team approach; the treatment plan delineates the role of each team member in carrying out the plan. The team considers the input of all team members and, where appropriate, that of collaborating organizations.

(11) The agency attempts to involve external agencies and entities, such as Child Protective Services, Juvenile Justice personnel, and other service providers as applicable, in treatment planning, joint case conferences, and/or other means of coordinating services; all such communication is documented and summarized in treatment plan reviews.

(12) Each client or collateral contact is documented; documentation includes the date, and time of contact, and the purpose of the contact in relation to the treatment plan. When transportation is provided by agency personnel, the agency ensures that all vehicles are registered and legally insured, and that all drivers are currently licensed in New Mexico.

E. Outcome studies: The agency uses a child-focused functional assessment instrument to measure specific indicators at or near admission and at or near the end of each episode of service, as applicable.

[7.20.11.31 NMAC - N, 03/29/02]

HISTORY OF 7.20.11 NMAC:

Pre-NMAC Filing History:

OMCI, Purpose and Definitions Relating to Certification Regulations, 11-23-93.

A.O., Agency in the Community, 11-23-93.

B.O., Agency Governance and Administration, 11-23-93.

C.O., Personnel, 11-23-93.

D.O., Client Rights and Protection, 11-23-93.

H.O., Intake, Assessment and Treatment Planning, 11-23-93;

I.O., Client Information, Confidentiality and Case Review, 11-23-93.

AA.O., Group Home Services, 11-23-93.

BB.O., Residential Treatment Centers, 11-23-93.

DD.O., Treatment Foster Care, 11-23-93.

EE.O., Day Treatment Centers, 11-23-93.

GG.O., Behavior Management Skills Development Services, 8-16-94.

NMAC History:

7 NMAC 20.11, Certification Requirements for Child and Adolescent Mental Health Services, 6-16-98.

7 NMAC 20.11, Certification Requirements for Child and Adolescent Mental Health Services, 10-27-99.

History of Repealed Material:

7 NMAC 20.1, General Provisions - Repealed 7-1-98.

7 NMAC 20.A, Agency in The Community - Repealed 7-1-98.

7 NMAC 20.B, Agency Governance and Administration - Repealed 7-1-98.

7 NMAC 20.C; Personnel - Repealed 7-1-98.

7 NMAC 20.D, Quality Assurance and Utilization Review - Repealed 7-1-98.

7 NMAC 20.E, Regulatory Compliance for Program Operation Including Health, Safety and Physical Plant Requirements - Repealed 7-1-98.

7 NMAC 20.F, Client Rights and Protection - Repealed 7-1-98.

7 NMAC 20.G, Intake, Assessment and Treatment Planning - Repealed 7-1-98.

7 NMAC 20.H, Client Information, Confidentiality and Case Review - Repealed 7-1-98.

7 NMAC 20.AA, Case Management - Repealed 7-1-98.

7 NMAC 20.BB, Day Treatment - Repealed 7-1-98.

7 NMAC 20.CC, Behavior Management Skills Development Services - Repealed 7-1-98.

7 NMAC 20.DD, Treatment Foster Care - Repealed 7-1-98.

7 NMAC 20.EE, Residential Treatment Centers - Repealed 7-1-98.

7 NMAC 20.11, Certification Requirements for Child and Adolescent Mental Health Services - Repealed, 11-15-99.

7 NMAC 20.11, Certification Requirements for Child and Adolescent Mental Health Services - Repealed, 3-29-02.

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

OIL CONSERVATION DIVISION

EXPLANATORY PARAGRAPH: During the recodification of 19.15.1.19 NMAC, several mistakes in parallel references were made. Several of the mistaken references refer to "19.15.5.19 NMAC" which does not exist. Other references were to sections of the NMAC not yet recodified and relied on assumptions about where certain material would appear; these assumptions were incor-

rect. All the mistaken references were correct in the previous codification of the Administrative Code.

All mistaken parallel references are being corrected and the proposed corrected Part appears below. The changes made to 19.15.1.19 NMAC are only for the purpose of correcting mistakes made during the recodification process and are not intended to alter the meaning of any provision.

19.15.1.19 PREVENTION AND ABATEMENT OF WATER POLLU- TION

A. Purpose

(1) The purpose of this Rule are to:

(a) Abate pollution of subsurface water so that all ground water of the State of New Mexico which has a background concentration of 10,000 mg/L or less TDS, is either remediated or protected for use as domestic, industrial and agricultural water supply, and to remediate or protect those segments of surface waters which are gaining because of subsurface-water inflow, for uses designated in the Water Quality Standards for Interstate and Intrastate ~~[Streams]~~ Surface Waters in New Mexico ~~[(20 NMAC 6.4)]~~ (20.6.4 NMAC); and

(b) Abate surface-water pollution so that all surface waters of the State of New Mexico are remediated or protected for designated or attainable uses as defined in the Water Quality Standards for Interstate and Intrastate ~~[Streams]~~ Surface Waters in New Mexico ~~[(20 NMAC 6.4)]~~ (20.6.4 NMAC).

(2) If the background concentration of any water contaminant exceeds the standard or requirement of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection B, Paragraphs (1), (2) or (3) pollution shall be abated by the responsible person to the background concentration.

(3) The standards and requirements set forth in of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection B, Paragraphs (1), (2) or (3) are not intended as maximum ranges and concentrations for use, and nothing herein contained shall be construed as limiting the use of waters containing higher ranges and concentrations.

B. Abatement Standards And Requirements

(1) The vadose zone shall be abated so that water contaminants in the vadose zone will not with reasonable probability contaminate ground water or surface water, in excess of the standards in Paragraphs (2) and (3) below, through leaching, percolation, or other transport mechanisms, or as the water table elevation fluctuates.

(2) Ground-water pollution at any place of withdrawal for present or reasonably foreseeable future use, where the TDS

concentration is 10,000 mg/L or less, shall be abated to conform to the following standards:

(a) Toxic pollutant(s) as defined in ~~[20 NMAC 6.2.1101]~~ 20.6.2.7 NMAC shall not be present; and

(b) The standards of ~~[20 NMAC 6.2.3103]~~ 20.6.2.3103 NMAC shall be met.

(3) Surface-water pollution shall be abated to conform to the Water Quality Standards for Interstate and Intrastate ~~[Streams]~~ Surface Waters in New Mexico ~~[(20 NMAC 6.4)]~~ 20.6.4 NMAC.

(4) Subsurface-water and surface-water abatement shall not be considered complete until eight (8) consecutive quarterly samples, or an alternate lesser number of samples approved by the Director, from all compliance sampling stations approved by the Director meet the abatement standards of Paragraphs (1), (2) and (3) above. Abatement of water contaminants measured in solid-matrix samples of the vadose zone shall be considered complete after one-time sampling from compliance stations approved by the director.

(5) Technical Infeasibility

(a) If any responsible person is unable to fully meet the abatement standards set forth in Paragraphs (1) and (2) above using commercially accepted abatement technology pursuant to an approved abatement plan, he may propose that abatement standards compliance is technically infeasible. Technical infeasibility proposals involving the use of experimental abatement technology shall be considered at the discretion of the Director. Technical infeasibility may be demonstrated by a statistically valid extrapolation of the decrease in concentration(s) of any water contaminant(s) over the remainder of a twenty (20) year period, such that projected future reductions during that time would be less than 20% of the concentration(s) at the time technical infeasibility is proposed. A statistically valid decrease cannot be demonstrated by fewer than eight (8) consecutive quarters. The technical infeasibility proposal shall include a substitute abatement standard(s) for those contaminants that is/are technically feasible. Abatement standards for all other water contaminants not demonstrated to be technically infeasible shall be met.

(b) In no event shall a proposed technical infeasibility demonstration be approved by the Director for any water contaminant if its concentration is greater than 200% of the abatement standard for the contaminant.

(c) If the Director cannot approve any or all portions of a proposed technical infeasibility demonstration because the water contaminant concentration(s) is/are greater than 300% of the abatement stan-

dard(s) for each contaminant, the responsible person may further pursue the issue of technical infeasibility by filing a petition with the Division seeking approval of alternate abatement standard(s) pursuant to Paragraph (6) below.

(6) Alternative Abatement Standards

(a) At any time during or after the submission of a Stage 2 abatement plan, the responsible person may file a petition seeking approval of alternative abatement standard(s) for the standards set forth in Paragraphs (1) and (2) above. The Division may approve alternative abatement standard(s) if the petitioner demonstrates that:

(i) either: compliance with the abatement standard(s) is/are not feasible, by the maximum use of technology within the economic capability of the responsible person; or there is no reasonable relationship between the economic and social costs and benefits (including attainment of the standard(s) set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC to be obtained, and

(ii) the proposed alternative abatement standard(s) is/are technically achievable and cost-benefit justifiable; and

(iii) compliance with the proposed alternative abatement standard(s) will not create a present or future hazard to public health or undue damage to property.

(b) The petition shall be in writing, filed with the Division Environmental Bureau Chief. The petition may include a transport, fate and risk assessment in accordance with accepted methods, and other information as the petitioner deems necessary to support the petition. The petition shall:

(i) state the petitioner's name and address;

(ii) state the date of the petition;

(iii) describe the facility or activity for which the alternate abatement standard(s) is sought;

(iv) state the address or description of the property upon which the facility is located;

(v) describe the water body or watercourse affected by the release;

(iv) identify the abatement standard from which petitioner wishes to vary;

(vii) state why the petitioner believes that compliance with the regulation will impose an unreasonable burden upon his activity;

(viii) identify the water contaminant(s) for which alternative standard(s) is/are proposed;

(ix) state the alternative standard(s) proposed;

(x) identify the three-dimensional body of water pollution for which approval is sought;

(xi) state the extent to which the abatement standard(s) set forth in Subsection B of ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC is/are now, and will in the future be, violated.

(c) The Division Environmental Bureau Chief shall review the petition and, within sixty (60) days after receiving the petition, shall submit a written recommendation to the Director to approve, approve subject to conditions, or disapprove any or all of the proposed alternative abatement standard(s). The recommendation shall include the reasons for the Division Environmental Bureau Chief's recommendation. The Division Environmental Bureau Chief shall submit a copy of the recommendation to the petitioner by certified mail.

(d) If the Division Environmental Bureau Chief recommends approval, or approval subject to conditions, of any or all of the proposed alternative abatement standard(s), the Division shall hold a public hearing on those standards. If the Division Environmental Bureau Chief recommends disapproval of any or all of the proposed alternative abatement standard(s), the petitioner may submit a request to the Director, within fifteen (15) days after receipt of the recommendation, for a public hearing on those standards. If a timely request for hearing is not submitted, the recommended disapproval shall become a final decision of the Director and shall not be subject to review.

(e) If the Director grants a public hearing, the hearing shall be conducted in accordance with Division hearing procedures.

(f) Based on the record of the public hearing, the Division shall approve, approve subject to condition, or disapprove any or all of the proposed alternative abatement standard(s). The Division shall notify the petitioner by certified mail of its decision and the reasons therefore.

(7) Modification of Abatement Standards. If applicable abatement standards are modified after abatement measures are approved, the abatement standards are modified after abatement measures are approved, the abatement standards that are in effect at the time that abatement measures are approved shall be the abatement standards for the duration of the abatement action, unless the Director determines that compliance with those standards may with reasonable probability create a present or future hazard to public health or the environment. In any appeal of the Director's

determination that additional actions are necessary, the Director shall have the burden of proof.

C. Abatement Plan Required

(1) Unless otherwise provided by Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC all responsible persons who are abating, or who are required to abate, water pollution in excess of the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC shall do so pursuant to an abatement plan approved by the Director. When an abatement plan has been approved, all actions leading to and including abatement shall be consistent with the terms and conditions of the abatement plan.

(2) In the event of a transfer of the ownership, control or possession of a facility for which an abatement plan is required or approved, where the transferor is a responsible person, the transferee also shall be considered a responsible person for the duration of the abatement plan, and may jointly share the responsibility to conduct the actions required by Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC with other responsible persons. The transferor shall notify the transferee in writing, at least thirty (30) days prior to the transfer, that abatement plan has been required or approved for the facility, and shall deliver or send by certified mail to the Director a copy of such notification together with a certificate or other proof that such notification has in fact been received by the transferee. The transferor and transferee may agree to a designated responsible person who shall assume the responsibility to conduct the actions required by Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC. The responsible persons shall notify the Director in writing if a designated responsible person is agreed upon. If the Director determines that the designated responsible person has failed to conduct the actions required by Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, the Director shall notify all responsible persons of this failure in writing and allow them thirty (30) days, or longer for good cause shown, to conduct the required actions before setting a show cause hearing requiring those responsible persons to appear and show cause why they should not be ordered to comply, a penalty should not be assessed, a civil action should not be commenced in district court or any other appropriate action should not be taken by the Division.

(3) If the source of the water pollution to be abated is a facility that operated under a discharge plan, the Director may require the responsible person(s) to submit a financial assurance plan which covers the estimated costs to conduct the actions required by the abatement plan. Such a

financial assurance plan shall be consistent with any financial assurance requirements adopted by the Division.

D. Exemptions From Abatement Plan Requirement

(1) Except as provided in Paragraph (2) below, Subsections C and E do not apply to a person who is abating water pollution:

(a) from an underground storage tank, under the authority of the Underground Storage Tank Regulations [~~(20 NMAC Part 5)~~] (Title 20, Chapter 5) adopted by the New Mexico Environmental Improvement Board, or in accordance with the New Mexico Ground Water Protection Act;

(b) under the authority of the U.S. Environmental Protection Agency pursuant to either the federal Comprehensive Environmental Response, Compensation and Liability act, and amendments, or the Resource Conservation and Recovery Act;

(c) pursuant to the Hazardous Waste Management Regulations [~~(20 NMAC 4.1)~~] (20.4.1 NMAC) adopted by the New Mexico Environmental Improvement Board;

(d) under the authority of the U.S. Nuclear Regulatory Commission or the U.S. Department of Energy pursuant to the Atomic Energy Act;

(e) under the authority of a ground-water discharge plan approved by the Director, provided that such abatement is consistent with the requirements and provisions of Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC, Subsections A, B and E, Paragraphs (3) and (4), and Subsections F and K.

(f) under the authority of a Letter of Understanding, Settlement Agreement or Administrative Order on Consent or other agreement signed by the Director or his designee prior to **(insert effective date of Rule)**, 1997, provided that abatement is being performed in full compliance with the terms of the Letter of Understanding, Settlement Agreement or Administrative Order or other agreement on Consent; and

(g) on an emergency basis, or while abatement plan approval is pending, or in a manner that will likely result in compliance with the standards and requirements set forth in Subsection B within one year after notice is required to be given pursuant to [~~19 NMAC 15.e.116.b~~] Subsection B of 19.15.3.116 NMAC provided that the Division does not object to the abatement action.

(2) If the Director determines that abatement of water pollution subject to Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC, Subsection D, Paragraph (1) will

not met the standards of Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC, Subsection B, Paragraphs (2) and (3) or that additional action is necessary to protect health, welfare, environment or property, the Director may notify a responsible person, by certified mail, to submit an abatement plan pursuant to Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC, Subsections C and E, Paragraph (1). The notification shall state the reasons for the Director's determination. In any appeal of the Director's determination under this Paragraph, the Director shall have the burden of proof.

E. Abatement Plan Proposal

(1) Except as provided for in Subsection D of [~~19.15.5.19~~] 19.15.1.19 NMAC a responsible person shall, within sixty (60) days of receipt of written notice from the Director that an abatement plan is required, submit an abatement plan proposal to the Director for approval. Stage 1 and Stage 2 abatement plan proposals may be submitted together. For good cause shown, the Director may allow for a total of one hundred and twenty (120) days to prepare and submit the abatement plan proposal.

(2) Voluntary Abatement

(a) any person wishing to abate water pollution in excess of the standards and requirements set forth in Subsection B of Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC may submit a Stage 1 abatement plan proposal to the Director for approval. Following approval by the Director of a final site investigation report prepared pursuant to Stage 1 of an abatement plan, any person may submit a Stage 2 abatement plan proposal to the Director for approval.

(b) Following approval of a Stage 1 or Stage 2 abatement plan proposal under E(2)(a) above, the person submitting the approved plan shall be a responsible person under Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC for the purpose of performing the approved Stage 1 or Stage 2 abatement plan. Nothing in Section [~~19.15.5.19 NMAC~~] 19.15.1.19 NMAC shall preclude the Director from applying [~~19 NMAC 15.C.116~~] Subsection D of 19.15.3.116 NMAC to a responsible person if applicable.

(3) Stage 1 abatement plan. The purpose of Stage 1 of the abatement plan shall be to design and conduct a site investigation that will adequately define site conditions, and provide the data necessary to select and design an effective abatement option. Stage 1 of the abatement plan may include, but not necessarily be limited to, the following information depending on the media affected, and as needed to select and implement an expeditious abatement option:

(a) Descriptions of the site, including a site map, and of site history including the nature of the release that caused the water pollution, and a summary of previous investigations;

(b) Site investigation work plan to define:

(i) site geology and hydrogeology, the vertical and horizontal extent and magnitude of vadose-zone and ground-water contamination, subsurface hydraulic conductivity, transmissivity, storativity, and rate and direction of contaminant migration, inventory of water wells inside and within one (1) mile from the perimeter of the three-dimensional body where the standards set forth in Subsection B, Paragraph (2) are exceeded, and location and number of such wells actually or potentially affected by the pollution; and

(ii) surface-water hydrology, seasonal stream flow characteristics, groundwater/surface-water relationships, the vertical and horizontal extent and magnitude of contamination and impacts to surface water and stream sediments. The magnitude of contamination and impacts on surface water may be, in part, defined by conducting a biological assessment of fish, benthic macro invertebrates and other wildlife populations. Seasonal variations should be accounted for when conducting these assessments.

(c) Monitoring program, including sampling stations and frequencies, for the duration of the abatement plan that may be modified, after approval by the Director, as additional sampling stations are created;

(d) Quality assurance plan, consistent with the sampling and analytical techniques listed in [~~NMAC 6.3107.B~~] Subsection B of 20.6.2.3107 NMAC and with [~~Section 1103~~] 20.6.4.13 NMAC of the Water Quality Standards for Interstate and Intrastate [~~Streams~~] Surface Waters in New Mexico [~~(20 NMAC 6.1)~~] 20.6.4 NMAC, for all work to be conducted pursuant to the abatement plan;

(e) A schedule for all Stage 1 abatement plan activities, including the submission of summary quarterly progress reports, and the submission, for approval by the Director, of a detailed final site investigation report; and

(f) Any additional information that may be required to design and perform an adequate site investigation.

(4) Stage 2 Abatement Plan

(a) Any responsible person shall submit a Stage 2 abatement plan proposal to the Director for approval within sixty (60) days, or up to one hundred and twenty (120) days for good cause shown, after approval by the Director of the final site

investigation report prepared pursuant to Stage 1 of the abatement plan. A stage 1 and 2 abatement plan proposal may be submitted together. The purpose of Stage 2 of the abatement plan shall be to select and design, if necessary, an abatement option that, when implemented, will result in attainment of the abatement standards and requirements set forth in Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection B including post-closure maintenance activities.

(b) Stage 2 of the abatement plan should include, at a minimum, the following information:

- (i) brief description of the current situation at the site;
- (ii) development and assessment of abatement options;
- (iii) description, justification and design, if necessary, of preferred abatement option;
- (iv) modification, if necessary, of the monitoring program approved pursuant to Stage 1 of the abatement plan, including the designation of pre- and post-abatement-completion sampling stations and sampling frequencies to be used to demonstrate compliance with the standards and requirements set forth in Subsection B of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC;
- (v) site maintenance activities, if needed, proposed to be performed after termination of abatement activities;
- (vi) a schedule for the duration of abatement activities, including the submission of summary quarterly progress reports;
- (vii) a public notification proposal designed to satisfy the requirements of Section 19.15.1.19 NMAC, Subsection G, Paragraphs (2) and (3);
- (viii) any additional information that may be reasonably required to select, describe, justify and design an effective abatement option.

F. Other Requirements

(1) Any responsible person shall allow any authorized representative of the Director, upon presentation of proper credentials and with reasonable prior notice, to:

- (a) enter the facility at reasonable times;
- (b) inspect and copy records required by an abatement plan;
- (c) inspect any treatment works, monitoring and analytical equipment;
- (d) sample any wastes, ground water, surface water, stream sediment, plants, animals, or vadose-zone material including vadose-zone vapor;
- (e) use monitoring systems and wells under such responsible person's con-

trol in order to collect samples of any media listed in Subparagraph (d) above; and

(f) gain access to off-site property not owned or controlled by such responsible person, but accessible to such responsible person through a third-party access agreement, provided that it is allowed by the agreement.

(2) Any responsible person shall provide the Director, or a representative of the Director, with at least four (4) working days advance notice of any sampling to be performed pursuant to an abatement plan, or any well plugging, abandonment or destruction at any facility where an abatement plan has been required.

(3) Any responsible person wishing to plug, abandon or destroy a monitoring or water supply well within the perimeter of the 3-dimensional body where the standards set forth in Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection B, Paragraph (2) of are exceeded, at any facility where an abatement plan has been required, shall propose such action by certified mail to the Director for approval, unless such approval is required from the State Engineer. The proposed action shall be designed to prevent water pollution that could result from water contaminants migrating through the well or borehole. The proposed action shall not take place without written approval from the Director, unless written approval or disapproval is not received by the responsible person within thirty (30) days of the date of receipt of the proposal.

G. Public Notice and Participation

(1) Prior to public notice, the applicant shall give written notice, as approved by the Division, of Stage 1 and Stage 2 abatement plans to the following persons:

- (a) surface owners of record within one (1) mile of the perimeter of the geographic area where the standards and requirements set forth in Subsection B of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC are exceeded;
- (b) the county commission where the geographic area where the standards and requirements set forth in Subsection B of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC are exceeded is located;
- (c) the appropriate city official(s) if the geographic area where the standards and requirements set forth in Subsection B of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC are exceeded is located or is partially located within city limits or within one (1) mile of the city limits;
- (d) those persons, as identified by the Director, who have requested notification, who shall be notified by mail;
- (e) the New Mexico Trustee for

Natural Resources, and any other local, state or federal governmental agency affected, as identified by the Director, which shall be notified by certified mail;

(f) the appropriate Governor or President of any Indian Tribe, Pueblo or Nation if the geographic area where the standards and requirements set forth in Subsection B of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC are exceeded is located or is partially located within tribal boundaries or within one (1) mile of the tribal boundaries, who shall be notified by certified mail;

(g) the distance requirements for notice may be extended by the Director if the Director determines the proposed abatement plan has the potential to adversely impact public health or the environment at a distance greater than one (1) mile. The Director may require additional notice as needed. A copy and proof of such notice will be furnished to the Division.

(2) Within fifteen days after the Division determines that a Stage 1 abatement plan or a Stage 2 abatement plan is administratively complete, the responsible person will issue public notice in a form approved by the Division in a newspaper of general circulation in the county in which the release occurred, and in a newspaper of general circulation in the State. For the purposes of this paragraph, an administratively complete Stage 1 abatement plan is a document that satisfies the requirements of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection E, Paragraph E (3) and an administratively complete Stage 2 abatement plan is a document that satisfies the requirements of Section ~~[19.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection E, Paragraph (4), Subparagraph (b). The public notice shall include, as approved in advance by the Director:

- (a) name and address of the responsible person;
- (b) location of the proposed abatement;
- (c) brief description of the source extent, and estimated volume of release, whether the release occurred into the vadose zone, ground water or surface water; and a description of the proposed Stage 1 or Stage 2 abatement plan;
- (d) brief description of the procedures followed by the Director in making a final determination;
- (e) statement that a copy of the abatement plan can be viewed by the public at the Division's main office or at the Division's District office for the area in which the release occurred, and a statement describing how the abatement plan can be accessed by the public electronically from a Division-maintained site if such access is available;

(f) statement that the following comments and requests will be accepted for consideration if received by the Director within thirty (30) days after the date of publication of the public notice:

(i) written comments on the abatement plan; and

(ii) for a Stage 2 abatement plan, written requests for a public hearing that include reasons why a hearing should be held.

(g) address and phone number at which interested persons may obtain further information.

(3) Any person seeking to comment on a Stage 1 abatement plan, or to comment or request a public hearing on a Stage 2 abatement plan, must file written comments or hearing requests with the Division within thirty (30) days of the date of public notice, or within thirty (30) days of receipt by the Director of a proposed significant modification of a Stage 2 abatement plan. Requests for a public hearing must set forth the reasons why a hearing should be held. A public hearing shall be held if the Director determines that there is significant public interest or that the request has technical merit.

(4) The Division will distribute notice of the filing of an abatement plan with the next Division and Commission hearing docket following receipt of the plan.

H. Director Approval Or Notice Of Deficiency Of Submittals

(1) The Director shall, within sixty (60) days of receiving an administratively complete Stage 1 abatement plan a site investigation report, a technical infeasibility demonstration, or an abatement completion report, approve the document, or notify the responsible person of the document's deficiency, based upon the information available.

(2) If no public hearing is held pursuant to Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection G, Paragraph (3) then the Director shall, within ninety (90) days of receiving a Stage 2 abatement plan proposal, approve the plan, or notify the responsible person of the plan's deficiency, based upon the information available.

(3) If a public hearing is held pursuant to Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, Subsection G, Paragraph (3) then the Director shall, within sixty (60) days of receipt of all required information, approve Stage 2 of the abatement plan proposal, or notify the responsible person of the plan's deficiency, based upon the information contained in the plan and information submitted at the hearing.

(4) If the Director notifies a responsible person of any deficiencies in a

site investigation report, or in a Stage 1 or Stage 2 abatement plan proposal, the responsible person shall submit a modified document to cure the deficiencies specified by the Director within thirty (30) days of receipt of the notice of deficiency. The responsible person shall be in violation of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC if he fails to submit a modified document within the required time, or if the modified document does not make a good faith effort to cure the deficiencies specified by the Director.

(5) Provided that the other requirements of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC are met and provided further that Stage 2 of the abatement plan, if implemented, will result in the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC being met within a schedule that is reasonable given the particular circumstances of the site, the Director shall approve the plan.

I. Investigation And Abatement - Any responsible person who receives approval for Stage 1 and/or Stage 2 of an abatement plan shall conduct all investigation, abatement, monitoring and reporting activity in full compliance with Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC and according to the terms and schedules contained in the approved abatement plans.

J. Abatement Plan Modification

(1) Any approved abatement plan may be modified, at the written request of the responsible person, in accordance with Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, and with written approval of the Director.

(2) If data submitted pursuant to any monitoring requirements specified in the approved abatement plan or other information available to the Director indicates that the abatement action is ineffective, or is creating unreasonable injury to or interference with health, welfare, environment or property, the Director may require a responsible person to modify an abatement plan within the shortest reasonable time so as to effectively abate water pollution which exceeds the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, and to abate and prevent unreasonable injury to or interference with health, welfare, environment or property.

K. Completion and Termination

(1) Abatement shall be considered complete when the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC are met. At that time, the responsible person

shall submit an abatement completion report, documenting compliance with the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC, to the Director for approval. The abatement completion report also shall propose any changes to long-term monitoring and site maintenance activities, if needed, to be performed after termination of the abatement plan.

(2) Provided that the other requirements of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC are met and provided further that the standards and requirements set forth in Subsection B of Section ~~[49.15.5.19 NMAC]~~ 19.15.1.19 NMAC have been met, the Director shall approve the abatement completion report. When the Director approves the abatement completion report, he shall also notify the responsible person in writing that the abatement plan is terminated.

L. Dispute Resolution - In the event of any technical dispute regarding the requirements of Section 19.15.3.116 NMAC, Subsections B, D, E, J, or K (above) ~~or 116.D~~, including notices of deficiency, the responsible person may notify the Director by certified mail that a dispute has arisen, and desires to invoke the dispute resolution provisions of this Paragraph, provided that such notification must be made within thirty (30) days after receipt by the responsible person of the decision of the Director that causes the dispute. Upon such notification, all deadlines affected by the technical dispute shall be extended for a thirty (30) day negotiation period, or for a maximum of sixty (60) days if approved by the Director for good cause shown. During this negotiation period, the Director or his/her designee and the responsible person shall meet at least once. Such meeting(s) may be facilitated by a mutually agreed upon third party, but the third party shall assume no power or authority granted or delegated to the Director by the Oil and Gas Act or by the Division or Commission. If the dispute remains unresolved after the negotiation period, the decision of Director shall be final.

M. Appeals From Director's and Division's Decisions

(1) If the Director determines that (i) an abatement plan is required pursuant to ~~[Rule 116.D or]~~ Subsection D ~~[Paragraph (2) of 49.15.5.19 NMAC]~~ of 19.15.3.116 NMAC, (ii) approves or provides notice of deficiency of a proposed abatement plan, technical infeasibility demonstration or abatement completion report, or (iii) modifies or terminates an approved abatement plan, he shall provide written notice of such action by certified mail to the responsible person and any person who participated in the action.

(2) Any person who participated in the action before the Director and who is adversely affected by the action listed in Paragraph (1) above may file a petition requesting a hearing before a Division Examiner.

(3) The petition shall be made in writing to the Division and shall be filed with the Division within thirty (30) days after receiving notice of the Director's action. The petition shall specify the portions of the action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered to the Director, and to the applicant or permittee if the petitioner is not the applicant or permittee, and attach a copy of the action for which review is sought. Unless a timely petition for hearing is made, the Director's action is final.

(4) The hearing before the Division shall be conducted in the same manner as other Division hearings.

(5) The cost of the court reporter for the hearing shall be paid by the petitioner.

(6) Any party adversely affected by any order by the Division pursuant to any hearing held by an Examiner, shall have a right to have such matter heard *de novo* before the Commission.

(7) The appeal provisions do not relieve the owner, operator or responsible person of their obligations to comply with any federal or state laws or regulations. [3-15-97; 6-30-97; 19.15.1.19 NMAC - Rn, 19 NMAC 15.A.19, 5-15-01; A, 3-15-02]

NEW MEXICO INFORMATION TECHNOLOGY COMMISSION

TITLE 1 GENERAL GOV- ERNMENT ADMINISTRATION CHAPTER 12 INFORMATION TECHNOLOGY PART 8 NOTIFICATION OF INTERNET PROTOCOL ADDRESSES

1.12.8.1 ISSUING AGENCY. Information Technology Commission. [1.12.8.1 NMAC - N, 03-15-02]

1.12.8.2 SCOPE. This rule applies to all state agencies, boards, and commissions to whom the General Services Department provides Internet access. [1.12.8.2 NMAC - N, 03-15-02]

1.12.8.3 STATUTORY AUTHORITY. NMSA 1978 Section 15-1C-5. [1.12.8.3 NMAC - N, 03-15-02]

1.12.8.4 DURATION. Permanent. [1.12.8.4 NMAC - N, 03-15-02]

1.12.8.5 EFFECTIVE DATE. March 15, 2002 unless a later date is cited at the end of a section. [1.12.8.5 MAC - N, 03-15-02]

1.12.8.6 OBJECTIVE. The purpose of this rule is to provide the underlying data necessary to provide Internet security for state agencies, boards and commissions. [1.12.8.6 MAC - N, 03-15-02]

1.12.8.7 DEFINITIONS. As used in this rule:

A. access protocols means the standard set of protocols and ports for all types of access as defined by the Internet Architecture Board of the Internet Society International Board; including, but not limited to: http, https, remote terminal (telnet), simple mail transport protocol (SMTP), and file transfer protocol (FTP).

B. internet means a decentralized, global network of computers linked through the use of common communications protocols. The Internet allows users worldwide to exchange messages, data, and images.

C. internet protocol (IP) means the set of conventions that govern the interaction among processes, devices and components of the Internet.

D. internet protocol (IP) number means a unique number consisting of four (4) parts separated by dots. Every computer connected to the Internet has a unique IP number.

E. ISD-OC means the General Services Department, Information Systems Division, Office of Communications.

F. network devices means all servers, workstations, and peripheral devices that are connected to the Internet.

G. protocol means a set of rules and formats, semantic and syntactic, that govern the interaction among processes, devices and components, and allow information systems to exchange information with one another.

H. Security and Privacy Advisory Committee means the standing committee of the Commission.

I. threat means an activity, deliberate or unintentional, with the potential for causing harm to an automated information system or activity. [1.12.8.7 NMAC - N, 03-15-02]

1.12.8.8 RESPONSIBILITIES

OF STATE AGENCIES.

A. Agencies shall submit to the Director of ISD-OC and the CIO a written listing (preferably in an Excel spreadsheet) of all agency IP addresses and the access protocols of all network devices that allow access to the public Internet.

B. Agencies shall inform the Director of ISD-OC and the CIO in writing of all new IP addresses, their devices and their access protocols within three (3) working days of implementation. [1.12.8.8 NMAC - N, 03-15-02]

1.12.8.9 RESPONSIBILITIES OF ISD-OC. ISD-OC will deny access from and to the public Internet for access protocols not specifically reported to ISD-OC and the CIO. [1.12.8.9 NMAC - N, 03-15-02]

1.12.8.10 RESPONSIBILITIES OF THE CIO.

A. The CIO will maintain a listing of all IP addresses and access protocols by agency.

B. The listing will be protected as confidential information. [1.12.8.10 NMAC - N, 03-15-02]

1.12.8.11 REponsibility OF THE COMMISSION. The Security and Privacy Advisory Committee will recommend to the Commission for their approval access protocols, in addition to those defined in 1.12.8.7 NMAC, subject to this rule. [1.12.8.11 NMAC - N, 03-15-02]

1.12.8.12 NOTICE OF ADDITIONAL ACCESS PROTOCOLS. Except in response to an active threat, within five (5) working days of approval by the Commission of additional access protocols subject to this rule, the Office shall:

A. post a notice of approved access protocols subject to this rule on the Internet at its internet address;

B. notify all persons on the electronic distribution list of approved access protocols subject to this rule; and

C. mail or fax a hard copy of the approved access protocols subject to this rule to any person requesting them in writing or by telephone. [1.12.8.12 NMAC - N, 03-15-02]

1.12.8.13 EXEMPTION. There are no exemptions from this rule. [1.12.8.13 NMAC - N, 03-15-02]

HISTORY OF 1.12.8 NMAC: Reserved.

NEW MEXICO BOARD OF NURSING

This is an amendment to Sections 16.12.2.10, 16.12.2.13, 16.12.2.14 and 16.12.2.15 NMAC. This action amends these Sections by removing unnecessary language and adding new language due to changes in the role in accordance with the current (NMAC) New Mexico Administrative Code Requirements.

16.12.2.10 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES:

Licensure with the NM board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the nursing practice act.

A. Prerequisites for licensure of RNs and LPNs by examination in NM.

(1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or graduation from a program which is equivalent to an approved program of nursing in the United States.

(a) RN and PN graduates from non-U.S. nursing programs must have an evaluation of their nursing education credentials sent to the NM board of nursing directly from a board-recognized educational credentialing agency.

(b) RN applicants educated in non-U.S. nursing programs may submit a copy, certified by a notary, of the commission of graduates of foreign nursing school's (CGFNS) examination certificate in lieu of an evaluation of their educational credentials.

(2) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee and passport photograph.

(3) Completion of NCLEX application for the testing service according to instructions.

B. Nationwide criminal background check. Applicants for initial licensure in New Mexico are subject to a state and national criminal background check at their cost.

(1) Furnish directly to the board, two full sets of fingerprints on fingerprint cards issued by the board.

(2) Complete and sign a release of information on the authorization for criminal background check application.

(3) Submit the required fee.

(4) Submit two (2) full sets of fingerprints, signed authorization for criminal background check and fee.

(5) The board must receive results of the criminal background check prior to issuance of the license.

(6) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant will be notified to submit copies of legal documents and other related information to the board who will make the determination if the applicant is eligible for licensure.

C. Complete application for licensure by examination, certification of eligibility for graduation or official transcript and fee must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded or to be awarded, must be received in the board office directly from the registrar's office.

D. Results of the examination shall be reported, by mail, to the individual applicant within four (4) weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program, and boards of nursing unless otherwise instructed, in writing, by applicant.

E. An initial license shall be valid for two (2) years.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

H. Permits-to-practice may be issued for employment at a specific institution(s) in NM. Permits are mailed directly to the NM employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) Complete the application process to take the NCLEX within twelve (12) weeks of graduation. The permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed twenty-four (24) weeks from the date of application.

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit to practice in New Mexico for a period not to exceed twenty-four (24) weeks from the date of application.

(c) Assume that prospective NM employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific NM employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse.

(d) Submit fingerprint cards and documents to initiate a state and national

criminal background check.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a) Candidates who successfully complete the National Licensure Examination will not receive the results until the board has received the report on the state and national criminal background check.

(b) Candidates who were not successful on the National Licensure Examination will receive the results as soon as they are available.

(5) Applicants who hold a graduate permit and do not become licensed prior to expiration date of the permit, may not continue to practice as a graduate nurse or graduate practical nurse.

I. Applicants who fail the examination may apply to retake the examination a maximum of four (4) times per year, but must wait ninety-one (91) days to retest.

(1) A fee will be charged by the board for all reexaminations.

(2) Applicants for reexamination must meet all NCLEX requirements for retaking the examination.

J. National council licensing examination

(1) Applicants for licensure as RNs shall be required to pass the NCLEX for RNs.

(2) Applicants for licensure as PNs shall be required to pass the NCLEX for PNs.

(3) Applicants observed giving and/or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

K. Prerequisites for licensure of registered nurses and licensed practical nurses by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include:

(a) Graduation from an approved nursing program or a nursing program which is equivalent to an approved program of nursing in the United States, and

(b) Initial licensure by passing a national licensure examination in English or a state constructed licensure examination prior to October 1986.

(2) Applicants from licensing authorities which do not verify graduation from a nursing education program, must assure that a final transcript is sent to the board of nursing DIRECTLY from the edu-

cational institution or custodian of records verifying graduation from an approved nursing program or equivalent, or

(3) RN and PN graduates from non-U.S. nursing programs must request an evaluation of their nursing education credentials be sent to the NM board of nursing DIRECTLY from a board-recognized educational credentialing agency. RN and PN graduates in non-U.S. nursing programs may submit a copy, certified by a notary, of the commission on graduates of foreign nursing schools' (CGFNS) examination certificate in lieu of an evaluation of the educational credentials.

(4) Complete and submit the required application for licensure by endorsement in accordance with all instructions, including the required fee and passport photograph.

(5) Complete and submit two full sets of fingerprints, the authorization for criminal background check, and the fee in accordance with all instructions found in subsection B, 16.12.1.10 NMAC.

L. Qualifications for licensure as a RN or PN are pursuant to the nursing practice act.

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements.

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in NM by endorsement providing their DD-214 shows the related civilian occupation to be "LPN."

(3) Applicants for endorsement into NM, must meet one of the following requirements: (a) have received initial licensure by successfully writing the national licensing examination within the immediate past two (2) years, or (b) have been engaged in nursing a minimum of 400 hours within the immediate past two (2) years. Applicants who have not met the work requirements MUST complete a board-approved refresher course or its equivalent as determined by the board. (Refer to subsection F of 16.12.2.11 NMAC)

(4) Continuing education is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal.

(5) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

M. A permit-to-practice may be issued, by mail only to a New Mexico employer(s), for an endorsee awaiting results of the national licensing examination or the English equivalent from another country.

(1) Written verification must be received DIRECTLY from the licensing

authority: (a) that the applicant applied for the licensing examination within twelve (12) weeks of graduation and is eligible for licensure, or (b) that the first licensing examination after completion of nursing education has been applied for or taken.

(2) Assure prospective NM employer(s) submits a letter of intent to employ, on agency letterhead, indicating the name of the specific NM employing institution and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse.

(3) Meeting all other endorsement requirements.

(4) A permit-to-practice shall be valid from date of issuance until the applicant's examination results and licensure status have been verified by the other state or country, but shall not exceed twenty-four (24) weeks from the date of graduation.

N. A temporary license may be issued to an endorsee upon submission of a notary-certified copy of a current, valid nursing license, or an affidavit of current licensure, which meets the following criteria. (a) verification of current licensure with an expiration date of not less than thirty-one (31) days and no stipulations or restrictions, (b) name of issuing jurisdiction, and (c) category of licensure and license number.

O. A letter, on agency letterhead verifying intent to employ, must be received from each NM employer verifying intent to employ.

(1) Verbal verification of intent to employ, must be followed by a written verification.

(2) The name of employing institution shall be indicated on the temporary verification.

(3) The board will mail the temporary license to the employing agency.

(4) A temporary license is valid for a period not to exceed six (6) months from the date of application.

(5) A temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action.

(6) Applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license.

(7) The discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

P. An initial license shall be valid for two (2) years.

Q. If the licensure process is not completed, the application becomes null and void one (1) year after date of last

noted activity.

R. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in NM without making application for a NM license for a period not to exceed thirty (30) days.

S. Requirements for relicensure. Applicants for relicensure must meet CE and work requirements as stated in these rules, pursuant to the nursing practice act [Section 61-3-24 NMSA 1978].

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two (2) years. Nurses whose renewal month is their birth month shall continue to renew during their birth month unless the renewal process is completed after the last day of their birth month.

(2) A renewal application form shall be mailed to the licensee at least six (6) weeks prior to the end of the renewal month.

(a) The renewal application form may be accepted no more than sixty (60) days prior to the expiration date of the license.

(b) Failure to receive the application for renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(c) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in NM until the lapsed licensed has been reactivated.

(3) Thirty (30) hours of approved CE must be accrued within the 24 months immediately preceding expiration of license.

(a) Certified nurse practitioners must complete a total of 50 hours of approved CE each renewal.

(b) Certified RN anesthetists must submit a copy of the recertification card issued by AANA council on recertification for renewal of the CRNA license.

(c) Clinical nurse specialist must complete a total of 50 hours of approved continuing education each renewal.

(d) **Exception:** if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, in a combat zone, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) In order to meet the work requirements for relicensure of a RN or LPN license, the applicant must:

(a) have been engaged in nursing a minimum of 400 hours during the immediate past two (2) years preceding relicensure, or

(b) have received initial licensure by successfully taking the national licensing examination within the immediate past two (2) years, or

(c) have completed a board-approved refresher course or equivalent, which will meet: (1) the continuing education requirements for the renewal period in which it was completed, and (2) the work requirement for up to two (2) years from the date of completion.

(5) Individuals who reside out-of-state, but wish to maintain a current, valid NM license, must meet the same requirements for licensure as licensees residing within the state.

(6) **Penalty:** Failure of licensee to meet the CE or work requirements for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE and work or refresher course requirements have been met, an application for licensure may be submitted for consideration.

(7) Licenses are issued by mail only.

T. Requirements for reporting lost-stolen licenses/name-address change, and requesting duplicate license.

(1) **Lost/stolen license:** Licensee is required to give immediate notification to the board office of lost or stolen license.

(2) **Address change:** Immediate notification of address change **must be made**, to the board office.

(3) **Name change:** Nurse must use name as it appears on current license.

(a) Duplicate may be requested upon change of name, or

(b) Name may be changed when license is renewed.

(4) Procedure for obtaining a duplicate license.

(a) Submit a written request for a duplicate license including the following information: Licensee's name, date of birth, nursing license number, social security number, address, and mother's maiden name.

(b) Submit a copy of the legal document required for name change (ONLY recorded marriage certificate, divorce decree or court order accepted).

(c) Remit the required fee.

(d) Duplicate license may be reissued, within a given renewal period, ONLY upon return of the previously issued duplicate.

(e) Duplicate licenses are issued by mail only.

U. Reactivation/reinstatement

(1) Applicant for reactivation or reinstatement of a lapsed license must meet the requirements for relicensure pursuant to the nursing practice act and these rules. A

reactivated or reinstated license shall be valid for two (2) years.

(2) Licensees who have not actually been engaged in nursing a minimum of 400 hours in the immediate past two (2) years, must successfully complete a board-approved refresher course or its equivalent as determined by the NM board to reactivate the nursing license. (Refer to subsection F of 16.12.2.11 NMAC)

[1-1-98; 16.12.2.10 NMAC – Rn & A, 16 NMAC 12.2.10, 7-30-01; A, 12-31-01; A, 04-01-02]

16.12.2.13 CERTIFIED NURSE PRACTITIONER (CNP)

A. Requirements for licensure of nurse practitioners.

(1) Hold a current, valid NM RN license.

(2) Successfully complete a formal program designed for the education and preparation of nurse practitioners as providers of primary, and/or acute, and/or chronic, and/or long-term, and/or end of life health care.

(a) The program must be offered through an accredited institution of higher education or through the armed services.

(b) The program must be one full academic year of full-time study with approximately 1/3 of the program devoted to didactic and 2/3 to a preceptorship with a physician and/or certified (licensed) nurse practitioner. Didactic hours must include twenty-four (24) contact hours of pharmacology. NOTE: One academic hour equals fifteen (15) contact hours.

(c) If the applicant is initially licensed by any board of nursing including the NM board of nursing after January 1, 2001 the program must be at the master's level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(3) Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in NM if the applicant provides satisfactory evidence of two (2) years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure

as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the NM nurse practitioner licensure application and submit it along with all required documents.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in NM as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or NM CNP or CNS in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued by mail only to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be mailed directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred, renewed or a duplicate issued.

(7) GNP permits expire on the date specified on the permit.

(a) Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request

that the national certifying organization notify the board of the results of the examination.

(b) The permits for new graduates may be valid for a period not to exceed two (2) years.

D. A license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board prior to the expiration of the permit.

E. Exclusion: Nurse practitioners with lapsed national certification are not eligible for a permit to practice.

F. Prerequisites for licensure of CNP by endorsement.

(1) Verification DIRECTLY from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) Documentation directly from that licensing authority that the state does not issued advanced practice licensure ~~for~~ and

~~[(b)] [Verification of nurse practitioner education form directly from the nurse practitioner program.]~~

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

G. Qualifications for licensure as CNP are pursuant to the nursing practice act.

(1) Refer to subsection A, 16.12.2.13 NMAC for licensure requirements.

(2) Applicants for endorsement into NM, must meet one of the following requirements:

(a) Have received initial licensure as a nurse practitioner within the immediate past two (2) years or

(b) Have been engaged in nursing as a nurse practitioner a minimum of 400 hours within the immediate past two years. Applicants who have not met the work requirements MUST complete a board-approved refresher course or its equivalent as determined by the board. Refer to subsection N, 16.12.2.13 NMAC.

(3) Continuing education is not required for initial CNP licensure by endorsement. CE requirements must be met

at the time of the first renewal.

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

H. A CNP permit-to-practice may be issued, by mail only, to a New Mexico employer(s) for an endorsee awaiting results on successful completion of national certification. Refer to subsection B and C of 16.12.2.13 NMAC for procedure and requirements.

I. A temporary nurse practitioner license may be issued to an endorsee who:

(1) Submit a notary-certified copy of a current, valid nurse practitioner license, or an affidavit of current nurse practitioner licensure, which meets the following criteria:

(a) Verification of current licensure with an expiration date of not less than thirty-one (31) days and no stipulations or restrictions,

(b) Name of issuing jurisdiction, and

(c) Category of licensure and license number.

(2) Submits a copy of current national certification as a nurse practitioner. The following exceptions can be made:

(a) Nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification, or

(b) When the state of former advanced practice licensure does not require national certification. Proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued.

J. A letter of intent to employ on official letterhead must be received from each NM employer.

(1) The board will mail the temporary license to the employing agency.

(2) The name of the agency will be included on the TL.

(3) A temporary license is valid for a period not to exceed six (6) months from the date of application.

(4) A temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action.

(5) Applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license.

(6) The discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

K. An initial nurse practitioner

license shall be valid for two (2) years.

L. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

M. Authorization to expand scope of practice

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed NM CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued by mail only to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice.

N. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified.

(2) Continuing education

(a) The CNP shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a NP may not be used to fulfill any portion of the CE requirement.

(i) Thirty (30) contact hours shall meet the requirements for licensure as a RN, and

(ii) an additional twenty (20) contact hours, 15 of which must be pharmacology, shall meet the requirements for licensure as a nurse practitioner.

(b) The CE shall be in accordance with the requirements as set forth in these rules.

(3) Work requirement. The CNP must practice a minimum of four-hundred (400) hours in his/her area of specialty each renewal period and indicate such at the time of license renewal.

O. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements and completing 400 hours of practice under direct supervision in the appropriate specialty area. The supervised practice must be completed within six (6) months and a limited license will be issued for the duration of the supervised practice. NPs licensed by the board after December 2, 1985 must also provide evidences of current national certification.

P. Nurse practitioner practice

(1) The CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP provides primary and/or acute, and/or chronic, and/or long-term, and/or end of life health care to meet the health care needs of individuals, families and communities in any health care setting. -

(3) The CNP may assume specific functions and/or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function and/or procedure emanates from a recognized body of knowledge and/or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and/or performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may

prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting.

(i) All CNPs must maintain a current formulary with the board of nursing.

(ii) The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non compliant with the audit.

(c) Prescription pads. The CNP's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNP is using a prescription pad printed with the names of more than one CNP, the name of the CNP for the individual prescription shall be indicated.

(d) Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained

in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate nurse practitioner (GNP) practice

(a) GNPs may not distribute medications.

(b) GNPs may practice and/or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) A list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy.

(b) Violation of these rules and/or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall annually appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel.

[1-1-98; 16.12.2.13 NMAC – Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02]

16.12.2.14 CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA)

A. Requirements for licensure as a CRNA

(1) Hold a current, valid or NM RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The AANA Council on Accreditation of Nurse Anesthetist Educational Programs/Schools must

accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the NM board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national qualifying examination as described by the AANA Council on Certification of Nurse Anesthetists.

(5) It is the responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the NM certified registered nurse anesthetist licensure application and submit it along with all required documents.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in NM as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except national AANA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the AANA Council on Certification of Nurse Anesthetists.

(2) GRNAs must function in an

interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued by mail only to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be mailed directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred, renewed or a duplicate be issued.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within 3 weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in NM and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of AANA certification. Such proof must be submitted to the board prior to the expiration of the permit.

E. Exclusion: Certified registered nurse anesthetists with lapsed AANA certification are not eligible for a permit-to-practice.

F. Prerequisites for licensure of CRNA by endorsement.

(1) Verification DIRECTLY from

the licensing authority, which shall include graduation from an AANA Council on Accreditation of Nurse Anesthetist Educational Program/School.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of AANA certification/recertification.

(4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

G. Qualifications for licensure as CRNA are pursuant to the nursing practice act.

(1) Refer to subsection A, 16.12.2.14 NMAC for licensure requirements.

(2) Recertification by AANA Council on Recertification of Nurse Anesthetists is accepted for endorsement into NM for meeting mandatory practice requirements. Applicants who have not met the practice requirements MUST complete a board-approved refresher course or its equivalent as determined by the board. Refer to subsection M, 16.12.2.14 NMAC.

(3) Continuing education is not required for initial CRNA licensure by endorsement. CE requirements must be met at the time of first renewal. Recertification by AANA Council on Recertification of Nurse Anesthetists will meet the mandatory CE requirements for CRNA licensure.

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

H. A GRNA permit-to-practice may be issued, by mail only, to a New Mexico employer(s) for an endorsee awaiting results on successful completion of AANA national certification. Refer to subsection B and C, 16.12.2.14 NMAC for procedure and requirements.

I. A temporary certified registered nurse anesthetist license may be issued to an endorsee who:

(1) Submits a notary-certified copy of a current, valid certified registered nurse anesthetist license, or an affidavit of current nurse practitioner licensure, which meets the following criteria:

(a) Verification of current licensure with an expiration date of not less than

thirty-one (31) days and no stipulations or restrictions,

(b) Name of issuing jurisdiction, and

(c) Category of licensure and license number.

J. A letter of intent to employ on official letterhead must be received from each NM employer.

(1) The name of the employing institution shall be indicated on the temporary license.

(2) The board will mail the temporary license to the employing agency.

(3) A temporary license is valid for a period not to exceed six (6) months from the date of application.

(4) A temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action.

(5) Applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license.

(6) The discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

K. An initial certified registered nurse anesthetist license shall be valid for two (2) years.

L. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

M. Maintaining licensure as a certified registered nurse anesthetist

(1) National Certification: CRNAs must maintain AANA Council on Recertification of Nurse Anesthetist. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing Education/Work Requirement: Recertification by AANA Council on Recertification of Nurse Anesthetist is accepted for meeting mandatory CE and practice requirements.

N. Reactivation: To reactivate or reinstate licensure as a certified registered nurse anesthetist, the nurse must provide evidence of current recertification by the AANA Council on Recertification of Nurse Anesthetists. Individuals who have not met the work requirements for recertification must complete a preceptorship under the direct supervision of a CRNA or physician. A limited license will be issued for the duration of the supervised preceptorship.

O. Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, includ-

ing ordering of diagnostic tests, in accordance with the current American Association of Nurse Anesthetists' guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in NM.

(3) The CRNA may assume specific functions and/or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function and/or procedure emanates from a recognized body of knowledge and/or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and/or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship

with a CRNA or physician. The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current DEA number. CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: The formulary will include agents related to the administration of anesthesia and ACLS protocol agents.

(i) All CRNAs must maintain a current formulary with the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c) Prescription pads: The CRNA's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CRNA is using a prescription pad printed with the names of more than one CRNA, the name of the CRNA for the individual prescription shall be indicated.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may NOT distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse

anesthetist practice

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice and/or prescribe/administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy.

(b) Violation of these rules and/or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall annually appoint qualified CRNAs to serve on the board of pharmacy disciplinary panel.

[1-1-98; 16.12.2.14 NMAC – Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02]

16.12.2.15 CLINICAL NURSE SPECIALIST (CNS)

A. Requirements for licensure as a CNS:

(1) Hold a current, valid NM RN license,

(2) Successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education, and

(3) Provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) Successfully complete a national certifying examination in the applicant's area of specialty.

(b) Is certified by a national nursing organization.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: Applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the NM CNS application and submit it along with all requested documents.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the

requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in NM as an CNS until so licensed by the NM board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued by mail only to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be mailed directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred, renewed or a duplicate issued.

(g) GCNS permits expire on the date specified on the permit.

(i) Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(ii) The permit for new graduates may be valid for a period not to exceed two 2 years.

(2) Exclusion: CNS with lapsed national certification are not eligible for a permit to practice.

(3) A license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be

submitted to the board prior to the expiration of the permit.

D. Prerequisites for licensure of CNS by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include graduation from a clinical nurse specialist program in a defined clinical nursing specialty.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept:

(a) Documentation directly from the licensing authority that the state does not issue advanced practice licensure ~~for~~ and

~~[(b)] [Verification of clinical nurse specialist education form directly from the program.]~~

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national certification in a clinical specialty area.

(4) Clinical nurse specialist must comply with requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

E. Qualifications for licensure as a CNS are pursuant to the nursing practice act.

(1) Refer to subsection A, 16.12.15 NMAC for licensure requirements.

(2) Applicants for endorsement into NM must meet one of the following requirements:

(a) Have received initial licensure as a clinical nurse specialist within the immediate past two (2) years or

(b) Have been engaged in nursing as a clinical nurse specialist a minimum of 400 hours within the immediate past two (2) years. Applicants who have not met the work requirements MUST complete a board-approved refresher course or its equivalent as determined by the board. Refer to subsection L, 16.12.2.15 NMAC.

(c) Continuing education is not required for initial CNS licensure by endorsement. CE requirements must be met at the time of the first renewal.

(d) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. A GCNS permit-to-practice may be issued, by mail only, to a New Mexico employer(s) for an endorsee awaiting results on successful completion of national certification. Refer to subsection B and C, 16.12.2.15 NMAC for procedure

and requirements.

G. A temporary clinical nurse specialist license may be issued to an endorsee who:

(1) Submits a notary-certified copy of a current, valid clinical nurse specialist license, or an affidavit of current clinical nurse specialist licensure, which means the following criteria:

(a) Verification of current licensure with an expiration date of not less than thirty-one (31) days and no stipulations or restrictions,

(b) Name of issuing jurisdiction, and

(c) Category of licensure and license number.

(2) Submits a copy of current national certification in a nursing specialty. When the state of former advanced practice licensure does not require national certification a TL can be issued. Proof of national certification in a nursing specialty must be submitted to the board before a license will be issued.

(3) Has not completed, within five years immediately prior to the date of application to the board, a three credit hour pharmacology course at the advanced level or forty-five (45) contact hours advanced level pharmacology continuing education course. Completion of the course is required for licensure.

H. A letter of intent to employ on official letterhead must be received from each NM employer.

(1) The name of the employing institution shall be indented on the temporary license.

(2) The board will mail the temporary license to the employing agency.

(3) A temporary license is valid for a period not to exceed six (6) months from the date of application.

(4) A temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action.

(5) Applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license.

(6) The discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

I. An initial clinical nurse specialist license shall be valid for two (2) years.

J. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

K. Authorization to

expand scope of practice

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS practice provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or NM CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued by mail only to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice.

L. Maintaining licensure as a clinical nurse specialist

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education

(a) The CNS shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a CNS may not be used to fulfill any portion of the CE requirement.

(b) Thirty (30) contact hours, shall meet the requirements for licensure as an RN and

(c) An additional twenty (20) contact hours, 15 of which must be pharmacology, shall meet the requirements for licensure as a CNS.

(d) The CE shall be in accordance with the requirements as set forth in these

rules.

(3) Work requirement: The CNS must practice a minimum of 400 hours in the specialty each renewal period and indicate such at the time of their license renewal.

(4) Reactivation. To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements and completing 400 hours of practice under the direct supervision in the appropriate specialty area. The supervised practice must be completed within six months and a limited license will be issued for the duration of the supervised practice. Evidence of current national certification must also be provided.

M. Clinical nurse specialist practice

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing. (Taken from the ANA Social Policy Statement)

(2) The CNS practices in accordance with the standards as established by the ANA.

(3) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(4) The CNS may assume specific functions and/or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function and/or procedure emanates from a recognized body of knowledge and/or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and/or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(5) Carries out therapeutic regimens in the area of the specialty.

(6) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program. Forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology. A certificate of completion must be provided that verifies continuing education or

(ii) If 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board. Forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology. A certificate of completion must be provided that verifies continuing education. The course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease and/or the promotion of health and

(iii) Provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program. The course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans and

(iv) Provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program. The course must be related to the specialty and include content

in physiology and pathophysiology.

(v) Provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board or,

(vi) After fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six (6) months.

(vii) In order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number. CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(viii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting.

(i) All CNSs must maintain a current formulary with the board of nursing.

(ii) The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if noncompliant with the audit.

(c) Prescription pads. The CNS's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNS is using a prescription pad printed with the names of more than one CNS, the name of the CNS for the individual prescription shall be indicated.

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's

care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(7) Graduate clinical nurse specialist (GCNS) practice

(a) GCNSs may not distribute medications.

(b) GCNSs may practice and/or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(8) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) A list of current CNSs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy.

(b) Violation of these rules and/or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall annually appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel.

N. Advanced practice committee

(1) The board may appoint a minimum of a 6-member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of a least two representatives from each advanced practice area regulated by the board.

[1-1-98; 16.12.2.15 NMAC – Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02]

NEW MEXICO BOARD OF NURSING

This is an amendment to Section 16.12.4.8 NMAC. This action amends this Section by removing unnecessary language and adding new language due to changes in the role in accordance with the current (NMAC) New Mexico Administrative Code Requirements.

16.12.4.8 FEES: ~~Payment of fees will be accepted in the form of a money order, cashier's check or cash (in the exact~~

amount) ONLY. Fees are not refundable.

A. Payment of fees will be accepted in the form of a money order, cashier's check or cash (in exact amount) ONLY. Fees are not refundable

A)(1) Initial certification by examination \$30.00

B)(2) Re-examination \$15.00

C)(3) Renewal of certificate \$30.00

D)(4) Reactivation/Reinstatement of certificate \$30.00

E)(5) Initial program review for approval ~~[\$150.00]~~ 200.00

F)(6) Biennial program evaluation and visit ~~[\$75.00]~~ 150.00

B. Annual agency participation fees are determined by a three-step process.

(1) Each agency plus it's satellites is assigned a unit value based on the total number of sites where CHTs are utilized.

(2) The total board of nursing administrative cost is divided by the total number of units assigned to all agencies to determine the cost per unit. (Cost per unit = total board administrative costs by total number of units).

(3) The cost per agency is then determined by multiplying the cost per unit by the unit value assigned to that agency. (Cost per agency = number of assigned unit per one agency x cost per unit).

[1-1-98; 16.12.4.8 NMAC – Rn, 16 NMAC 12.4.8, 7-30-01; A, 04-01-02]

NEW MEXICO BOARD OF NURSING

This is an amendment to Sections 16.12.5.8, 16.12.5.9, 16.12.5.10 and 16.12.5.12 NMAC. This action amends these Sections by removing unnecessary language and adding new language due to changes in the role in accordance with the current (NMAC) New Mexico Administrative Code Requirements.

16.12.5.8 FEES:

A. Payment of fees will ONLY be accepted in the form of a money order, cashier's check or cash, (in the exact amount). Fees are not refundable.

(1) Initial medication aide certification ~~fee~~ by examination \$30.00

(2) Re-examination \$15.00

(3) Renewal of medication aide certificate \$30.00

(4) Reactivation of medication aide certificate \$30.00

(5) Initial training program

review and approval ~~[\$150.00]~~ 200.00

(6) Biennial training program evaluation ~~[\$75.00]~~ 150.00

(7) Initial participant program review and approval ~~[\$100.00]~~ 150.00

(8) Biennial participant program evaluation ~~[\$75.00]~~ 100.00

~~[B.] [Annual agency participation fee formula is the total number of beds per individual participating agency total number of agency beds per all participating facilities = percentage of total board of nursing administrative costs to be paid by individual participating agency.]~~

B. Annual agency participation fees are determined by a three-step process.

(1) Each agency is assigned a unit value based on the number of developmentally disabled supported living consumers/participants who are eligible for medication administration under the Medicaid Waiver program.

(a) An agency with 0-20 eligible consumers/participants is assigned a unit value of one (1).

(b) An agency with 21-40 eligible consumers/participants is assigned a unit value of two (2).

(c) An agency with 40 or more eligible consumers/participants is assigned a unit value of four (4).

(2) The total board of nursing administrative costs is divided by the total number of units assigned to all agencies to determine a cost per unit. (Cost per unit = total board of nursing administrative costs total number of units).

(3) The cost per agency is then determined by multiplying the cost per unit by the unit value assigned to that agency. (Cost per agency = number of assigned units x cost per unit).

[2-15-96, 2-26-99; 16.12.5.8 NMAC – Rn, 16 NMAC 12.5.8, 7-30-01; A, 04-01-02]

16.12.5.9 CERTIFICATION BY EXAMINATION REQUIREMENTS FOR MEDICATION AIDES:

A. Prerequisites:

(1) Be a minimum of eighteen (18) years of age.

(2) Provide documentation of a minimum of 6 months health care experience or experience working with the developmentally disabled, within the last two (2) years.

(3) Successfully complete a state-approved program for the preparation of medication aides.

(4) Complete the required application forms within the deadlines and according to all policies.

(5) Remit the required fee.

(6) Provide proof of current CPR certification.

B. Applications and fees for the medication aide examination must be submitted to the board office at least thirty (30) days prior to the date of the examination.

(1) Applications containing fraudulent or misrepresented information could be the basis for denial of certification.

(2) Incomplete applications for certification become null and void one (1) year after date of last noted activity.

(3) A notarized verification of successful completion, indicating the date of completion of the training portion of the medication aide program, must be received, in the board office directly from the agency which provided the medication aide program, at least thirty (30) days prior to the exam date.

(4) An admission letter, which includes the time, date and place of the examination will be issued to all eligible candidates.

(5) If an applicant is scheduled to write the medication aide examination and is unable to attend, the applicant must be give written notification to the board no later than seven (7) days subsequent to the examination date.

(6) The reexamination fee will be charged for all failed examinations and non-excused absences.

(7) Results of the examination shall be reported, by mail only, to individual applicant approximately four (4) weeks following the examination date. Successful candidates shall also be issued a certificate.

(8) Candidates' examination results will be mailed to employing agencies three (3) working days after release to the candidates.

C. Medication aide certification examination

(1) The board shall develop and maintain the board-approved examination for medication aides.

(2) The examination may be administered monthly by board-approved exam administration centers.

(3) Board-approved examination centers shall comply with the security procedures, developed by the board, for distribution and administration of the examination.

(4) The MAAC shall set the examination dates.

(5) Applicants for certification as a medication aide shall be required to pass the medication aide examination with a minimum of 80% of the items answered correctly.

(6) Failed examinations must be repeated in their entirety on all subsequent attempts.

(7) Unsuccessful candidates may not repeat the examination for two (2) months.

(8) The examination may be ~~repeated~~ taken a maximum of three times. After the third failure, the applicant must provide proof of repeating and completing the training portion of a board-approved medication aide program to be eligible to sit for the exam.

(9) Applicants observed giving and/or receiving unauthorized assistance during the writing of the examination shall be physically removed from the examination center and the individual(s) shall be referred to the board by a sworn complaint(s) filed by the examiner.

D. Requirements for medication aide recertification

(1) Applicants for recertification as a medication aide must meet the continuing education (CE) and work requirements as stated in these rules, pursuant to the NPA [Section 61-3-10.2 and 61-3-10.3 NMSA, 1978]

(2) Medication aides shall be required to complete the renewal process by the end of their renewal month, every two years.

(a) CMAs whose renewal month is their birth month shall continue to renew during their birth month unless the renewal process is completed after the last day of their birth month.

(b) Medication aides with dual certification may return to holding a single certificate at any time. Upon notification of the board, a revised certificate shall be issued reflecting the single certification. The effective certification period will not change.

(3) In order to meet the employment requirement for recertification as a medication aide, the applicant must provide evidence of having administered medications a minimum of 100 hours during the two year period immediately preceding certification renewal.

(4) Remit the required fee.

(5) Sixteen (16) clock hours of CE must be accrued within the two (2) years (renewal period) immediately preceding recertification.

(a) The agency shall provide or create opportunities for this CE.

(b) Acceptable courses shall be those with topics related to medications and medication administration.

(c) The provider shall issue a certificate to medication aides who successfully complete CE activities. The certificate shall include the title of the activity, the dates of the activity, the number of hours of the activity, the name of the provider and the name of the medication aide.

(6) Renewal applications and CE

verification forms shall be mailed to the medication aide at least six (6) weeks prior to the end of the renewal month.

(a) Failure to receive the application for renewal shall not relieve the medication aide of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the medication aide does not hold a valid certificate and shall not function as a medication aide in NM until the lapsed certificate has been reactivated.

(7) Failure to meet the CE requirements for recertification shall result in denial of recertification.

(a) Individuals who do not meet the continuing education requirement, may not function as a medication aide until such time as the CE requirement has been met.

(b) A renewal application, CE verification form, and fee must be submitted, processed, and accepted by the board.

(8) Failure to meet the employment requirement shall result in denial of recertification.

(a) Individuals who have not met the employment requirement may not function as a medication aide, until a twenty-four (24) hour refresher course has been completed and a recertification application and fee have been submitted, processed, and accepted by the board. Completion of a refresher course shall meet both the employment and CE requirement for the renewal period.

(i) Completion of a minimum of twelve (12) hours of classroom studies and twelve (12) hours of supervised clinical practice in a board-approved medication aide program under the direction of a registered nurse.

(ii) Completion of the medication aide training program skills list.

(iii) A passing score of 80% on the agency's final examination.

(b) Failure to meet any of the requirements for the refresher course shall require the individual to complete a board-approved training program curriculum in its entirety.

(9) Certificates are issued by mail only.

(10) Medication aides with expired certificates of over two years duration shall complete the refresher process in order to be recertified. Refresher course requirements are found in attachment B (see 16.12.5.21 NMAC)

E. Requirements for dual certification

(1) A ICF/MR CMA may request certification as a DD Medicaid waiver medication aide upon completion of one hour of orientation training to the DD Medicaid waiver community setting.

(2) A DD Medicaid waiver medication aide may request certification as a certified medication aide upon completion of one hour of orientation training to the ICF/MR setting.

(3) A new certificate indicating both certifications shall be issued that will expire on the date of the initial certification as a medication aide.

(4) Renewal of both certifications shall thereafter fall on the same date.

F. Changes in employment/employer to another ICF/MR or DD Medicaid waiver agency shall be reported in writing to the board of nursing.

(1) The current certificate shall be surrendered to the board of nursing within 10 working days.

(2) Written verification of hire by the new employer on agency letterhead shall be provided to the board of nursing.

(3) An updated certificate reflecting the new employer shall be issued to the certificate holder upon surrender of the current certificate and written verification of hire by the new employer.

[2-15-96, 1-1-98, 2-26-99; 16.12.5.9 NMAC – Rn & A, 16 NMAC 12.5.9, 7-30-01; A, 04-01-02]

16.12.5.10 STANDARDS OF FUNCTIONS FOR THE MEDICATION AIDE:

A. The purpose of this section is to establish standards for the supervision/direction of medication aides; to identify basic functions for the medication aide and; to identify prohibited functions for the medication aide.

B. Authorized functions of the medication aide – medication aides who have been certified by the NM board of nursing may, under the supervision/direction of a registered nurse, administer routine medications with the exception of intramuscular, intravenous, subcutaneous and nasogastric medications.

(1) The medications must have been ordered by a physician, nurse practitioner, physician's assistant or dentist.

(2) The medication must be prepared by the person who will administer it.

(3) The medication must be removed from a previously dispensed properly labeled container and verified with the physician's order.

(4) The resident's identity must be verified before the medication is administered.

(5) The actual act of swallowing must be witnessed.

(6) The medication must be recorded in the resident's chart including: the name of the drug, dose administered, date and time of administration, and any adverse effect of the drug. The person who

administers the drug must affix their signature to the chart.

(7) Drug administration errors must immediately be reported to the registered nurse, by the medication aide.

(8) Adverse reactions must immediately be reported to the registered nurse, by the medication aide.

(9) Administer PRN medications only after contacting and receiving authorization from a physician, dentist, physician's assistant, nurse practitioner, licensed practical or registered nurse to administer the PRN medication. Authorization is required for each individual instance of PRN administration of a medication. In addition to recording the information required in paragraph 6 of subsection B of 16.12.5.10 NMAC, the effectiveness of the drug must also be recorded.

(10) Administer medications via a gastrostomy or jejunostomy tube only after receiving approval for each medication to be administered and direction regarding preparation of the medication from a registered nurse.

(11) Administer medications via nebulizer only after receiving approval for each medication to be administered and direction regarding preparation of the medication from the registered nurse.

(a) The registered nurse shall conduct the initial evaluation and administer the initial treatment of the nebulizer medication.

(b) CMAs shall only administer medication via nebulizer to consumers for chronic conditions.

(c) CMAs shall only administer single unit dose nebulizer medications supplied from the pharmacy.

C. Prohibited functions of the medications aide.

(1) Shall not administer medication by intramuscular, intravenous or subcutaneous routes.

(2) Shall not take medication orders.

(3) Shall not alter medication dosage as ordered by the prescriber.

(4) Shall not administer medications in any agency other than one that serves clients or residents with developmental disabilities in medicaid waiver program, or intermediate care facilities for the mentally retarded that are licensed by the department of health.

(5) Shall not perform any function or service for residents for which a nursing license is required under the nursing practice act.

(6) Shall not administer medications via a nasogastric tube.

(7) Shall not mix nebulizer medications from multi-dose units.

(8) Shall not administer medica-

tion without the supervision/direction of a registered nurse.

D. Supervision/direction

(1) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. A registered nurse shall periodically provide supervision/direction to certified medication aides administering medications as follows:

(a) Instruction regarding medication, dose, time, route, method of administration, documentation, and resident observation.

(b) A registered nurse shall be available 24 hours a day (on call) to supervise medication aides as needed.

(c) For the first six (6) months after a medication aide begins administering medications, observe at least three (3) separate medication passes for each medication aide, every other month, ensure that medications are properly prepared and administered, and to verify that medication aides are performing within their scope of practice. After the first six (6) months, the registered nurse must observe each CMA at least once every 6 month (twice a year). If a medication aide is not administering medications regularly, the nurse must determine an appropriate schedule for observation not to be less than every six (6) months.

(d) Develop and institute a yearly performance evaluation of each CMA. The performance evaluation shall be based upon the standards listed in paragraph 1 of subsection A of 16.12.5.17 NMAC of these rules. The performance evaluation shall also include a review of the number of medication errors committed by the CMA. The performance evaluation process shall be reviewed and approved by the board.

(2) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. A registered nurse shall monitor an agency's medication aides, not less than once every month to include the following:

(a) Review the resident's record.

(b) Review all drug administration errors and incident reports filed since the registered nurse's last review.

(c) Review the controlled substance record.

(d) Meet with each medication aide to review and discuss problems, difficulties, or irregularities in administering medications and to provide appropriate instruction.

(e) Meet with the administrator of the agency to report, review, and discuss problems or irregularities occurring in medication administration.

(f) Prepare and submit to the administrator of the agency and the board of nursing a written, signed report of findings, observations, problems, irregularities, and

recommendations in medication administration.

(g) Submit a written, signed report of medication errors and other safety violations to the board of nursing and the administrator of the agency.

(h) Submit a work schedule for CMAs and the supervising nursing to the board of nursing as requested.

(i) After a period of two (2) years, the registered nurse may begin submitting reports to the board of nursing on a quarterly basis, unless otherwise stipulated.

(3) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. The registered nurse is responsible for assuring the proper procurement of medications. The procedure for procurement of medications must meet the following specifications:

(a) The order to the pharmacy shall be received by written prescription from the prescriber, phoned prescription from the prescriber, or phone request by the RN.

(b) A designated employee shall sign receipts for prescriptions upon delivery.

(c) The registered nurse shall verify that the correct medication has been delivered and transcribed onto the medication administration record for new medications and refills prior to administration of the medication by the CMA to assure that the correct drug has been delivered and that it has been correctly transcribed on the medication administration record.

(4) Agency serving clients or residents with developmental disabilities in Medicaid waiver programs. The registered nurse is responsible for assuring the proper storage of medications. The procedure for storage shall be as follows:

(a) Prescription drugs will be stored in a locked room or cabinet.

(b) Oral medications shall be separated from other dosage forms such as eye drops, lotions, and other external medications.

(c) A locked compartment will be available in the refrigerator for those items labeled "keep in refrigerator".

(d) Proper storage of prescriptions drugs includes separate compartments for the storage of each resident's medications.

(5) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. The registered nurse is responsible for assuring the proper labeling of the medications. The medication container shall be labeled as follows:

(a) According to definition of properly labeled container.

(b) The registered nurse shall double-check the label upon receipt of the

container from the pharmacy.

(6) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. The registered nurse is responsible for assuring the proper record keeping for all medications. Records shall include:

(a) Medical history of the resident.

(b) Information regarding the resident's drug utilization.

(c) Record of resident drug allergies, previous idiosyncratic response, and/or other untoward drug effects.

(d) Receipt journal for all medications which includes the date, resident name, pharmacy name, name of drug, strength and dosage form, prescription number, quantity, prescriber name, directions for use, and initials of person receiving the medication.

(7) Agency serving clients or residents with developmental disabilities in medicaid waiver programs. The registered nurse is responsible for assuring that all general procedures for medications are followed. General procedures shall include:

(a) Return of unused, outdated, discontinued or recalled drugs to the pharmacy for destruction.

(b) Stock bottles of prescription drugs and sample drugs will not be kept in the home.

(8) The licensed practical nurse, under the supervision/direction of the registered nurse may assist and share in the responsibilities of the registered nurse as stated in paragraph 3-7 of subsection D of 16.12.5.10 NMAC. ~~[after completing educational inservice that defines the duties of each in the nursing practice act and rules of the New Mexico board of nursing.]~~

(9) Intermediate care facilities for the mentally retarded that are licensed by the department of health. A registered nurse must provide supervision/direction to certified medication aides administering medications as follows:

(a) Instruction regarding medication, dose, time route, method of administration, documentation, and resident observation.

(b) For the first six (6) months after a medication aide begins administering medications, observe at least one (1) medication pass for each medication aide, to ensure that medications are properly prepared and administered, and to verify that medication aides are performing within their scope of practice. After the first six (6) months, observations of medication aides is at the discretion of the supervising registered nurse. If a medication aide is not administering medications regularly, the nurse must determine an appropriate schedule for observation not to be less than every

six (6) months.

(c) Develop and institute a yearly performance evaluation of each CMA. The performance evaluation shall be based upon the standards listed in paragraph 1 of subsection A of 16.12.5.17 NMAC of these rules. The performance evaluation shall also include a review of the number of medication errors committed by the CMA. The performance evaluation process shall be reviewed and approved by the board.

(10) Intermediate care facilities for the mentally retarded that are licensed by the department of health. A registered nurse must monitor an agency's medication aides, not less than once every month to include the following:

(a) Review the resident's record.

(b) Review all drug administration errors and incident reports filed since the registered nurse's last review.

(c) Review the controlled substance record.

(d) Meet with each medication aide to review and discuss problems, difficulties, or irregularities in administering medications and to provide appropriate instruction.

(e) Meet with the administrator of the agency to report, review, and discuss problems or irregularities occurring in medication administration.

(f) Prepare and submit to the administrator of the agency and the board of nursing a written, signed report of findings, observations, problems, irregularities, and recommendations in medication administration.

(g) Submit quarterly, a written, signed report of medication errors and other safety violations to the board of nursing and the administrator of the agency.

(h) Submit a work schedule for CMAs and the supervising nurse to the board of nursing as requested.

(11) The registered nurse, the licensed practical nurse and the certified medication aide shall complete an agency inservice that defines the duties/responsibilities of each as promulgated in the nursing practice act and administrative rules.

[2-15-96, 1-1-98, 2-26-99, 16.12.5.10 NMAC – Rn & A, 16 NMAC 12.5.10, 7-30-01; A, 04-01-02]

16.12.5.12 APPROVAL OF MEDICATION AIDE PROGRAMS:

A. The purpose of the rules, related to medication aide programs, is to set reasonable requirements that protect the health and well-being of the mentally retarded while facilitating low-cost access to medication services NPA [Section 61-3-10.2, and 61-3-10.3 NMSA, 1978]. The objectives include promoting safe and effective care of residents receiving medica-

tions from CMAs; establishing minimum standards for the evaluation and approval of medication aide programs; facilitating continued approval and improvement of the medication aide programs; granting recognition and approval that a medication aide program is meeting the required minimum standards; and establishing eligibility of graduates of the training portion of a medication aide program to apply for certification by examination.

B. Medication aide participant programs shall meet all criteria for approval except those that are specific to the education/training components of the medication aide training programs that prepare individuals for initial certification as medication aides. Participant programs are subject to denial or withdrawal of program approval, program visits, and shall notify the board of nursing regarding changes in internal administrative or organization plan of the agency, and change in the nursing supervisor responsible for the supervision of medication aide program.

C. All new medication aide training and medication aide participant program approved nurse educators shall participate in an orientation that will be presented by board staff.

D. Medication aide participant programs who wish to utilize certified medication aides may contract with a board-approved medication aide training program to provide the classroom portion of the education program.

(1) Upon completion of classroom study, the nurse educator of the training program will verify to the nurse educator of the participant program that the individual has successfully completed and passed this course of study.

(2) The participant program shall have a board-approved registered nurse educator to supervise and observe the clinical practice experience in the participating agency.

(3) The participant program nurse educator will verify that the individual has successfully completed and passed this part of the program.

(4) The board-approved nurse educator at the participant program shall submit the required documentation to the board of nursing verifying completion of the training and an application to take the certification examination will be submitted by the candidate.

(5) The participant program is responsible for the continued direction and supervision of the medication aide program as provided in these rules.

[2-15-96, 2-26-99; 16.12.5.12 NMAC – Rn & A, 16 NMAC 12.5.12, 7-30-01; A, 04-01-02]

NEW MEXICO BOARD OF PHARMACY

This Part 16 NMAC 19.6, Pharmacies, filed 08-27-1999, is hereby repealed and replaced by 16.19.6 NMAC, effective 03-30-2002.

NEW MEXICO BOARD OF PHARMACY

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 19 PHARMACISTS PART 6 PHARMACIES

16.19.6.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, 1650 University Blvd, NE - Ste. 400B, Albuquerque, NM 87102, (505) 841-9102. [16.19.6.1 NMAC - Rp 16 NMAC 19.6.1, 03-30-02]

16.19.6.2 SCOPE: All pharmacies, resident and nonresident, as defined in 61-11-2 (S), (Y) NMSA 1978, and all persons or entities that own or operate, or are employed by, a pharmacy for the purpose of providing pharmaceutical products or services. [16.19.6.2 NMAC - Rp 16 NMAC 19.6.2, 03-30-02]

16.19.6.3 STATUTORY AUTHORITY: Section 61-11-6(A)(6) NMSA 1978 requires that the Board of Pharmacy provide for the licensing of retail pharmacies and nonresident pharmacies and for the inspection of their facilities and activities. [16.19.6.3 NMAC - Rp 16 NMAC 19.6.3, 03-30-02]

16.19.6.4 DURATION: Permanent [16.19.6.4 NMAC - Rp 16 NMAC 19.6.4, 03-30-02]

16.19.6.5 EFFECTIVE DATE: March 30, 2002, unless a later date is cited at the end of a section. [16.19.6.5 NMAC - Rp 16 NMAC 19.6.5, 03-30-02]

16.19.6.6 OBJECTIVE: The objective of Part 6 of Chapter 19 is to ensure the safe and competent delivery of quality pharmaceutical products and services to the public by establishing standards for the operation of pharmacies, including but not limited to minimum space requirements and standards for equipment, accessories, personnel, dispensing, labeling and advertising. [16.19.6.6 NMAC - Rp 16 NMAC 19.6.6, 03-30-02]

16.19.6.7 DEFINITIONS: [RESERVED]
[16.19.6.7 NMAC - Rp 16 NMAC 19.6.7, 03-30-02]

16.19.6.8 PROCEDURE FOR NEW LICENSURE OF BUSINESS FOR DISTRIBUTION OF DRUGS AND FOR TRANSFER OF OWNERSHIP OF LICENSED BUSINESSES:

A. Applicant shall submit required application and fee to the Board of Pharmacy office.

B. The Board, at its discretion, may require all persons interested in the ownership, operation or management, pursuant to the applicant, to meet with the Board to determine that all persons are qualified and cognizant of the laws and regulations pertaining to the distribution of dangerous drugs.

C. After preliminary approval of the application, the applicant shall submit a "Request for Inspection" and the inspection fee, where applicable, in advance of fourteen days of the requested date for inspection. All subsequent "Request for Inspection" shall be submitted in advance of fourteen days of the requested date for inspection.

D. The Board shall review the license application and the inspection report at its next meeting and shall cause the license to be issued or denied.

E. The license provided for herein shall terminate upon the sale or transfer of ownership. Operation of a business subsequent to the date of such transfer or sale without a new application and approval by the Board shall constitute a violation of the law under 61-11-14(I), and is subject to the penalties contained in the Pharmacy Act. Any pharmacy license exempt from minimum standards by Section 61-11-26 of the Pharmacy Act, will be considered to be a new license upon change of ownership and will be required to meet the standards set forth in the Board of Pharmacy 16.19.6.10, before a new license will be issued for such pharmacy. Note Change in Ownership as defined in 16.19.6.20.

[16.19.6.8 NMAC - Rp 16 NMAC 19.6.8, 03-30-02]

16.19.6.9 PHARMACIST-IN-CHARGE:

A. The term "Pharmacist-in-Charge" means a pharmacist licensee in the State of New Mexico who has been designated Pharmacist-in-Charge pursuant to New Mexico Statute Section 61-11-15. Failure to perform any of the following duties will constitute a violation of 61-11-20(A)(1). It shall be the duty and responsi-

bility of the pharmacist-in-charge consistent with the regulations governing professional conduct and in compliance with all applicable laws and regulations:

(1) To establish for the employees of the pharmacy, policies and procedures for procurement, storage, compounding and dispensing of drugs.

(2) To supervise all of the professional employees of the pharmacy.

(3) To supervise all of the non-professional employees of the pharmacy in so far as their duties relate to the sale and storage of drugs.

(4) To establish and supervise the method and manner for the storing and safekeeping of drugs.

(5) To establish and supervise the record keeping system for the purchase, sale, possession, storage, safekeeping and return of drugs.

(6) To notify the Board immediately upon his knowledge that his service as pharmacist-in-charge have been or will be terminated.

(7) Inform the Board in writing, within 10 days, of the employment or termination of any pharmacy technician. The information shall include name and location of pharmacy, name of employee, social security number, and date of hire or termination.

(8) To complete the New Mexico Board of Pharmacy self assessment inspection form as provided by the Board and to submit the signed and dated form with the pharmacy renewal application to the Board office.

B. Every licensed pharmacy will be under continued daily supervision of a registered pharmacist who shall have direct control of the pharmaceutical affairs of the pharmacy.

C. Upon termination of the pharmacist-in-charge each pharmacy owner shall immediately designate a successor pharmacist-in-charge and immediately notify the State Board of Pharmacy of such designation. The owner shall request the license application form to be completed by the successor pharmacist-in-charge and filed with the Board within 10 days. The failure to designate a successor pharmacist-in-charge and notify the Board of such designation shall be deemed a violation of Section 61-11-15, Pharmacy Act.

[16.19.6.9 NMAC - Rp 16 NMAC 19.6.9, 03-30-02]

16.19.6.10 MINIMUM STANDARDS:

A. The restricted area to be occupied by the prescription department shall be an undivided area of not less than 240 square feet. The floor area shall extend the full length of the prescription com-

pounding counter. This area shall provide for the compounding and dispensing and storage of all dangerous or restricted drugs, pharmaceuticals, or chemicals under proper condition of sanitation, temperature, light, ventilation, segregation and security. No space in this area shall provide for an office, auxiliary store room or public restroom(s).

(1) A private restroom, for exclusive use by the pharmacy staff, may be attached to the restricted area. This restroom does not count as square footage for the restricted area.

(2) An office for the exclusive use by the pharmacy may be attached to the restricted area. No general store accounting functions may be performed in this office. This area will not be considered as square footage for the restricted area.

(3) An auxiliary storage area for the exclusive use of the pharmacy may be attached to the restricted area. No items may be stored in this area that are not directly related to the operations performed in the restricted area. This area will not be considered as square footage for the restricted area.

(4) Each pharmacy shall provide facilities whereby a pharmacist may professionally counsel a patient or a patients' agent and protect the right to privacy and confidentiality.

B. An exception to the minimum space footage requirement may be considered by the Board on an individual basis. The Board may consider such factors as:

(1) Rural area location with small population.

(2) No pharmacy within the same geographical area.

(3) No prescription area of less than 120 square feet will be acceptable.

(4) All special waivers will be subject to review annually for reconsideration.

C. The prescription compounding counter must provide a minimum of 16 square feet of unobstructed compounding and dispensing space for one pharmacist and a minimum of 24 square feet for two or more pharmacists when on duty concurrently.

D. The restricted floor area shall be unobstructed for a minimum width of thirty inches from the prescription compounding center.

E. The pharmacy restricted area shall be separated from the merchandising area by a barrier of sufficient height and depth to render the dangerous drugs within the pharmacy inaccessible to the reach of any unauthorized person. All windows, doors, and gates to the restricted area shall be equipped with secure locks. The restricted area shall be locked in the

absence of a pharmacist on the premises.

F. The restricted area shall contain an adequate sink with hot and cold water.

G. The restricted area shall contain a refrigerator capable of maintaining the adequate temperature.

H. The restricted area of a retail pharmacy established in conjunction with any other business other than a retail drug store, shall be separated from the merchandising area of the other business by a permanent barrier or partition from floor to roof with entry doors that may be securely locked when a pharmacist is not on duty. [16.19.6.10 NMAC - Rp 16 NMAC 19.6.10, 03-30-02]

16.19.6.11 MINIMUM EQUIPMENT AND ACCESSORY STANDARDS:

A. The pharmacy shall have the necessary equipment for the safe and appropriate storage, compounding, packaging, labeling, dispensing and preparations of drugs and parenteral products appropriate to the scope of pharmaceutical services provided. The following items shall be in the pharmacy:

(1) An updated reference source, appropriate to each practice site, either electronic or paper version;

(2) One copy of the most recently published New Mexico Pharmacy Laws, Rules and Regulations and available revisions, either electronic or paper version

B. P A R E N T E R A L PHARMACEUTICALS

(1) Purpose: To ensure that the citizens of New Mexico receive routine safe and competent delivery of parenteral products and nutritional support throughout the state. To establish guidelines for licensure and inspection of such facilities by the State Board of Pharmacy.

(2) Definitions

(a) "Parenteral Products Pharmacy" is a retail pharmacy which prepares and distributes prescriptions for sterile products intended for parenteral administration to patients either at home or in or out of an institution licensed by the State.

(b) "Parenteral Product" means any preparation administered by injection through one or more layers of skin tissue.

(c) "Sterile" means a preparation that has undergone a valid sterilization process and is devoid of all living microorganisms, packaged in such a way to ensure the retention of this characteristic.

(d) "Preparation" means a sterile product which has been subjected to manipulation by a pharmacist under aseptic conditions to render the product suitable for administration.

(e) "Aseptic Conditions" means a

cabinet or facility capable of obtaining Class 100 clean air as defined by the federal standards 209E and which is certified by a testing agency at least every six months.

(f) "Aseptic Technique" means proper manipulation of articles within a Class 100 clean air room or station to maintain sterility.

(g) "Disinfectant" means a chemical compound used to kill and or control microbial growth within a Class 100 area or its surroundings and is approved for such use by the Environmental Protection Agency.

(h) "Antimicrobial Soap" means soap containing an active ingredient that is active both in vitro and vivo against skin microorganisms.

(i) "Surgical Hand Scrub" means an antimicrobial containing preparation which significantly decreases the number of microorganisms on intact skin.

(j) "SOP" means standard operating procedures. These are written standards for performance for tasks and operations within a facility.

(k) "Quality Control" means procedures performed on preparations to assess their sterility and/or freedom from other contamination.

(l) "Quality Assurance" means the procedures involved to maintain standards of goods and services.

(m) "Class 100 Environment" means having less than 100 particles 0.5 microns or larger per cubic foot.

(n) "Class 100,000 Environment" means having less than 100,000 particles 0.5 microns or larger per cubic foot.

(o) "Critical Area" means any area in the controlled area where products or containers are exposed to the environment.

(p) "Process Validation" means documented evidence providing a high degree of assurance that a specific process will consistently produce a product meeting its predetermined specifications and quality attributes.

(q) "Positive Pressure Controlled Area" means the clean room is to have a positive pressure differential relative to the adjacent pharmacy.

(r) "Barrier Isolator" is an enclosed containment device which provides a controlled Class 100 environment. The device has four components; the stainless steel shell, HEPA filtration of entering and exiting air flows, glove ports for people interaction and an air lock for moving products into and out of the controlled environment.

(3) Pharmacist-in-Charge: In order to obtain a license, all parenteral product pharmacies must designate a pharmacist in charge of operations who is:

(a) licensed to practice pharmacy in the State of New Mexico;

(b) responsible for the development, implementation and continuing review of written SOP's which are used by the operation in their daily operation;

(c) pharmacist on staff who is available for twenty-four hour seven-day-a-week services;

(d) responsible for establishing a system to assure that the products prepared by the establishment are administered by licensed personnel or properly trained and instructed patients.

(4) Physical Requirements

(a) The parenteral products pharmacy must have sufficient floor space to assure that the products are properly prepared and stored to prevent contamination or deterioration prior to administration to the patient and meet the following:

(i) be separated physically from other pharmacy activities and enclosed on all sides except for doors and/or windows for the passage of materials;

(ii) the minimum size of a retail pharmacy must be 240 square feet; a retail pharmacy with preparation of sterile products capabilities must have 340 square feet; the stand alone parenteral product pharmacy must have a minimum of 240 square feet;

(iii) addition of a parenteral area in existing pharmacies will require submission of plans for remodeling to the board office for approval and inspection prior to licensure;

(iv) a new parenteral pharmacy must comply with Sections 8, 9, 10 and 11 of the regulations.

(b) Equipment and Materials. The parenteral products pharmacy has sufficient equipment and physical facilities to safely compound and store such products and includes the following:

(i) either a Class 100 clean air work station or a room which meets Class 100 conditions;

(ii) refrigeration capacity for proper storage or prepared parenterals at 5 C after preparation and until prescriptions are picked up by or delivered to the patient or their agent;

(iii) if bulk reconstitution of antibiotics is performed the facility has a freezer capable of freezing and storing the product at -20 C for periods not to exceed the manufacturer's recommendations;

(c) References. Parenteral products pharmacies maintain in their library at least one current edition reference book from each category listed below in addition to other required references:

(i) Drug Monograph Reference, i.e., USP-DI, AHFS: Drug

Information Service, Martindale's Extra Pharmacopoeia, or other suitable reference;

(ii) Stability and Incompatibility Reference; i.e., Trissell's Handbook of Parenteral Medications, King/Cutter IV Incompatibilities, or other suitable reference;

(iii) Reference on Pharmaceutical Technology and Compounding; i.e., Remington's Pharmaceutical Sciences, Block's Disinfection Sterilization and Preservation, or other suitable reference;

(iv) Periodicals, i.e., American Journal of Hospital Pharmacy, ASHP's Clinical Pharmacy, American Journal of Parenteral and Enteral Nutrition, or other suitable periodical.

(5) Documentation Requirements for Parenteral Product Pharmacies: Written policies and procedures must be available for inspection and review by authorized agents of the Board of Pharmacy. Written policies and procedures must be submitted to the State Board of Pharmacy prior to the issuance of any license. These records must include but are not limited to:

(a) cleaning, disinfection, evaluation and maintenance of the preparation area;

(b) regular recertification of the clean air unit or units by independent testing agencies;

(c) surveillance of parenteral solutions for microbiological contamination;

(d) surveillance of parenteral solutions for particulate contamination;

(e) personnel qualifications, training and performance guidelines;

(f) facility and equipment guidelines and standards;

(g) SOP's for dispensing all solutions and medications;

(h) SOP's for disposal of physical, chemical and infectious waste;

(i) quality control guidelines and standards;

(j) quality assurance guidelines and standards;

(k) SOP's for determination of stability, incompatibilities or drug interactions.

(6) Record keeping and Patient Profile; The parenteral products pharmacy is required to maintain complete records of each patient's medications which include but are not limited to the following:

(a) Prescription records including the original Rx, refill authorization, alterations in the original Rx, and interruptions in therapy due to hospitalization;

(b) Patient's history including pertinent information regarding allergy or adverse drug reactions experienced by the patients;

(c) Patient contact is documented.

Patients are contacted at least every 3 days and any problems that cannot be solved by the patients agent or pharmacist (or which result in changes in the patient's behavior) are transmitted to the physician in charge for response and documentation;

(d) Documentation that the patient or their agent has received training in the safe administration of their medication.

C. STERILE PHARMACEUTICAL PREPARATION

(1) Pharmacies compounding sterile pharmaceuticals shall prepare products in an appropriate aseptic environment which meets Class 100 requirements. Devices used to maintain a Class 100 environment will:

(a) be certified in the course of normal operation by an independent contractor according to Federal Standard 209E et seq. for operational efficiency at least every 6 months and when moved. Certification records will be maintained for 3 years;

(b) have pre-filters which are inspected periodically and inspection/replacement date documented according to written policy; and

(c) have a positive pressure controlled area that is certified as at least a Class 100,000 which is functionally separate from other areas of the pharmacy and which minimizes the opportunity for particulate and microbial contamination. This area shall:

(i) have a controlled aseptic environment or contain a device which maintains an aseptic environment;

(ii) be clean, lighted, and at an average of 80-150 foot candles;

(iii) be a minimum of 100 sq. ft to support sterile compounding activities;

(iv) be used only for the compounding of sterile pharmaceuticals using appropriate aseptic technique including gowning and gloving;

(v) be designed to avoid outside traffic and airflow;

(vi) be ventilated in a manner which does not interfere with aseptic environment control conditions;

(vii) have non-porous, washable floor coverings, hard cleanable walls and ceilings (which may include acoustical ceiling tiles coated with an acrylic paint) to enable regular disinfection; (contain only compounding medication and supplies and not be used for bulk storage.

(viii) a self contained, Class 100 barrier isolator not located in the clean room is acceptable. The barrier isolator may only be located in an area which is maintained under sanitary conditions and

traveled only by persons engaged in sterile product preparation. Such barrier isolators must be certified by an independent certification contractor according to Class 100 conditions, as defined by Federal Standard 209E et seq. prior to use and at six-month intervals. Certification records will be maintained for 3 years.

(d) Store medications and supplies on shelves above the floor.

(e) Develop and implement a disposal process for packaging materials, used supplies, containers, syringes, and needles. This process shall be performed to enhance sanitation and avoid accumulation in the controlled area.

(f) Prohibit particle generating activities in the controlled area:

(i) removal of medications or supplies from cardboard boxes shall not be done in the controlled area;

(ii) cardboard boxes or other packaging/ shipping material which generate an unacceptable amount of particles shall not be permitted. The removal of immediate packaging designed to retain sterility or stability will be allowed.

(g) Cytotoxic drugs shall:

(i) be prepared only by a licensed pharmacist;

(ii) be prepared in a vertical flow biological safety cabinet, micro-biological isolation chamber or equivalent containment device;

(iii) be prepared in a cabinet thoroughly cleaned prior to use for preparation of other products; said cleaning will be documented;

(iv) be prepared in a cabinet located in a controlled area as described in 11.C.(1).(c);

(v) be disposed of according to written policies and procedures maintained at the facility.

(h) Maintain a library of specialty references appropriate for the scope of services provided. Reference material may be hard copy or computerized.

(2) Requirements for training.

(a) All pharmacists compounding sterile pharmaceuticals, or pharmacists supervising pharmacy technicians compounding sterile pharmaceuticals shall effective December 31, 2002, have completed a minimum of 20 contact hours (after January 1, 1999 and before manipulating sterile products) of didactic, experiential training and competency evaluation through demonstration and testing (written or practical) as outlined by the pharmacist-in-charge and described in the Policy and Procedures or training manual. Such training shall be evidenced by completion of a recognized course in an accredited college of pharmacy or an ACPE approved course which shall include instruction and hands-on experience

in the following areas:

(i) aseptic technique;
(ii) critical area contamination factors;

(iii) environmental monitoring;

(iv) facilities;
(v) equipment and supplies;

(vi) sterile pharmaceutical calculations and terminology;

(vii) sterile pharmaceutical compounding documentation;

(viii) quality assurance procedures;

(ix) proper gowning and gloving technique;

(x) the handling of cytotoxic and hazardous drugs; and

(xi) general conduct in the controlled area.

(b) All pharmacist interns who compound sterile pharmaceuticals shall effective December 31, 2002 (after January 1, 1999 and before manipulating sterile products) have completed a minimum of 40 hours of instruction and experience in the areas listed in paragraph 1. Such training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy); or

(ii) completion of a course sponsored by an ACPE approved provider.

(c) All pharmacy technicians who compound sterile pharmaceuticals shall have a high school or equivalent education and effective December 31, 2002 be a Pharmacy Certified Technician, and complete a minimum of 40 hours of instruction and experience in the areas listed in paragraph 1. Such training will be obtained through the:

(i) completion of a structured on-the-job didactic and experiential training program at this pharmacy (not transferable to another pharmacy) which provides 40 hours of instruction and experience in the areas listed in paragraph 1; or

(ii) completion of a course sponsored by an ACPE approved provider which provides 40 hours of instructions and experience in the areas listed in paragraph 1.

(d) Documentation of Training. A written record of initial and in-service training and the results of written or practical testing and process validation of pharmacy personnel shall be maintained and contain the following information:

(i) Name of person receiving the training or completing the testing or process validation;

(ii) Date(s) of the train-

ing, testing, or process validation;

(iii) General description of the topics covered in the training or testing or of the process validated;

(iv) Name of person supervising the training, testing, or process validation;

(v) Signature of the person receiving the training or completing the testing or process validation and the pharmacist-in-charge or other pharmacist employed by the pharmacy and designated by the pharmacist-in-charge as responsible for training, testing, or process validation of personnel.

(e) No product intended for patient uses shall be compounded by an individual until the process validation test indicates that the individual can competently perform aseptic procedures.

(f) On an annual basis the pharmacist-in-charge shall assure continuing competency of pharmacy personnel through in-service education, training, and process validation to supplement initial training. A written record of such training will be maintained for 3 years.

(3) Patient or Caregiver Training for Home Sterile Products:

(a) The pharmacist shall maintain documentation that the patient has received training consistent with regulation 16.19.4.17.5 NMAC;

(b) The facility shall provide a 24-hour toll free telephone number for use by patients of the pharmacy;

(c) There shall be a documented, ongoing quality assurance program that monitors patient care and pharmaceutical care outcomes, including the following:

(i) routine performance of Prospective Drug Use Review and patient monitoring functions by a pharmacist;

(ii) patient monitoring plans that include written outcome measures and systems for routine patient assessment;

(iii) documentation of patient training; and

(4) Quality Assurance/compounding and preparation of sterile pharmaceuticals.

(a) There shall be a documented, ongoing performance improvement control program that monitors personnel performance, equipment, and facilities:

(i) all aspects of sterile product preparation, storage, and distribution, including details such as the choice of cleaning materials and disinfectants and monitoring of equipment accuracy shall be addressed in policy and procedures;

(ii) if bulk compounding of parenteral solutions is performed using non-sterile chemicals, appropriate end

product testing must be documented prior to the release of the product from quarantine. The test must include appropriate tests for particulate matter and pyrogens;

(iii) there shall be documentation of quality assurance audits at regular, planned intervals, including infection control and sterile technique audits. A plan for corrective action of problems identified by quality assurance audits shall be developed which includes procedures for documentation of identified problems and action taken. A periodic evaluation as stated in the policy and procedures of the effectiveness of the quality assurance activities shall be completed and documented;

(iv) the label of each sterile compounded product shall contain: patient name;

if batch filling, lot or control number; solution, ingredient names, amounts; expiration date and time, when applicable; directions for use (only if the patient is the end user; not in a hospital setting), including infusion rates, specific times scheduled when appropriate; name or initials of person preparing the product and, if prepared by supportive personnel, the name or identifying initials and the name or initials of the pharmacist that completed the final check; when appropriate, ancillary instructions such as storage instructions or cautionary systems, including cytotoxic warning labels and containment bags; 8 device instructions when needed.

(b) There shall be a mechanism for tracking and retrieving products which have been recalled.

(c) Automated compounding devices shall:

(i) have accuracy verified on a routine basis at least every thirty days per manufacturer's specifications;

(ii) be observed every thirty days by the operator during the mixing process to ensure the device is working properly;

(iii) have data entry verified by a pharmacist prior to compounding; and

(iv) have accuracy of delivery of the end product verified according to written policies and procedures.

(d) If batch preparation of sterile products is being performed, a worksheet (log) must be maintained for each batch. This worksheet shall consist of formula, components, compounding directions or procedures, a sample label and evaluation and testing requirements, if applicable, and shall be used to document the following:

(i) all solutions and ingredients and their corresponding amounts, concentrations and volumes;

(ii) component manu-

facturer and lot number;

(iii) lot or control number assigned to batch;

(iv) date of preparation;

(v) expiration date of batch prepared products;

(vi) identity of personnel in preparation and pharmacist responsible for final check;

(vii) comparison of actual yield to anticipated yield, when appropriate.

(5) Application of Regulation; Pharmacies licensed by the board prior to adoption of this regulation shall comply with the controlled area standards defined in section 11.C.(1).(c). by December 31, 2002. When these pharmacies change ownership, remodel the pharmacy, or relocate the pharmacy after the effective date of this regulation, Section 11(2)A.3. shall apply. All other portions of this regulation apply on the effective date.

[16.19.6.11 NMAC - Rp 16 NMAC 19.6.11, 03-30-02]

16.19.6.12 NOTICE OF EMPLOYEE CHANGE: Proprietors of pharmacies must report on the annual application for renewal of pharmacy license the names and registry numbers of all registered pharmacist employees and registered interns and shall notify the secretary of the Board of Pharmacy within ten (10) days, in writing, of any change in personnel.

[16.19.6.12 NMAC - Rp 16 NMAC 19.6.12, 03-30-02]

16.19.6.13 CONSPICUOUS DISPLAY REQUIREMENTS:

A. Every person shall have his or her license or registration and the license for the operation of the business conspicuously displayed in the pharmacy or place of business to which it applies or in which he or she is employed. All articles, including the following shall be in the vicinity of all prescription departments in full view of patrons:

(1) the pharmacy license

(2) the prohibition of the return of drugs sign

(3) the current Board of Pharmacy inspection report

(4) the current controlled substance registration

B. Name tags, including job title and the designation R.Ph., shall be required of all pharmacists while on duty.

[16.19.6.13 NMAC - Rp 16 NMAC 19.6.13, 03-30-02]

16.19.6.14 PROHIBITION OF RE SALE OF DRUGS:

A. Drugs, medicines, sick-room supplies and items of personal

hygiene shall not be accepted for return or exchange of any pharmacist or pharmacy after such articles have been taken from the premises where sold or distributed.

B. Prescriptions returned to stock: The pharmacy shall maintain a record of prescriptions which are returned to stock. The record shall include patient name, date filled, prescription number, drug name, drug strength, and drug quantity. The record shall be retrievable within 72 hours.

[16.19.6.14 NMAC - Rp 16 NMAC 19.6.14, 03-30-02]

16.19.6.15 DISPOSITION OF DANGEROUS DRUGS OR CONTROLLED SUBSTANCES:

Permission shall be obtained, in writing, from the Board, after inspection, before any inventory of dangerous drugs or controlled substances may be sold, transferred, disposed of, or otherwise removed from the current premises. All sales shall be subject to the laws of the State.

[16.19.6.15 NMAC - Rp 16 NMAC 19.6.15, 03-30-02]

16.19.6.16 ROBBERY, BURGLARY, FIRE, FLOOD REPORT:

A. When a pharmacy is involved in a robbery, burglary, fire, flood or any unusual event in which dangerous drugs might be missing or damaged, the owner shall immediately file with the Board a signed statement of the circumstances of such occurrence and evidence that local authorities were notified, if applicable.

B. When a business is sold or an ownership transfer is initiated and a new license application is submitted, the Board may require examination of any stock which may be determined to be adulterated, deteriorated or questionable quality. Merchandise considered to be unfit for sale may be embargoed if the owner does not voluntarily consent to destruction. In the event the drugs are embargoed, the owner of the product must bear the expense of assay to prove purity, strength and product quality.

[16.19.6.16 NMAC - Rp 16 NMAC 19.6.16, 03-30-02]

16.19.6.17 SIGNS TO BE REMOVED WHEN PHARMACY DISCONTINUES OPERATION:

When a pharmacy discontinues operation, the permit issued by the Board shall be immediately surrendered to the Board office, all drug signs and symbols, either within or without the premises, shall be immediately removed; all drugs, devices, poisons shall be removed or destroyed: SIGNS: Any store, shop, laboratory or place of business which has upon it or in it a sign or words "pharmacist", "pharmaceutical

chemist", "apothecary", "druggist", "pharmacy", "drug store", "drugs", "drug sundries", "prescriptions", or any of these words, or words of similar import either in English or any other language, or which is advertised by any sign containing any of these words, is defined by law to be a drug store of pharmacy and must obtain a license from the Board of Pharmacy. Any such place of business not licensed by the Board shall remove any such sign of words which it may have upon or in it.

[16.19.6.17 NMAC - Rp 16 NMAC 19.6.17, 03-30-02]

16.19.6.18 LABELING OR TO LABEL:

As used in Section 61-11-2 of the Pharmacy Act "labeling" or "to label". The act of affixing, applying or attaching a display of written, printed or graphic matter upon or in the immediate container of any human use drug, repackaging or dispensed on the order of a practitioner, shall be defined as "labeling" or "to label", and is a function restricted to registered pharmacists and registered pharmacist interns as required by Section 61-11-21 of the Pharmacy Act, except that the pharmacist labeling requirement shall not apply to Board Regulation Article 15. As used in Section 26-1-11 Drug and Cosmetic Act "label" or "labeling" means the manufacturer or repackagers label required on the commercial container, when such substance is offered for sale, or distributed by the manufacturer or repackager.

A. PRESCRIPTION DRUG DISPENSING CONTAINER REQUIREMENTS: Prescription drug dispensing container requirements to be included on the label by the manufacturer. Both pharmacist and drug manufacturer are responsible for packaging a drug product in accordance with packing requirements specified in the monographs for drug products recognized in the official compendium as defined in 26-1-2 L. All drug products introduced or delivered into interstate commerce after August 27, 1978, must provide information for the pharmacist to be utilized when dispensing the drug to maintain the identity, strength, quality and purity of the product. The compendia standards for proper dispensing containers became effective on April 1, 1977, and applies to both containers used by manufacturers and containers used by pharmacists for dispensing compendia drugs. Manufacturers of non-compendia drug products must use terminology defined in an official compendium to describe a suitable container for dispensing the product. Proper container descriptions include standards of tightness of seal (well-closed or tight), light-resistant, and moisture permeability and other special instruction such as "Keep in a cold place, "Avoid

exposure to excessive heat", etc.

B. DISPENSING CONTAINER INFORMATION: The label attached to the dispensing container shall identify the contents by generic or trade name, or a compounded prescription containing more than three drugs or trade name products, may be labeled "Compound" at the discretion of the pharmacist or prescribing physician, and shall contain the expiration date, per USP/NF's guidelines, as well as the quantity dispensed. This information required by NMSA Drug and Cosmetic Act 26-1-16 B; except, to those instances where the prescribing practitioner specifically requests that such information be omitted from the label.

[16.19.6.18 NMAC - Rp 16 NMAC 19.6.18, 03-30-02]

16.19.6.19 CHANGE IN LOCATION OF A PHARMACY:

Before a licensed pharmacy changes the location of the business, or the physical dimensions or elements of physical security, a new application shall be submitted to the Board, setting forth such changes. Upon approval and completion of the change, a Request for Inspection will be submitted to the Chief Inspector. There will be no charge for the new application, but the inspection will carry the same fee as applies for a new pharmacy inspection.

[16.19.6.19 NMAC - Rp 16 NMAC 19.6.19, 03-30-02]

16.19.6.20 TRANSFER OF OWNERSHIP:

A transfer of ownership occurs upon:

A. The sale of the pharmacy to another individual or individuals by the present owner.

B. The addition or deletion of one or more partners in a partnership.

C. The death of a singular or sole owner.

D. The change of ownership of 30% or more of the voting stock of a corporation since the issuance of the license or last renewal application. A new license application will be required to be filed in each of the above circumstances. As stated in the Pharmacy Act Section 61-11-14(I), licenses are not transferable, and shall expire on December 31 of each year unless renewed.

[16.19.6.20 NMAC - Rp 16 NMAC 19.6.20, 03-30-02]

16.19.6.21 GUIDELINES TO PREVENT FALSE AND MISLEADING ADVERTISING:

A. Definitions as used in this Section:

(1) "Advertising" or "to advertise" means to inform customers by any

means such as, but not limited to, shelf tags, preticketing, display card, handbills, billboards, and advertisements in the newspapers, magazines, radio and television or by mail.

(2) "Advertiser" means any person or firm which advertises prices to consumers.

(3) "Article" includes services as well.

(4) "Price disclosure" is defined as in-store verbal disclosure of price, disclosure of prices by telephone, price lists, posters in-store containing retail prices for selected drugs indicating "our price".

B. Guidelines:

(1) An advertisement shall in no way stimulate demand or promote overuse or abuse of a dangerous drug or drugs. Prescription drugs are so intimately related to the public health that any ad which tends to promote overuse or abuse of a drug would have an adverse effect on public health, safety and welfare.

(2) The advertiser who does more than state his asking price must tell the truth in such a way that it cannot be misunderstood. Truthful price advertising, offering real bargains may be a benefit to all. But the advertiser must shun sales "gimmicks" and/or adverbs which infer exclusively when they are not factual, i.e., "cheapest", "lowest", which lure customers into a belief that they are getting bargains when in fact they are not.

(3) No comparisons should be made or implied between the price at which an article is offered for sale and some other reference price unless the nature of the reference price is explicitly identified and the advertiser has a reasonable basis to substantiate the reference price.

(4) Comparative pricing is generally defined as the practice whereby a firm or business displays, states, or advertises, directly or by implication two or more prices for his product or services; the actual current prices and another reference price. A reference price may not be implied by a statement such as "same 40%" unless it is substantiated pursuant to paragraph 21.B.3.

(5) No advertisement should be made expressly or impliedly offering lowered prices as a result of some unusual circumstances, unless the circumstances are true and the prices are actually lower than the advertiser's usual prices (i.e., clearance or special purchases, etc.)

(6) A firm should not advertise a "sale" or other temporary change in prices without disclosing as explicitly as possible, the terms of quantities available, and the period in which the advertised prices will be available.

(7) An advertised price for an article should not be compared with a price for

another article unless the price for the article is explicitly identified, and the advertiser has a reasonable basis to substantiate the existence of that price. In addition, one of the following conditions must be met:

(a) the comparability of the two articles can be established by reference to established standards of identity or performance; or

(b) the advertiser has otherwise established that the two articles are substantially identical in all significant respects; or

(c) the article is specifically identified.

(8) A retailer can be reasonably certain that his product is substantially identical to other products if he knows that all are made by the same manufacturer to the same specifications.

C. PRESCRIPTION DRUG ADVERTISING: Every advertisement other than price disclosure of a prescription drug shall contain the following information:

(1) the proprietary or trade name of the drug product;

(2) the established name of the drug product;

(3) the established name and quantity of each active ingredient in the drug product;

(4) the declaration of the established name and quantity of each active ingredient is optional if the drug product contains more than three active ingredients. However, this option does not apply to drug products containing aspirin, phenacetin, and caffeine in combination with one or two other active ingredients;

(5) the name of the manufacturer, packager or distributor;

(6) the dosage form;

(7) the price charged for a specific number of dosage units or quantity of the drug product;

(8) the price is to include all charges to the customer;

(9) the following services are considered to be included in the price to the consumer. If any of these services are not included in the price, the advertisement shall indicate those not provided:

(a) professional fees or cost or product and mark-up;

(b) patient Rx records;

(c) delivery services;

(d) charge privileges;

(e) pharmaceutical counseling;

(f) emergency after hours service;

(g) tax or insurance information;

(h) the hours pharmaceutical services are available to the customer.

D. PROHIBITED DRUG ADVERTISING

(1) There shall be no advertising, other than price disclosure, of a prescription

drug or OTC drug which is a controlled substance regulated by the New Mexico Controlled Substances Act.

(2) There shall be no advertising, other than price disclosure, of a prescription drug product that is required by the federal Food and Drug Administration to contain a box warning statement on the label indicating there is evidence of significant incidence of fatalities or serious damage associated with the use of the drug product.

(3) Advertisements are not permitted for a drug evaluated by the Drug Efficacy Study Group, and for which no claim has been evaluated as higher than "possibly effective".

[16.19.6.21 NMAC - Rp 16 NMAC 19.6.21, 03-30-02]

16.19.6.22 COMPUTERIZED PRESCRIPTION INFORMATION:

A. Computers for the storage and retrieval of prescription information do not replace the requirement that a prescription written by a practitioner or telephoned to the pharmacist by a practitioner and reduced to writing, be retained as permanent record. Computers shall be maintained as required by the Pharmacy Act; the Drug, Device, and Cosmetic Act; the Controlled Substances act; and the Board of Pharmacy Regulations.

B. The computer shall be capable of producing a printout of prescription information within a 72 hour period on demand, with certification by the practitioner stating it is a true and accurate record. Requested printouts include, patient specific; practitioner specific; drug specific; or date specific reports. The printout shall include:

(1) the original prescription number;

(2) the practitioner's name;

(3) full name and address of patient;

(4) date of issuance of original prescription order by the practitioner and the date filled;

(5) name, strength, dosage form, quantity of drug prescribed;

(6) total number of refills authorized by the practitioner;

(7) if the quantity dispensed is different than the quantity prescribed, then record of the quantity dispensed;

(8) in the case of a controlled substance, the name, address and DEA registration number of the practitioner and the schedule of the drug;

(9) identification of the dispensing pharmacist. Computer-generated pharmacist initials are considered to be the pharmacist of record unless overridden manually by a different pharmacist who will be the pharmacist of record.

[16.19.6.22 NMAC - Rp 16 NMAC 19.6.22, 03-30-02]

16.19.6.23 PRESCRIPTIONS:

A. A valid prescription is an order for a dangerous drug given individually for the person for whom prescribed, either directly from the prescribing practitioner to the pharmacist, or indirectly by means of a written order, signed by the practitioner. Every prescription shall contain on its face the name and address of the prescriber, the name and address of the patient, the name and strength of the drug, the quantity prescribed, directions for use and the date of issue.

B. A prescription may be prepared by a secretary or agent, i.e., office nurse under supervision, for the signature of the practitioner and where applicable; a prescription may be communicated to the pharmacist by an employee or agent of the registered practitioner. The prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations.

C. Prescription information received from a patient has no legal status as a valid prescription. A pharmacist receiving such prescription information must contact the prescribing physician for a new prescription.

D. Exchange of prescription information between pharmacies for the purpose of refilling is authorized under the following conditions only:

(1) The original prescription entry shall be marked in the pharmacy computer system. Pharmacies not using a computer shall mark the hard copy.

(2) The prescription shall indicate that it has been transferred and pharmacy location and file number of the original prescription.

(3) In addition to all information required to appear on a prescription, the prescription shall show the date of original filling as well as the number of valid refills remaining.

(4) Transfer of controlled substances Schedules III, IV, and V shall not be allowed electronically. Any manual transfer must be within any rule adopted by the federal DEA under Title 21 CFR 1306.26.

E. Facsimile Machines: Facsimile prescription means a valid prescription which is transmitted by an electronic device which sends an exact image to a pharmacy. The prescribing of controlled substances listed in Schedule II, III, or IV by facsimile machine must comply with 16.19.6.23.E.(1) through 16.19.6.23.E.(5), and 16.19.20.42.A through 16.19.20.42.F. No pharmacist may dispense a drug solely on the basis of a prescription received by facsimile except under the following cir-

cumstances:

(1) The pharmacist shall exercise professional judgement regarding the accuracy and authenticity of the prescription consistent with existing federal and state statutes and regulations.

(2) The original facsimile prescription (or a legible copy) must be maintained by the pharmacy in numerical order for a period of three years from the date the prescription was originally filled.

(3) The facsimile prescription shall include name and facsimile number of the pharmacy, the prescriber's phone number, for verbal confirmation, time and date of transmission, as well as any other information required by federal and state statute or regulation.

(4) In institutional practice, the facsimile machine operator must be identified by a statement in the facility policy and procedures manual.

(5) The receiving facsimile machine must be physically located in a restricted area to protect patient confidentiality.

F. Electronic Transmission of Prescriptions

(1) electronic transmission of prescriptions means the electronic transmission of prescriptions for dangerous drugs, excluding controlled substances, via computer modem or other similar electronic devices.

(2) electronic signature means a unique security code or other identifier which specifically identifies and authenticates the signatory for the purposes of secure electronic data transmission.

(3) requirements for electronically transmitted prescriptions or drug orders, excluding controlled substances.

(a) The receiving computer modem or other similar electronic device shall be located within the pharmacy or pharmacy department.

(b) The electronically transmitted prescription or drug order shall contain all information required by state and federal law.

(c) The prescribing practitioner's electronic signature, or other secure method of validation shall be provided with the electronically transmitted prescription or drug order.

(d) A written or printed copy of the prescription or drug order shall be prepared and maintained as required by state laws and regulations.

(e) The electronically transmitted prescription or drug order shall be marked "Electronically Transmitted Prescription" or "ETP".

(f) The electronic transmission of a prescription or drug order shall maintain patient confidentiality with no unauthorized

intervening person or other entity controlling, screening, or otherwise having access to it.

(g) ETP shall be sent only to the pharmacy of the patient's choice.

(h) The ETP shall identify the transmitter's telephone number. The time and date of transmission, and the pharmacy intended to receive the transmission.

(i) ETP's shall be transmitted only by authorized prescriber or the prescriber's agent and shall include the prescriber's electronic signature.

(j) Electronic transmission of Schedule II controlled substances for emergency dispensing shall conform to 16.19.20.47.

G. Confidentiality of patient records and prescription drug orders.

(1) Confidential information. As provided in 61-11-2.D, confidential information in

the patient record, including the contents of any prescription or the therapeutic effect thereof or the nature of professional pharmaceutical services rendered to a patient; the nature, extent, or degree of illness suffered by any patient; or any medical information furnished by the prescriber, may be released only as follows:

(a). Pursuant to the express written consent or release of the patient or the order of direction of a court.

(b) To the patient or the patient's authorized representative.

(c) To the prescriber or other licensed practitioner then for the patient.

(d) To another licensed pharmacist where the best interest of the patient require such release.

(e) To the board or its representative or to such other persons or governmental agencies duly authorized by law to receive such information, A pharmacist shall utilize the resources available to determine, in the professional judgment of the pharmacist, that any persons requesting confidential patient information pursuant to this rule are entitled to receive that information.

(2) Exceptions. Nothing in this rule shall prohibit pharmacists from releasing

confidential patient information as follows:

(a) Transferring a prescription to another pharmacy as required by the provision of patient counseling.

(b) Providing a copy of a non-refillable prescription to the person for whom the prescription was issued which is marked "For Information Purposed Only."

(c) Providing drug therapy information to physicians or other authorized prescribers for their patients.

(d) As required by the provision of patient counseling regulations.

[16.19.6.23 NMAC - Rp 16 NMAC 19.6.23, 03-30-02]

16.19.6.24 NON RESIDENT PHARMACIES:

A. Definitions

(1) "Board" means the New Mexico Board of Pharmacy.

(2) "Nonresident Pharmacy" means any pharmacy located outside New Mexico that ships, mails or delivers in any manner prescription drugs to New Mexico patients or consumers.

(3) "Prescription drugs" means any drug required by federal or New Mexico law or regulation to be dispensed only by a prescription and includes "dangerous drugs" and "controlled substances" as defined by federal and New Mexico law.

(4) "Resident state" means the state in which the Nonresident Pharmacy is a resident.

B. Licensure Requirement

(1) No nonresident pharmacy shall ship, mail or deliver prescription drugs to a patient in this state unless licensed by the Board. In addition, no nonresident pharmacy shall ship, mail or deliver controlled substances to a patient in this state unless registered by the Drug Enforcement Administration and the Board for controlled substances.

(2) Separate Licensure. Any person that ships, mails or delivers prescription drug to New Mexico patients from more than one nonresident pharmacy shall obtain a separate New Mexico Nonresident Pharmacy license for each pharmacy.

C. Requirements for Obtaining Licensure

(1) Application. Each nonresident pharmacy applying for licensure or renewal of licensure shall submit an application to the Board which includes the following minimum information:

(a) The address of the principle office of the nonresident pharmacy and the name and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to persons in New Mexico. A report containing this information shall be made on an annual basis and within ten days after any change of office location, corporate officer or pharmacist in charge;

(b) Proof that the nonresident pharmacy maintains a valid license, permit or registration to operate the pharmacy in compliance with the laws of the resident state;

(c) A copy of the most recent inspection report resulting from an inspection of the nonresident pharmacy conducted by the regulatory or licensing agency of the resident state;

(d) The policy and procedure

manual required by 16.19.6.24.D.(2).;

(e) Proof that the nonresident pharmacy has a toll-free telephone service available to New Mexico patients;

(f) The name and address of a resident in New Mexico for service of process;

(g) If the nonresident pharmacy wants to ship, mail or deliver controlled substances to New Mexico patients, then the pharmacy must submit an application for controlled substances under 16.19.20 NMAC; and

(h) All fees required by 16.19.12 NMAC.

(2) Agent of Record. Each nonresident pharmacy that ships, mails or delivers prescription drugs to a patient in New Mexico shall designate a resident agent in New Mexico for service of process. If a nonresident pharmacy does not designate a registered agent, the shipping, mailing, or delivering of prescription drugs in the State of New Mexico shall be deemed an appointment by such nonresident pharmacy of the Secretary of State to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against such pharmacy growing out of or arising from such delivery.

D. Conditions of Licensure

(1) Compliance. Each nonresident pharmacy licensed by the Board must comply with the following:

(a) All statutory and regulatory requirements of the State of New Mexico regarding controlled substances, drug product selection, and the labeling, advertising, and dispensing of prescription drugs including all requirements that differ from federal law or regulations, unless compliance would violate the laws and regulations of the resident state;

(b) Maintain, at all times, a valid license, permit, or registration to operate the pharmacy in compliance with the laws of the resident state;

(c) Maintain, if applicable, a federal registration for controlled substances;

(d) Supply, upon request from the Board or the regulatory or licensing authority of the resident state, all information needed to carry out the Board's responsibilities under state and federal law;

(e) Provide a toll-free telephone service to facilitate communication between patients in this state and a pharmacist at the nonresident pharmacy who has access to the patient's records. A nonresident pharmacy shall provide the toll-free telephone service during its regular hours of operation, but not less than six days a week and for a minimum of forty hours a week. The toll-free telephone number shall be disclosed on a label affixed to each container of drugs dispensed to patients in this state.

(2) Policy and Procedure Manual. Each nonresident pharmacy shall develop and provide the Board with a policy and procedure manual that sets forth:

(a) Normal delivery protocols and times;

(b) The procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

(c) The procedure to be followed upon receipt of a prescription for an acute illness, which policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest possible time (i.e., courier delivery), or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time;

(d) The procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

E. Disciplinary Proceedings

(1) The Board may withhold, suspend, or revoke any nonresident pharmacy license held or applied for upon the grounds established by law or regulations, including, without limitation, the failure to comply with the conditions specified in 16.19.6.24.C. The Board shall suspend or revoke a nonresident pharmacy license when the license, permit, or registration to operate the pharmacy in the resident state has been suspended or revoked. A certified copy of the record of suspension or revocation by the resident state is conclusive evidence.

(2) Upon receipt of information indicating that the nonresident pharmacy may have violated the laws or regulations of the resident state, the Board may file a complaint against the nonresident pharmacy with the regulatory or licensing authority of the resident state.

F. Limitations

(1) Nothing in this Regulation shall be construed to authorize the dispensing of contact lenses by Nonresident Pharmacies.

(2) Nothing in this Regulation is intended to replace or modify any requirements that a nonresident business may be subject to under any other law or regulation. [16.19.6.24 NMAC - Rp 16 NMAC 19.6.24, 03-30-02]

HISTORY OF 16.19.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

BOP 69-2, Rules and Regulations of the State Board of Pharmacy, 6-13-69.

BOP 69-3, New Mexico Laws and Regulations, Pharmacy Act, Drug and Cosmetic Act, Narcotic Drug Act, Poisons Act, Board of Pharmacy Rules and Regulations, 8-15-69.

BOP 72-1, New Mexico Board of Pharmacy Rules and Regulations Promulgated Pursuant to New Mexico Drug and Cosmetic Act, Pharmacy Act, Controlled Substances Act, 7-31-72.

Regulation No. 6, Pharmacies, 2-7-80.

Regulation No. 6, Pharmacies, 10-23-85.

Regulation No. 6, Pharmacies, 2-2-87.

Regulation No. 6, Pharmacies, 7-27-90.

History of Repealed Material:

BOP 72-1, New Mexico Board of Pharmacy Rules and Regulations Promulgated Pursuant to New Mexico Drug and Cosmetic Act, Pharmacy Act, Controlled Substances Act - Repealed, 10-29-85.

16 NMAC 19.6, Pharmacists - Pharmacies, filed 08-27-99, **repealed** effective 03-30-02.

NEW MEXICO BOARD OF PHARMACY

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 19 PHARMACISTS PART 25 ADVERSE DRUG EVENT

16.19.25.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy, Albuquerque, NM, (505) 841-9102.
[16.19.25.1 NMAC - N, 03-30-02]

16.19.25.2 SCOPE: All persons or entities that dispense, administer, deliver or conduct research using dangerous drugs.
[16.19.25.2 NMAC - N, 03-30-02]

16.19.25.3 STATUTORY AUTHORITY: Section 61-11-2 DD defines significant adverse drug event. Section 61-11-18.1 NMSA 1978 authorizes the Board of pharmacy to promulgate regulations regarding the prevention and reporting of significant adverse drug events.
[16.19.25.3 NMAC - N, 03-30-02]

16.19.25.4 DURATION: Permanent.
[16.19.25.4 NMAC - N, 03-30-02]

16.19.25.5 EFFECTIVE DATE: March 30, 2002, unless a later date is cited in the history note at the end of a section.
[16.19.25.5 NMAC - N, 03-30-02]

16.19.25.6 OBJECTIVE: The

objective of Part 25 of Chapter 19 is to protect the health and welfare of the citizens of the State of New Mexico against significant adverse drug events.

[16.19.25.6 NMAC - N, 03-30-02]

16.19.25.7 DEFINITIONS:

A. "Significant Adverse Drug Event" means a drug related incident that results in harm to the patient.

B. "Incident" means a drug that is dispensed in error, that is administered and results in harm, injury or death.

C. "Dispensing Error" means a prescription that was dispensed from the pharmacy differently from what was prescribed.

D. "Harm" means temporary or permanent impairment of the physical, emotional or psychological function or structure of the body and/or pain resulting there from requiring intervention.

[16.19.25.7 NMAC - N, 03-30-02]

16.19.25.8 THE PHARMACIST IN CHARGE SHALL:

A. Develop and implement written error prevention procedures as part of the Policy and Procedures Manual.

B. Report incidents, including relevant status updates, to the Board on Board approved forms within fifteen (15) days of discovery.

[16.19.25.8 NMAC - N, 03-30-02]

16.19.25.9 THE BOARD SHALL:

A. Maintain confidentiality of information relating to the reporter and the patient identifiers.

B. Compile and publish, in the newsletter and on the Board web site, report information and prevention recommendations.

C. Assure reports are used in a constructive and non-punitive manner.

[16.19.25.9 NMAC - N, 03-30-02]

History of 16.19.25 NMAC:
[RESERVED]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.9.8 NMAC. This regulation was also renumbered and reformatted to comply with current NMAC requirements.

16.19.9.8 MINIMUM STANDARDS:

A. The following mini-

mum standards shall apply to all manufacturing establishments and repackaging firms for which licenses have been issued by the Board:

(1) All drugs and chemicals used in the manufacturing process or held for sale shall conform to the New Mexico Drug and Cosmetic Act and shall be stored, preserved and disposed of as prescribed by laws regulating the labeling and manufacture of drugs. When necessary, and/or according to label requirements, all drugs and chemicals which require refrigeration shall be stored and preserved under proper temperature.

(2) All manufacturers must conform to current good manufacturing practices as set forth in Title 21, CFR, Subsection 211.1 to 211.208 inclusive. The definitions and interpretations contained in Section 201 of the Federal Food and Drug Act shall be applicable.

(3) All manufacturers must conform to (1141) Packaging, Storage, and Distribution of Pharmacopeial Articles, the United States Pharmacopeia. These include the following stability protocols:

(4) Stability of manufactured dosage forms must be demonstrated by the manufacturer by the use of the methods adequate for the purpose. Monograph assays may be used for stability testing if they are stability-indicating (i.e., if they accurately differentiate between the intact drug molecules and their degradation products). Stability considerations should include not only the specific compendial requirements, but also changes in physical appearance of the product that would warn, users that the product's continued integrity is questionable.

(5) Stability studies on active substances and packaged dosage forms must be conducted by means of "real time", long-term tests at specific temperatures and relative humidities representing storage and shipping conditions experienced in the distribution chain of the climatic zones of the country or region of the world concerned. Labeling of the packaged active substance or dosage form shall reflect the effects of temperature, relative humidity, air, and light on its stability. Label temperature storage warnings will reflect both the results of the real-time storage tests and also allow for expected seasonal excursions of temperature during distribution.

(6) All persons in the distribution or dispensing chain shall comply with the manufacturers directions.

B. RADIOACTIVE PHARMACEUTICALS

(1) Radioactive pharmaceuticals

require specialized techniques in their handling and testing in order that correct results may be obtained and hazards to personnel be minimized.

(2) The following minimum requirements must be met for a manufacturing establishment preparing radiopharmaceutical products. These requirements are in addition to the regulatory requirements of the Federal Atomic Energy Commission, the Federal Food and Drug Administration, the U.S. Public Health Service regulations and the New Mexico Radiation Protection Act administered by the Environmental Improvement Agency. Minimum equipment and accessory standards:

(a) Fume hood - minimum of 30 inches

(b) Laminar flow hood

(c) Dose calibrator

(d) Refrigerator (lead lined)

(e) Mettler balance

(f) Spectrophotometer

(g) Drawing Station (lead glass and lead)

(3) Glassware:

(a) 3 beakers 50 ml

(b) 3 beakers 150 ml

(c) 1 beaker 500 ml

(d) 2 volumetric flasks 50 ml

(e) 6 volumetric flasks 100 ml

(f) 2 graduated cylinders 10 ml

(g) 2 graduated cylinders 100 ml

(4) Radiochromatographic strip scanner and/or well counter

(5) Supplies:

(a) disposable syringes 1, 3 and 5 cc

(b) multidose vials 10, 20 and 30 cc

(c) disposable alcohol swabs

(d) disposable gloves

(6) Reference books:

(a) American Hospital Formulary Service

(b) National Formulary

(c) United States Pharmacopoeia

(7) Space: The radiopharmaceutical manufacturing or preparation area shall be an undivided area of not less than 240 square feet for the hot lab and storage area. The area shall contain adequate sink with hot and cold water facilities.

[03-07-80...08-27-90; A, 03-14-98; 16.19.9.8 NMAC - Rn & A, 16 NMAC 19.9.8, 03-30-2002]

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.24.2 NMAC, 16.19.24.5 NMAC and 16.19.24.14 NMAC. This regulation was also renumbered and reformatted to comply with current NMAC requirements.

16.19.24.2 SCOPE: All Emergency Medical Services Providers (EMS) that operate in the State and administer drugs. Other rules applying to EMS drug use are found in ~~[27-NMAC-27.3]~~ 7.27.3 NMAC.
[12-15-99; 16.19.24.2 NMAC - Rn, 16 NMAC 19.24.2, 03-30-02]

16.19.24.5 EFFECTIVE DATE: December 15, 1999, unless a later date is cited at the end of a Section ~~[or Paragraph]~~.
[12-15-99; 16.19.24.5 NMAC - Rn & A, 16 NMAC 19.24.5, 03-30-02]

16.19.24.14 TRAINING FACILITIES:

A. EMS Training facilities. Injury Prevention and EMS Bureau of the Department of Health will be licensed by the Board.

B. Pre-licensing inspections and fees for licensure will be waived.

C. EMS Training Facilities will conduct periodic (no less than quarterly) inventories of dangerous drugs.

D. Other than 16.19.24.14.1 NMAC and 16.19.24.14.3 NMAC regarding EMS will not apply to these training facilities.

[16.19.24.14 NMAC - N, 03-30-02]

**NEW MEXICO BOARD
OF PHARMACY**

The following rules were renumbered and reformatted to comply with current NMAC requirements effective 03-30-2002:

FROM	TO
16 NMAC 19.1	16.19.1 NMAC
16 NMAC 19.2	16.19.2 NMAC
16 NMAC 19.3	16.19.3 NMAC
16 NMAC 19.4	16.19.4 NMAC
16 NMAC 19.5	16.19.5 NMAC
16 NMAC 19.7	16.19.7 NMAC
16 NMAC 19.8	16.19.8 NMAC
16 NMAC 19.10	16.19.10 NMAC
16 NMAC 19.12	16.19.12 NMAC
16 NMAC 19.14	16.19.14 NMAC
16 NMAC 19.15	16.19.15 NMAC
16 NMAC 19.16	16.19.16 NMAC
16 NMAC 19.17	16.19.17 NMAC
16 NMAC 19.18	16.19.18 NMAC
16 NMAC 19.19	16.19.19 NMAC
16 NMAC 19.21	16.19.21 NMAC
16 NMAC 19.23	16.19.23 NMAC

End of Adopted Rules and Regulations Section

2002 SUBMITTAL DEADLINES AND PUBLICATION DATES

Volume XIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
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Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
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Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

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