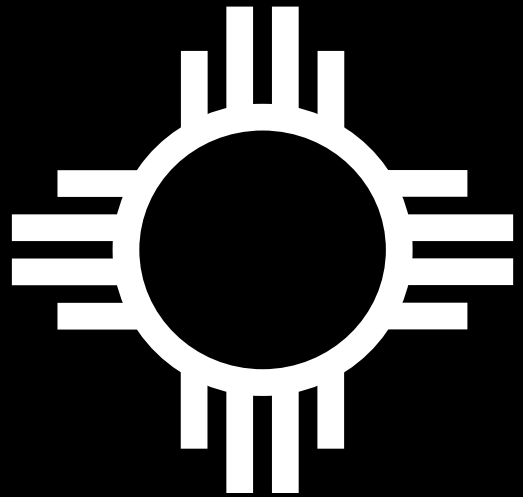


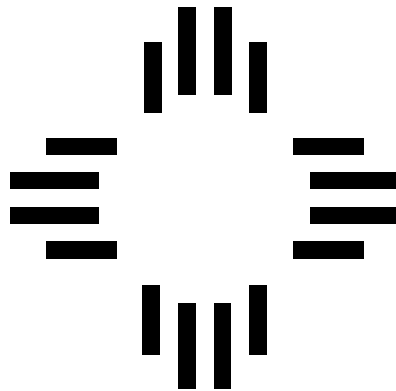
**NEW
MEXICO
REGISTER**



Volume XIV
Issue Number 3
February 14, 2003

New Mexico Register

Volume XIV, Issue Number 3
February 14, 2003



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

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2003

COPYRIGHT © 2003
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

New Mexico Register

Volume XIV, Number 3

February 14, 2003

Table of Contents

Notices of Rulemaking and Proposed Rules

Environmental Improvement Board

Public Hearing Before The New Mexico Environmental Improvement Board 41

Human Services Department

Income Support Division

Notice of Public Hearing 41

Labor, Department of

Job Training Division

Notice of Public Hearing 41

Livestock Board

Notice of Rule Making Hearing and Regular Board Meeting 41

Mining Commission

Notice of Public Meeting and Hearing of the New Mexico Mining Commission 42

Taxation and Revenue Department

Notice of Hearing and Proposed Rules 42

Adopted Rules and Regulations

Effective Date and Validity of Rule Filings

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." Section 14-4-5 NMSA 1978.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

Acupuncture and Oriental Medicine, Board of

16.2.1 NMAC A General Provisions 45
16.2.2 NMAC A Scope of Practice 46
16.2.3 NMAC A Application for Licensure 47
16.2.4 NMAC A Examinations 49
16.2.8 NMAC A License Renewal 49
16.2.9 NMAC A Continuing Education 51
16.2.10 NMAC A Fees 51

Education, Board of

6 NMAC 4.2.3.12 R Licensure for School Counselors, K-12 51
6.32.2 NMAC R Guidelines for Implementing Bilingual Multicultural Programs 51
6.32.2 NMAC N Guidelines for Implementing Bilingual Multicultural Education Programs 51
6.63.6 NMAC N Licensure for School Counselors, K-12 53
6.64.12 NMAC N Licensure in Modern, Classical and Native Languages 55
6.60.5 NMAC A Competency Testing for Licensure 57
6.61.9 NMAC A Substandard Licensure 59

Energy, Minerals and Natural Resources Department

Oil Conservation Division

19.15.6 NMAC A Natural Gas Production Operating Practice 59

Livestock Board

21.32.5 NMAC Rn & A Exhibition Swine 59

Public School Capital Outlay Council

6.27.2 NMAC A Application and Grant Procedures 59

The New Mexico Register
Published by
The Commission of Public Records
Administrative Law Division
1205 Camino Carlos Rey
Santa Fe, NM 87507

The *New Mexico Register* is available free at <http://www.nmcpr.state.nm.us/nmregister>

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00, except the first subscription from each New Mexico state agency may be ordered at \$85.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail rules@rain.state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

PUBLIC HEARING BEFORE THE NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

The New Mexico Environmental Improvement Board will hold a public hearing on April 11, 2003 in conjunction with their regularly scheduled April meeting. The meeting will begin at 9:30 a.m. in the City/County Government Center, 9th floor Committee room, One Civic Plaza, Albuquerque, New Mexico.

At this public hearing, the Board will consider amendments to Parts 1, 3, 4, 12, 13, and 15, of 20.3 NMAC (New Mexico Radiation Protection Regulations).

The purpose for revising the affected parts of the New Mexico Radiation Protection Regulations is to bring them into compatibility with the corresponding U.S. Nuclear Regulatory Commission (NRC) regulations. The proposed revisions would affect radioactive material licensees and radiation registrants of the New Mexico Environment Department. All radioactive material licensees and radiation registrants are encouraged to attend the public hearing.

Should you have any questions, please contact Bill Floyd, Program Manager of the Radiation Protection Program, at (505) 476-3236.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

HUMAN SERVICES DEPARTMENT NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider adopting revised rules in the Food Stamp Program. The hearing will be held at 9:00 am on Friday, March 14, 2003. The hearing will be held in the Law Library for the Office of General Counsel for the Human Services Department. The Law Library is located in room 101 on the ground level of the Pollon Plaza building, 2009 S. Pacheco St., Santa Fe, NM 87505.

The Department proposes to amend the rules for participation in the Food Stamp Program at 8.139.410.9B NMAC in order to comply with mandates of the Farm Security

and Rural Investment Act of 2002 (P.L. 107-171), more commonly known as the "Farm Bill". One of the mandates of the Farm Bill restores eligibility for participation in the Food Stamp Program, if otherwise eligible, to certain legal aliens (immigrants) who were made ineligible by the Personal Responsibility and Work Opportunity Act of 1996. Effective April 1, 2003, eligibility is restored for a legally admitted alien who has lived in the United States for at least five years from the alien's date of entry into the United States.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the Department toll free at 1-800-432-6217, TDD 1-800-609-4TDD (4833), or through the New Mexico Relay System toll free at 1-800-659-8331. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals wishing to testify or who would like a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling toll free 1-800-432-6217.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 PM on the date of the hearing. Please send comments to:

Pamela S. Hyde, Secretary
Human Services Department
P.O. Box 2348 Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to:
Sharon.Regensberg@state.nm.us

NEW MEXICO DEPARTMENT OF LABOR JOB TRAINING DIVISION

NOTICE OF PUBLIC HEARING

The New Mexico Department of Labor Job Training Division (NMDOL JTD) State Administrative Entity (SAE) will hold a public hearing on a proposed replacement of the attachment titled "FMB Financial Management Guide for Welfare to Work" to Exhibit 13.7 to Rule 11 NMAC 2.A.12-99, subpart title "Welfare-to-Work Program Policies."

The current version of the "FMB Financial Management Guide for Welfare to Work" is being replaced to create a record to match the 1999 Welfare to Work Amendments for compliance with federal findings. Revisions include the incorporation of the '1999 Welfare to Work Amendments'; eligibility determination guidance for formula grants; revised instructions for reporting Welfare to Work formula and competitive grants financial data; revised Cumulative Quarterly Formula Grant Financial Reports reflecting the June 2000 data report restructuring by USDOL; and a number of minor revisions throughout the chapters and appendices. Pages iii and iv, the 'January through August 2002 Revisions', list the locations and types of all of the revisions.

Also, the NMDOL JTD SAE Issuance 11 NMAC 2.A.12-99 "Welfare-to-Work Program Policies" will be reformatted and renumbered to 11.2.97 NMAC to comply with current NMAC requirements.

The Public Hearing will be held on Friday, March 14, 2003 at 9:00 a.m. in the Aspen Plaza conference room located at 1596 Pacheco Street, Room 201, Santa Fe, New Mexico. Interested persons who have a disability and require some accommodation in attending the public hearing or having the policy communicated to them, should submit a written request identifying the disability and the type of accommodations needed to: Ms. Carol Szpakowski, New Mexico Department of Labor, Job Training Division, P.O. Box 4218, Santa Fe, New Mexico 87502. If such request is not made in advance, the availability of accommodation on-site cannot be guaranteed. Any written comments regarding the proposed replacement may be submitted to the attention of Ms. Szpakowski at the same address.

Inquiries or requests for copies of the replacement referred to above may be addressed to the Job Training Division by calling Carol Szpakowski at (505) 827-1636 in Santa Fe.

NEW MEXICO LIVESTOCK BOARD

NEW MEXICO LIVESTOCK BOARD NOTICE OF RULEMAKING HEARING AND REGULAR BOARD MEETING

NOTICE IS HEREBY GIVEN that a regular Board meeting will be held on

Thursday February 20, 2003, at State Land Office, Conference Room, 310 Old Santa Fe Trail, Santa Fe, New Mexico, at 9:00 a.m. The Board will be covering matters of general business

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

NEW MEXICO MINING COMMISSION

NOTICE OF PUBLIC MEETING AND HEARING OF THE NEW MEXICO MINING COMMISSION

The New Mexico Mining Commission will hold a regular meeting and hearing at **9:00 A.M. Tuesday, March 25, 2003 in the Oil Conservation Division (OCD) conference room (Porter Hall)** on the 1st floor of the offices of the Energy, Minerals and Natural Resources Department located at 1220 South St. Francis Drive in Santa Fe, NM. Due to its potential length, the meeting and hearing may continue on Wednesday, March 26, 2003 in the OCD conference room beginning at 9:00 A.M.

During the meeting, the Mining Commission will conduct a public hearing on a petition for rulemaking submitted by the Mining and Minerals Division (MMD) on November 27, 2002 (Petition 02-05) and amended on December 30, 2002. The Commission will consider revisions of regulations 19.10.2 NMAC - Fees, NM Mining Act Rules. Specifically, the petition is to amend Part 2 of the New Mexico Mining Act Rules to extend annual fee collections for 3 years and to modify the current fee schedule to ensure that there are sufficient funds to carry out requirements under the Mining Act, including changes to the Game and Fish surcharge language to allow that agency to be reimbursed for work performed for Mining Act purposes through FY2006. Copies of the proposed rule changes are available from the New Mexico Energy, Minerals & Natural Resources Department, Mining and Minerals Division, 1220 South Saint Francis Drive, Santa Fe, NM 87505 or by calling 505/476-3400. At the conclusion of the hearing, the Mining Commission may deliberate and make final decisions on the petition. Additionally, the Commission may discuss other issues that may come before it.

A copy of the agenda for the meeting/hearing will be available at least 24 hours before

the meeting and may be obtained by contacting Alysia Leavitt or John Pfeil at 476-3400. A copy of the petition may also be obtained by contacting Leavitt or Pfeil. If you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Leavitt or Pfeil at 476-3400 at least 48 hours prior to the hearing. Public documents can be provided in various accessible forms. Please contact Leavitt or Pfeil if a summary or other type of accessible form is needed.

The following procedures apply to the petition for rulemaking.

The hearing on the petition for rulemaking will be conducted in accordance with the Mining Act and the Mining Commission's Guidelines for Rulemaking. All interested people may participate in the hearing, and will be given an opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses. In addition, people may also offer amendments to the proposed regulations.

Any person, including the petitioner, who intends to present technical testimony at the hearing shall file a notice of intent to present testimony. The notice shall do the following: identify the persons for whom the witness(es) will testify; identify each technical witness the person intends to present and state the qualifications of that witness including a description of the technical witness's education and experience; summarize, or include a copy of, the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness; include the text of any recommended modifications to the proposed regulatory change; and list and describe, or attach, all exhibits anticipated to be offered by the person at the hearing.

Any member of the general public may testify at the hearing. No prior notification is required to present non-technical testimony at the hearing. Any such member may also offer exhibits in connection with their testimony, so long as the exhibit is not unduly repetitious of the testimony.

A member of the general public who wishes to submit a written statement to the record proper, in lieu of providing oral testimony at the hearing, shall file the written statement prior to the hearing, or submit it at the hearing.

Notices of intent to present technical testimony must be received by the Clerk of the

Mining Commission, C/O Mining and Minerals Division, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505 not later than 5 p.m. Friday, March 14, 2003 and should reference the petition number and the date of the hearing.

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

NOTICE OF HEARING AND PROPOSED RULES

The Department proposes to adopt the following regulation:

3.6.5.23(C) NMAC Section 7-36-16 NMSA 1978 Property Tax Code
(Current and Correct Values of Property Defined)

The proposed regulation was placed on file in the Office of the Secretary on January 25, 2003. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final regulation, if filed, will be filed as required by law on or about April 30, 2003.

A public hearing will be held on the proposed regulation on Thursday, April 10, 2003, 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 regulation are available upon request; contact (505) 827-0908. Comments on the proposed regulation are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposed regulation 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 10, 2003.

TITLE 3: TAXATION
CHAPTER 6: PROPERTY TAXES
PART 5: CLASSIFICATION OF PROPERTY

3.6.5.23 **RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY**

A. COST SHARING PROVISIONS IN VALUATION MAINTENANCE CONTRACTS: The department will not enter a contract pursuant to Subsection C of Section 7-36-16 NMSA

1978 which provides for sharing of the costs of valuation maintenance programs with counties unless the department has a report from the secretary of finance and administration showing the amount of county funds available or which could be made available for a valuation maintenance program. In the event the report indicates that the county has available sufficient funds for a valuation maintenance program, the contract will provide for only a minimal amount as the department's share of the program costs.

B. SALES RATIO

REPORT: The written report which assessors are required to provide under Subsection E of Section 7-36-16 NMSA 1978 includes "... the relationship of sales prices of property sold to values for property taxation purposes ...". This portion of the report is referred to as the "sales ratio report." The sales ratio report is prepared in accordance with the instructions of the division. In its instruction or by its order to particular county assessors, the division may permit the sales ratio report to be prepared on the basis of sampling. The division instruction will provide for a "uniform sales data card" to be used by each county assessor in recording sales. These cards, or copies of these cards, will be provided the division by the county assessor upon direction by the division.

C. CURRENT AND CORRECT VALUES OF PROPERTY

DEFINED: [The phrase "current and correct values of property" as used in Section 7-36-16 NMSA 1978 means:

(1) for the 1995 and 1996 property tax years, the 1993 valuation level; and

(2) for each two succeeding property tax years, the valuation level in the preceding odd-numbered year.]

Assessors shall re-appraise properties either once per year (one-year reappraisal cycle), or once every two years (two-year reappraisal cycle). Assessor's may only change the current reappraisal cycle in their respective county after written approval is granted by the Director. The phrase "current and correct values of property" as used in Section 7-36-16 NMSA 1978 means:

(1) For residential property purchased in the year prior to the current tax year the phrase means its market value during the year of purchase;

(2) For residential property not purchased in the year prior to the current tax year, when utilizing a one year reappraisal cycle, the phrase means its' market value of the year prior to the current tax year, and

(3) For residential property not purchased in the year prior to the current tax year, and non-residential locally assessed property, when utilizing a two year reappraisal cycle, the phrase means its market

value in the tax year 2001 and, for each of the following odd-numbered tax year, its market value during the preceding odd-numbered tax year.

[3/23/83, 11/5/85, 5/10/93, 12/29/94, 8/31/96; 3.6.5.23 NMAC - Rn & A, 3 NMAC 6.5.23, 4/30/01; A, XXX]

End of Notices and Proposed Rules Section

This page intentionally left blank

Adopted Rules and Regulations

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.1.7 and 16.2.1.9 NMAC.

16.2.1.7 DEFINITIONS: For the purpose of these Rules the following definitions apply in addition to those in the Act.

A. "Act" is the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-1 through 61-14A-22 NMSA 1978.

B. "Animal Acupuncture" is acupuncture performed on any animal other than man. Animal acupuncture is [~~prohibited except~~] authorized under the [~~direct~~]supervision of a doctor of veterinary medicine licensed in New Mexico and only under the guidelines of the rules of the New Mexico Veterinary Practice Act (61-14-1. to 61-14-20.) and the rules of the New Mexico board of veterinary medicine. (16.25.9.15 NMAC)

C. "Applicant" is a person who has submitted to the Board an application for licensure as a Doctor of Oriental Medicine.

D. "Applicant for Temporary Licensure" is a person who has submitted to the Board an application for temporary licensure as a Doctor of Oriental Medicine.

E. "Board" is the State of New Mexico Board of Acupuncture and Oriental Medicine.

F. "Clinical Skills Examination" is a Board approved, validated, objective practical examination that demonstrates the Applicants knowledge of and skill in the application of the diagnostic and treatment techniques of acupuncture and oriental medicine.

G. "Clinical Experience" is the practice of acupuncture and oriental medicine as defined in the Act, after [~~graduation from an Educational Program in~~] initial licensure, certification, registration or legal recognition in any jurisdiction to practice acupuncture and oriental medicine. A year of Clinical Experience shall consist of not less than five hundred (500) patient hours of licensed acupuncture and oriental medical practice within a calendar year, seeing at least twenty-five (25) different patients within that year. One patient hour is defined as one clock hour spent in the practice of oriental medicine with patients.

H. "Department" is the

State of New Mexico Regulation and Licensing Department.

I. "Doctor of Oriental Medicine" is a physician licensed to practice acupuncture and oriental medicine pursuant to the Act and as such has responsibility for his or her patient as a primary care physician or independent specialty care physician.

J. "Educational Program" is a Board approved complete formal program that has the goal of educating a person to be qualified for licensure as a Doctor of Oriental Medicine in New Mexico, is at least four (4) academic years and meets the requirements of Section 61-14A-14 of the Act and 16.2.7 NMAC (Part 7 of the Rules).

K. "Expanded Prescriptive Authority" is authorized by Section 61-14A-3.G(4) and (5), and 61-14A08.1 of the Act and is granted to a Doctor of Oriental Medicine who is certified by the Board after fulfilling the requirements, in addition to those necessary for licensure, defined in 16.2.2 NMAC (Part 2 of the Rules). Expanded Prescriptive Authority is in addition to the prescriptive authority granted all licensed Doctors of Oriental Medicine as defined in Section 61-14A-3.G(2) of the Act. Expanded Prescriptive Authority may be abbreviated as Rx.

L. "Extended Prescriptive Authority" is authorized by Section 61-14A-3.H(4) and (5), and 61-14A-8.1 of the Act and is granted to a Doctor of Oriental Medicine who is certified by the Board after fulfilling the requirements, in addition to those necessary for licensure, defined in 16.2.2 NMAC (Part 2 of the Rules). Extended Prescriptive Authority is in addition to the prescriptive authority granted all licensed Doctors of Oriental Medicine as defined in Section 61-14A-3.G(2) of the Act. Extended Prescriptive Authority may be abbreviated as Ex.

M. "Extern" is a current Applicant undergoing supervised clinical training by an Externship Supervisor, and who has satisfied the application requirements for Extern certification and who has received an Extern certificate issued by the Board pursuant to 16.2.14 NMAC (Part 14 of the Rules).

N. "Externship" is the limited practice of oriental medicine in New Mexico by an Extern supervised by an Externship Supervisor pursuant to 16.2.14 NMAC (Part 14 of the Rules).

O. "Ex t e r n s h i p Supervisor" is a Doctor of Oriental Medicine who has at least five years Clinical Experience, maintains a clinical facility and maintains appropriate profes-

sional and facility insurance, and who has satisfied the Board's application requirements for an Externship Supervisor and has received an Externship Supervisor registration issued by the Board pursuant to 16.2.14 NMAC (Part 14 of the Rules).

P. "Good Cause" is the inability to comply because of serious accident, injury or illness, or the inability to comply because of the existence of an unforeseen, extraordinary circumstance beyond the control of the person asserting Good Cause that would result in undue hardship. The person asserting Good Cause shall have the burden to demonstrate that Good Cause exists.

Q. "Inactive Licensee" means a Licensee in good standing whose license is placed on inactive status by the Board and is therefore considered an inactive license in compliance with 16.2.15 NMAC (Part 15 of the Rules).

~~Q~~R. "Licensee" is a Doctor of Oriental Medicine licensed pursuant to the Act.

~~R~~S. "Licensing Candidate" is an Applicant whose initial application for licensure as a Doctor of Oriental Medicine has been approved by the Board.

~~S~~T. "Office" is the physical facility used for the practice of acupuncture and oriental medicine.

~~F~~U. "Rules" are the rules, promulgated pursuant to the Act, governing Doctors of Oriental Medicine, Applicants, Temporary Licensees, Applicants for Temporary Licensure, Externs, Educational Programs and applicants for approval of Educational Programs as set forth in 16.2 NMAC (Title 16 - Occupational and Professional Licensing, Chapter 2 - Acupuncture and Oriental Medicine).

~~U~~V. "Supervised Clinical Observation" is the observation of acupuncture and oriental medical practice, in actual treatment situations under appropriate Supervision.

~~V~~W. "Supervised Clinical Practice" is the application of acupuncture and oriental medical practice, in actual treatment situations under appropriate Supervision.

~~W~~X. "Supervision" is the coordination, direction and continued evaluation at first hand of the student in training or engaged in obtaining clinical practice and shall be provided by a qualified instructor or tutor as set forth in 16.2.7 NMAC (Part 7 of the Rules). No more than four (4) students shall be under Supervision for Supervised Clinical Practice and no more than four (4) students shall be under Supervision for Supervised Clinical Observation by a quali-

fied instructor at any time.

[X]Y. "Temporary Licensee" is a Doctor of Oriental Medicine who holds a temporary license pursuant to the Act, Section 61-14-12 and 16.2.5 NMAC (Part 5 of the Rules).

16.2.1.9 PUBLIC RECORDS:

All records kept by the Board shall be available for public inspection pursuant to the New Mexico Inspection of Public Records Act, NMSA 1978, Section 14-2-1, et seq., except as provided herein.

A. During the course of the investigation or processing of a complaint, and before the vote of the Board as to whether to dismiss the complaint or to issue a Notice of Contemplated Action as provided in the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq., and in order to preserve the integrity of the investigation of the complaint, records and documents that reveal confidential sources, methods, information or Licensees accused, but not charged yet with a violation of the Act shall be confidential and shall not be subject to public inspection. Such records shall include evidence in any form received or compiled in connection with any such investigation of the complaint or of the Licensee by or on behalf of the Board by any investigating agent or agency.

B. Upon the completion of the investigation or processing of the complaint, and upon the decision of the Board to dismiss the complaint or to issue a Notice of Contemplated Action, the confidentiality privilege conferred by Subsection A of 16.2.1.9 NMAC (Part 1 of the Rules) shall dissolve, and the records, documents or other evidence pertaining to the complaint and to the investigation of the complaint shall be available for public inspection.

C. All tests and test questions by which Applicants are tested shall not be available to public inspection, as there is a countervailing public policy requiring that such records remain confidential in order to ensure the integrity of a licensing exam intended to protect the public health, safety and welfare from incompetent practitioners.

D. The Board or its Administrator may charge a fee not to exceed one dollar (\$1.00) per page for documents eleven (11) inches by seventeen (17) inches or smaller in size for copying public records.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.2.6, 16.2.2.8 and 16.2.2.10 NMAC. A spelling error to

the word Prescription was corrected in 16.2.2.9 NMAC.

16.2.2.6 OBJECTIVE: This Part clarifies the scope of practice of Doctors of Oriental Medicine, Temporary Licensees, Externs and students and defines the requirements for Extended and Expanded Prescriptive Authority.

16.2.2.8 SCOPE OF PRACTICE: Pursuant to Section 61-14A-3 NMSA 1978, the practice of oriental medicine in New Mexico is a distinct system of primary health care with the goal of prevention, cure, or correction of any disease, illness, injury, pain or other physical or mental condition by controlling and regulating the flow and balance of energy and functioning of the person to restore and maintain health. Oriental medicine includes all traditional and modern diagnostic, prescriptive and therapeutic methods utilized by practitioners of acupuncture and oriental medicine worldwide. The scope of practice of Doctors of Oriental medicine shall include but is not limited to:

A. Evaluation, management and treatment services;

B. Diagnostic examination, testing and procedures;

C. The ordering of diagnostic imaging procedures and laboratory or other diagnostic tests;

D. The surgical procedures of acupuncture and other related procedures, as well as injection therapy; injection therapy may only be performed by a Doctor of Oriental Medicine who is certified for the Extended or Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules);

E. The stimulation of points or areas of the body using needles, heat, cold, light, lasers, sound, vibration, magnetism, electricity, bleeding, suction, pressure, or other devices or means;

F. Physical medicine modalities and procedures; spray and stretch techniques using prescription vapocoolants may only be performed by a Doctor of Oriental Medicine who is certified for the Extended or Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules);

G. Therapeutic exercises, breathing techniques, meditation, and the use of biofeedback and other devices that utilize color, light, sound, electromagnetic

energy and other means therapeutically;

H. Dietary and nutritional counseling and the prescription or administration of food, beverages and dietary supplements therapeutically;

I. Counseling and education regarding physical, emotional and spiritual balance in lifestyle;

J. The prescription or administration of any herbal medicine, homeopathic medicine, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, gerovital, amino acids and dietary and nutritional supplements. The injection of any of the above substances may only be performed by a Doctor of Oriental Medicine who is certified for the Extended or Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules).

K. The prescription or administration of cosmetics, biological products including therapeutic serum and over the counter drugs other than those enumerated in Section 61-14A-3.G.(2) of the Act by a Doctor of Oriental Medicine who is certified for the Extended or Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules).

L. The prescription or administration of sterile water, sterile saline, sarapin or its generic[-] and vapocoolants [~~and transdermal bioidentical hormones~~] by a Doctor of Oriental Medicine who is certified for the Extended or Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules).

M. The prescription or administration of caffeine, procaine, oxygen, epinephrine [~~and all~~] bioidentical hormones and those substances listed in the Expanded Prescriptive Authority formulary, approved by the Board, by a Doctor of Oriental Medicine who is certified for the Expanded Prescriptive Authority pursuant to 16.2.2.10 NMSA (Section 10 of Part 2 of the Rules) or a Temporary Licensee for the purposes specified in Section 61-14A-12 of the Act and 16.2.5 NMAC (Part 5 of the Rules).

N. The prescription or administration of devices, restricted devices and prescription devices as defined in the New Mexico Drug, Device and Cosmetic

Act (Section 26-1-1 NMSA 1978) by a Doctor of Oriental Medicine who meets the requirements of 16.2.2.9 NMSA (Section 9 of Part 2 of the Rules).

16.2.2.10 EXPANDED PRESCRIPTIVE AUTHORITY CERTIFICATION: The Board shall certify a Doctor of Oriental Medicine in good standing for Expanded Prescriptive Authority as provided herein.

A. The Doctor of Oriental Medicine shall file a completed and signed application form provided by the Board and shall pay the Administrative Fee for Expanded Prescriptive Authority Application specified in 16.2.10 NMAC (Part 10 of the Rules).

B. The Doctor of Oriental Medicine shall submit proof of completion of the following education, satisfactory to the Board, in the pharmacology and general use of the drugs authorized for use under the Expanded Prescriptive Authority Provisions of Section 61-14A-3.G(4) and (5) and Section 61-14A-8.1 of the Act. Such education shall have been earned in classes pre-approved by the Board and shall be taught by qualified teachers as approved by the Board. All pharmacology shall be taught by a licensed pharmacist, PharmD or a Ph.D. in pharmacology. The education in the therapeutic use of the drugs shall be taught by a licensed health care practitioner with appropriate training and a minimum of five years experience using the drugs. The Board shall have final authority for approval of classes and teachers. All classes may be video recorded and transcribed for approval by the Board for future presentation of the class. Testing shall be administered as approved by the Board to insure that the material presented in the classes has been learned. The entire educational program shall be completed within two (2) years. Doctors of Oriental Medicine who wish to be certified in the Expanded Prescriptive Authority shall be educated to such a level of knowledge, understanding, skill and expertise that they shall be able to evaluate the material, have a deep grasp of the application of it in various settings, and be able to generate new thinking about the subject matter. They shall be required to demonstrate their skill in performing the necessary tasks and documenting the outcomes in writing. The above education shall be in addition to the education required to meet the minimum Educational Program requirements for licensure as a Doctor of Oriental Medicine. The education shall include a minimum of one hundred ~~[forty four (144)]~~ forty-five (145) hours in the following areas:

(1) Forty (40) hours in the theory and practice of injection therapy such as

trigger point injection therapy, neural injection therapy, prolo therapy, nerve blocks, and intravenous therapy, including the injection of therapeutic biological products, therapeutic serum, sterile water, sterile saline, Sarapin or its generic, caffeine, procaine, epinephrine, and all injectable forms of any herbal medicine, homeopathic medicine, vitamins, minerals, enzymes, glandular products, natural substances, protomorphogens, live cell products, gerovital, amino acids, dietary and nutritional supplements. The course shall include classes in: anatomy, physiology, pathology, biochemistry, pharmacology, diagnostic methodology, clinical strategies, contraindications and safeguards as well as vapocoolant spray and stretch techniques.

(2) Fourteen (14) hours in orthopedic and neurological evaluation.

(3) Fourteen (14) hours in the use of oxygen therapeutically

(4) Fourteen (14) hours in chelation therapy using vitamins, natural substances and amino acids.

(5) Thirty (30) hours in the theory and practice of bioidentical hormone therapy. The course shall include classes in: anatomy, physiology, endocrinology, pathology, biochemistry, pharmacology, diagnostic imaging, clinical strategies, contraindications, safeguards, and specialist referral.

(6) Twelve (12) hours in blood, urine and saliva hormone diagnostic testing and evaluation.

(7) Fourteen (14) hours in biomedical differential diagnosis relative to the prescription or administration of the authorized drugs.

(8) Five (5) hours in the pharmacology, application and clinical use of cosmetics and over-the-counter drugs.

(9) One (1) hour of pharmaceutical law as provided by the New Mexico Board of Pharmacy.

(10) One (1) hour in oriental medicine scope of practice.

C. The education and training completed by a doctor of oriental medicine who is certified for Extended Prescriptive Authority may be credited towards the education required for Expanded Prescriptive Authority Certification.

D. ~~[Certification for Extended Prescriptive Authority will not be available after February 28, 2002. However, those]~~ Those Doctors of Oriental Medicine who have been previously certified for Extended Prescriptive Authority may continue to prescribe or administer the drugs authorized by the Extended Prescriptive Authority until December 31, 2011, but they may not prescribe or administer caf-

feine, procaine, oxygen, epinephrine or ~~[ingested]~~ bioidentical hormones. All Extended Prescriptive Authority certifications will expire on December 31, 2011. A Doctor of Oriental Medicine certified for the Extended Prescriptive Authority shall complete all continuing education required by 16.2.9 NMAC (Part 9 of the Rules).

E. The Board shall notify the applicant in writing by mail postmarked no more than thirty (30) days after the receipt of the complete application whether the application is accepted or rejected. If the application is rejected, the notice of rejection shall state the reason the application was rejected.

F. The Extended or Expanded Prescriptive Authority certification shall automatically terminate when the license lapses, is suspended, revoked or terminated for any reason.

G. A Doctor of Oriental Medicine certified for Expanded Prescriptive Authority shall be designated as such by the addition of "Rx" after his or her license number. The board shall issue a wallet size license card to each Doctor of Oriental Medicine that shall contain the licensee's name, and license number followed by "Rx" if applicable. The board shall maintain a list of each Doctor of Oriental Medicine who is certified for Expanded Prescriptive Authority and shall notify the New Mexico Board of Pharmacy of all licensees certified for Expanded Prescriptive authority.

H. A Doctor of Oriental Medicine certified ~~[with the Extended or]~~ for the Expanded Prescriptive Authority shall register with the Federal DEA (Drug Enforcement Agency) to authorize the use of testosterone, a controlled substance, and any other drug that is currently, or in the future, classified as a controlled substance and that is within the prescriptive authority of a doctor of oriental medicine as defined in the Act and this Rule and as listed in the Expanded Prescriptive Authority formulary approved by the Board.

L. A Doctor of Oriental Medicine certified for the Expanded Prescriptive Authority shall complete all continuing education required by 16.2.9 NMAC (Part 9 of the Rules).

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.3.8, 16.2.3.10 and 16.2.3.13 NMAC.

16.2.3.8 GENERAL REQUIREMENTS:

[A. Every Applicant must provide a statement as to whether he or she:

(1) Has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession, including other health care professions, for which the Applicant is licensed, certified, registered or legally recognized to practice;

(2) Has been a party to litigation in any jurisdiction related to his or her practice of acupuncture and oriental medicine, or related to any other profession, including other health care professions, for which the Applicant is licensed, certified, registered or legally recognized to practice;

(3) Has been convicted of a felony in any jurisdiction, including any finding of guilt by a court or jury, or any plea of guilty, or any plea of *nolo contendere* or no contest, or plea or disposition of conditional discharge, and including any such proceeding in which a sentence was imposed, suspended or deferred.

B. Any Applicant who is licensed, certified, registered or legally recognized to practice any other profession including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act, shall provide a certificate from each such jurisdiction stating the disciplinary record of the Applicant.]

[C]A. Any Applicant who has been subject to any action or proceeding comprehended by [Paragraphs (1) (3) of] Subsection A of 16.2.3.8 NMAC (Part 3 of the Rules) may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of NMSA 1978, Section 61-14A-17; [but] and subject to the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq., and subject to the Criminal Offender Employment Act, NMSA 1978, Section 28-2-1, et seq.

[D]B. Any Applicant who provides the Board with false information or makes a false statement to the Board [with regard to any action or proceeding comprehended by Paragraphs (1) (3) of Subsection A of 16.2.3.8 NMAC (Part 3 of the Rules)] may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of Section 61-14A-17 NMSA 1978, and to the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq.

16.2.3.10 INITIAL LICENSURE APPLICATION—REQUIREMENTS: [Every person seeking a license to practice acupuncture and oriental medicine shall file an application in English on

the current form provided by the Board. Every application shall be accompanied by:

A. The non refundable fee for application for licensure specified in 16.2.10 NMAC (Part 10 of the Rules) that shall be paid by certified check or money order in U.S. funds;

B. Two (2) passport-type photographs of the Applicant taken not more than six months prior to the submission of the application;

C. Verification of the Applicant's education that shall include:

(1) A copy of the Applicant's certificate or diploma from an Educational Program evidencing completion of the required program. This copy shall include on it an affidavit certifying that it is a true copy of the original; and

(2) An official copy of the Applicant's transcript that shall be sent directly to the Applicant in a sealed envelope by the Educational Program from which the Applicant received the certificate or diploma, and that shall verify the Applicant's satisfactory completion of the required academic and clinical education and that shall designate the completed subjects and the hours of study completed in each subject. This copy of the transcript shall remain in the closed envelope secured with the official seal of the Educational Program and shall be sent by the Applicant to the Board along with the Applicant's application for licensure.] Upon approval of an application for licensure that fulfills the requirements listed below, the Board shall issue a license that will be valid until July 31 of the same year. The application requirements for a license shall be receipt of the following by the Board:

A. The fee for application for licensure specified in 16.2.10 NMAC (Part 10 of the Rules); and

B. An application for licensure that is complete and in English on a form provided by the Board that shall include the applicant's name, address, date of birth and social security number, if available.

C. Two (2) passport-type photographs of the applicant taken not more than six months prior to the submission of the application; and

D. An affidavit as provided on the "Initial Licensure Application" to whether the applicant:

(1) Has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, with-

drawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) Has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) Has been convicted of a felony in any jurisdiction, including any finding of guilt by a court or jury, or any plea of guilty, or any plea of *nolo contendere* or no contest, or plea or disposition of conditional discharge, and including any such proceeding in which a sentence was imposed, suspended or deferred; or

(4) Is in arrears on a court-ordered child support payment; and

E. An official license history, which is a certificate from each jurisdiction stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act; and

F. An affidavit as provided on the "Initial Licensure Application" stating that the applicant understands that:

(1) An applicant who has been subject to any action or proceeding comprehended by 16.2.3.10D, NMAC (Subsection 10D of Part 3 of the Rules) may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the Act, NMSA 1978, Section 61-14A-17; and subject to the Criminal Offender Employment Act, NMSA 1978, Section 28-2-1, et seq.; and

(2) An applicant who provides the Board with false information or makes a false statement to the Board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the Act, NMSA 1978, Section 61-14A-17, and the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq.; and

G. An affidavit as provided on the "Initial Licensure Application" stating that the applicant understands that

(1) The applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the

(2) The applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the

(3) The applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the

practice of acupuncture and oriental medicine; and

(2) The applicant must notify the Board within ten (10) days if the applicant's address changes; and

H. A copy of the Applicant's certificate or diploma from an Educational Program evidencing completion of the required program. This copy shall include on it an affidavit certifying that it is a true copy of the original; and

I. An official copy of the Applicant's transcript that shall be sent directly to the Board in a sealed envelope by the Educational Program from which the Applicant received the certificate or diploma, and that shall verify the Applicant's satisfactory completion of the required academic and clinical education and that shall designate the completed subjects and the hours of study completed in each subject. This copy of the transcript shall remain in the closed envelope secured with the official seal of the Educational Program and shall be sent by the Applicant to the Board along with the Applicant's application for licensure; and

J. An accurate translation in English of all documents submitted in a foreign language. Each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and complete translation of the original. Each affidavit shall be signed before a notary public. The translation of any document relevant to an application shall be at the expense of the applicant.

16.2.3.13 SUFFICIENCY OF DOCUMENT: The Board shall determine the sufficiency of the documentation that supports the application for licensure. The Board may, at its discretion, request further proof of qualifications or require a personal interview with any Applicant to establish his or her qualifications. If requested by the Board, all further proof of qualifications shall be received at the Board office at least ~~sixty (60)~~ thirty five (35) days before the Clinical Skills Examination date. Any required personal interview will be scheduled as determined by the Board.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.4.11,

16.2.4.12, 16.2.4.13, 16.2.4.14 and 16.2.4.15 NMAC.

16.2.4.11 CLINICAL SKILLS EXAMINATION FREQUENCY AND DEADLINES: The Board shall hold a Clinical Skills Examination at least once each year provided that applications for licensure are pending. The initial application specified in 16.2.3.11 NMAC (Section 11 of Part 3 of the Rules) shall be received at the Board office at least ~~ninety (90)~~ sixty (60) calendar days before the next scheduled Clinical Skills Examination date. The Board shall send a written response to the Applicant informing the Applicant of the application's completeness or needed documentation postmarked at least ~~eighty (80)~~ forty-five (45) calendar days before the next scheduled Clinical Skills Examination date. All documentation required to complete the initial application for licensure shall be received at the Board office at least ~~sixty (60)~~ thirty-five (35) calendar days before the next scheduled Clinical Skills Examination date. If the application requirements are received at the Board office after a deadline, the application will be held and not processed until the deadline schedule for the next subsequent Clinical Skills Examination. The applicant shall be notified of approval or denial of his or her completed initial application for licensure specified in 16.2.3.11 (Section 11 of Part 3 of the Rules), by mail postmarked at least ~~forty five (45)~~ twenty-five (25) calendar days prior to the next scheduled Clinical Skills Examination date.

16.2.4.12 CLINICAL SKILLS EXAMINATION CONFIRMATION: The Board approved confirmation card, provided to the applicant, ~~[and the]~~ shall be mailed to the applicant upon receipt of the Clinical Skills Examination fee specified in 16.2.10 NMAC (Part 10 of the Rules) ~~]- shall be received in the Board office no later than thirty five (35) days prior to the Clinical Skills Examination date, confirming the applicant's intent to take the next scheduled Clinical Skills Examination].~~

16.2.4.13 PAYMENT OF CLINICAL SKILLS EXAMINATION FEE: The non refundable Clinical Skills Examination fee specified in 16.2.10 NMAC (Part 10 of the Rules) shall be paid by certified check or money order in U.S. funds and received in the Board's office at least ~~thirty five (35)~~ fifteen (15) calendar days prior to the next scheduled Clinical Skills Examination.

16.2.4.14 CLINICAL SKILLS EXAMINATION COMMITMENT:

Upon receipt ~~[of the Board approved confirmation card at the Board office and payment]~~ of the Clinical Skills Examination fee for the next scheduled Clinical Skills Examination, the Applicant shall sit for the exam or forfeit the fee. The non-refundable Clinical Skills Examination fee may be applied to a subsequent exam only as provided in ~~[16.2.4.15 NMAC (Section 15 of Part 4)]~~ Section 15 of 16.2.4 NMAC (Part 4 of the Rules).

16.2.4.15 FORFEITURE OF CLINICAL SKILLS EXAMINATION FEE: Once the ~~[confirmation card and]~~ Clinical Skills Examination fee ~~[are]~~ is received in the Board office, the Applicant shall take the next scheduled Clinical Skills Examination or forfeit the Clinical Skills Examination fee. Exceptions may be made, at the Board's discretion, for Good Cause. If exceptions are made for Good Cause, the Applicant shall be allowed to take the next subsequent scheduled Clinical Skills Examination without paying an additional examination fee if the examination fee has been paid.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.8.6, 16.2.8.8 and 16.2.8.10 NMAC.

16.2.8.6 OBJECTIVE: This Part ~~[clarifies]~~ defines the requirements for renewal of licenses.

16.2.8.8 LICENSE RENEWAL GENERAL REQUIREMENTS:

~~[A. Every applicant for license renewal must provide an affidavit as to whether he or she, since applying for licensure or since last applying for licensure renewal, whichever occurred most recently, has been:~~

~~(1) Subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession, including other health care professions, for which the applicant for license renewal is licensed, certified, registered or legally recognized to practice;~~

~~(2) A party to litigation in any jurisdiction related to his or her practice of acupuncture and oriental medicine, or related to any other profession, including other health care professions, for which the applicant for license renewal is licensed, certified, registered or legally recognized to practice;~~

(3) Convicted of a felony in any jurisdiction, including any finding of guilt by a court or jury, or any plea of guilty, or any plea of *nolo contendere* or no contest, or plea or disposition of conditional discharge, and including any such proceeding in which a sentence was imposed, suspended or deferred.]

A. Except as provided otherwise in the Act, or in these Rules, or pursuant to other State law, including but not limited to the Board's right to deny an application for renewal pursuant to Section 61-14A-17 NMSA 1978, and the Parental Responsibility Act, NMSA 1978, Section 40-5A-1, et seq., each licensed Doctor of Oriental Medicine shall be granted renewal of his or her license for one year upon receipt and approval by the Board or its designee completion of the following requirements:

B. Any applicant for license renewal who is licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act, shall provide an affidavit regarding the disciplinary record of the applicant.

C. Any applicant for license renewal who has been subject to any action or proceeding comprehended by Subsection C of 16.2.8.10 NMAC ([Paragraphs (1), (2) or (3) of Subsection A of 16.2.8.8 NMAC] (Part 8 of the Rules), may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of Section 61-14A-17 NMSA 1978, and subject to the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq., and subject to the Criminal Offender Employment Act, NMSA 1978, Section 28-2-1, et seq.

D. Any applicant for license renewal who provides the Board with false information or makes a false statement to the board [with regard to any action or proceeding comprehended by (Paragraphs (1), (2) or (3) of Subsection A of 16.2.8.8 NMAC of Part 8 of the Rules);] may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of Section 61-14A-17 NMSA 1978, and the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq.

16.2.8.10 ANNUAL LICENSE RENEWAL APPLICATION: [Except as provided otherwise in the Act, or in these Rules, or pursuant to other State law, including but not limited to the Board's right to deny an application for renewal pur-

suant to Section 61-14A-17 NMSA 1978, and the Parental Responsibility Act, NMSA 1978, Section 40-5A-1, et seq., each licensed Doctor of Oriental Medicine shall be granted renewal of his or her license for one year upon receipt by the Board of his or her renewal application that shall include any continuing education documentation, if required by 16.2.9 NMAC (Part 9 of the Rules), and the fee for annual license renewal specified in 16.2.10 NMAC (Part 10 of the Rules).] Upon approval of an application for license renewal that fulfills the requirements listed below, the Board shall renew the license. The application requirements for license renewal shall be receipt of the following by the Board:

A. The license renewal fee specified in 16.2.10 NMAC (Part 10 of the Rules) paid by check or money order in U.S. funds; and

B. An license renewal application that is complete and in English on a form provided by the Board that shall include the applicant's name, address, date of birth and social security number.

C. An affidavit as provided on the "Annual License Renewal Form" as to whether the applicant since last renewing his or her license with the Board:

(1) Has been subject to any disciplinary action in any jurisdiction related to the practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice including resignation from practice, withdrawal or surrender of applicants license, certificate or registration during the pendency of disciplinary proceedings or investigation for potential disciplinary proceedings; or

(2) Has been a party to litigation in any jurisdiction related to the applicants practice of acupuncture and oriental medicine, or related to any other profession including other health care professions for which the applicant is licensed, certified, registered or legally recognized to practice; or

(3) Has been convicted of a felony in any jurisdiction, including any finding of guilt by a court or jury, or any plea of guilty, or any plea of *nolo contendere* or no contest, or plea or disposition of conditional discharge, and including any such proceeding in which a sentence was imposed, suspended or deferred; or as provided on the "Annual License Renewal Form"

(4) Is in arrears on a court-ordered child support payment; or

(5) Has violated any provision of the Act or the Rules; and

D. An affidavit as provid-

ed on the "Annual License Renewal Form" regarding the applicant's license history since last renewing his or her license with the Board stating the disciplinary record of the applicant, from each jurisdiction where the applicant has been licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, pursuant to any authority other than the New Mexico Acupuncture and Oriental Medicine Practice Act; and

E. An affidavit as provided on the "Annual License Renewal Form" stating that the applicant understands that:

(1) An applicant who has been subject to any action or proceeding comprehended by 16.2.8.10.C. NMAC (Subsection 10.C of Part 8 of the Rules) may be subject to disciplinary action at any time, including denial, suspension or revocation of licensure, pursuant to the provisions of the Act, NMSA 1978, Section 61-14A-17; and subject to the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq., and subject to the Criminal Offender Employment Act, NMSA 1978, Section 28-2-1, et seq; and

(2) An applicant who provides the Board with false information or makes a false statement to the Board may be subject to disciplinary action, including denial, suspension or revocation of licensure, pursuant to the provisions of the Act, NMSA 1978, Section 61-14A-17, and the Uniform Licensing Act, NMSA 1978, Section 61-1-1, et seq.; and

F. An affidavit as provided on the "Annual License Renewal Form" stating that the applicant understands that:

(1) The applicant is responsible for reading, understanding and complying with the state of New Mexico laws and rules regarding this application as well as the practice of acupuncture and oriental medicine; and

(2) The applicant must notify the Board within ten (ten) days if the applicant's address changes; and

G. An accurate translation in English of all documents submitted in a foreign language. Each translated document shall bear the affidavit of the translator certifying that he or she is competent in both the language of the document and the English language and that the translation is a true and complete translation of the foreign language original. Each translated document shall also bear the affidavit of the applicant certifying that the translation is a true and complete translation of the original. Each affidavit shall be signed before a notary public. The translation of any document relevant to an application shall be at the expense of the applicant; and

H. Satisfactory proof as

determined by the Board of completion of any continuing education requirements established by the Board.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.9.8 and 16.2.9.9 NMAC.

16.2.9.8 CONTINUING EDUCATION: Currently there are no continuing education requirements for Doctors of Oriental Medicine who are not certified for the Extended Prescriptive Authority or Expanded Prescriptive Authority.

16.2.9.9 CONTINUING EDUCATION FOR EX OR RX CERTIFIED LICENSEES : A Doctor of Oriental Medicine certified for the Extended Prescriptive Authority or the Expanded Prescriptive Authority shall complete seven (7) hours of continuing education each year prior to renewal of his or her license. The continuing education shall be about new substances or updated information about current substances in the Expanded Prescriptive Authority formulary and in new or advanced techniques that are part of the Expanded Prescriptive Authority certification. Continuing education classes and teachers shall be approved by the Board.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.10.9 NMAC.

16.2.10.9 FEES CHARGED: The Board shall charge the following fees:
 A. Application for licensure: \$500.00.
 B. Application for temporary licensure: \$300.00.
 C. Application for Limited Temporary License: \$75.00.
 [C]D. Clinical Skills Examination, not including the cost of any nationally recognized examinations: \$450.00
 [D]E. Annual license renewal: \$200.00.
 [E]F. Late license renewal: [~~\$200.00~~]\$100.00.
 [F]G. Expired license renewal: [~~\$400.00~~]\$200.00.
 [G]H. Temporary license renewal: \$100.00.
 [H]I. Application for a new annual approval or renewal of approval of an Educational Program, including the same

program offered at multiple campuses: \$400.00.

[I]J. Late renewal of approval of an Educational Program: \$200.00.

[J]K. Application for single instance approval of an Educational Program: \$200.00.

[K]L. Application for Extended Prescriptive Authority certification: \$100.00.

[L]M. Application for Expanded Prescriptive Authority certification: \$100.00.

[M]N. Application for Externship Supervisor registration: \$200.00.

[N]O. Application for Extern certification: \$200.00.

P. Administrative fee for Inactive License Application: \$100.00.

Q. Administrative fee for Inactive License Renewal: \$35.00.

R. Administrative fee for License Reinstatement Application: \$100.00.

[S]T. Administrative fee for each duplicate license: \$25.00.

[U]V. Administrative fees to cover the cost of photocopying, electronic data, lists and labels produced at the board office.

NEW MEXICO BOARD OF EDUCATION

The State Board of Education has repealed and replaced the following regulations effective February 14, 2003:

6 NMAC 4.2.3.12 Repeal rule Licensure for School Counselors, K - 12

6.63.6 NMAC Adopt new rule Licensure for School Counselors, K - 12

The State Board of Education repeals the following regulation effective June 30, 2003. The regulation is replaced by 6.32.2 NMAC, Guidelines for Implementing Bilingual Multicultural Education Programs, effective July 1, 2003.

6.32.2 NMAC Guidelines for Implementing Bilingual Multicultural Programs

NEW MEXICO BOARD OF EDUCATION

**TITLE 6 PRIMARY AND SECONDARY EDUCATION
 CHAPTER 32 EDUCATIONAL STANDARDS - BILINGUAL MULTICULTURAL EDUCATION**

PART 2 GUIDELINES FOR IMPLEMENTING BILINGUAL MULTICULTURAL EDUCATION PROGRAMS

6.32.2.1 ISSUING AGENCY: State Board of Education [6.32.2.1 NMAC - Rp, 6.32.2.1 NMAC, 07-01-03]

6.32.2.2 SCOPE: This regulation applies to public schools receiving bilingual state funding, K-12. [6.32.2.2 NMAC - Rp, 6.32.2.2 NMAC, 07-01-03]

6.32.2.3 STATUTORY AUTHORITY: This regulation is adopted pursuant to Sections 22-23-1 through 22-23-6, NMSA, 1978. [6.32.2.3 NMAC - Rp, 6.32.2.3 NMAC, 07-01-03]

6.32.2.4 DURATION : Permanent [6.32.2.4 NMAC - Rp, 6.32.2.4 NMAC, 07-01-03]

6.32.2.5 EFFECTIVE DATE: July 1, 2003, unless a later date is cited at the end of a section. [6.32.2.5 NMAC - Rp, 6.32.2.5 NMAC, 07-01-03]

6.32.2.6 OBJECTIVE: This regulation provides requirements for developing and implementing Bilingual Multicultural and Language Revitalization programs (in accordance with Section 22-23-4, NMSA 1978; Standards for Excellence, subsection B of 6.30.2.11; State Board and department; powers; duties, Section 22-2-1, NMSA 1978) and supports the board's long-standing policy in furthering Bilingual Multicultural education in the State. [6.32.2.6 NMAC - Rp, 6.32.2.6 NMAC, 07-01-03]

6.32.2.7 DEFINITIONS
 A. Bilingual Multicultural Education: Bilingual programs shall use two languages, one of which shall be English, as mediums of instruction in the teaching-learning process.
 B. Primary or Home Language: Primary or home language(s) other than English, that may be spoken at home. [6.32.2.7 NMAC - Rp, 6.32.2.7 NMAC, 07-01-03]

6.32.2.8 PROGRAM ELIGIBILITY. To be eligible for financial support, each program shall:

A. Provide for the educational needs of linguistically and culturally different students, including Native American children and other students who may wish to participate, in grades kindergarten through twelve, in any public school or any combination of public schools in a district.

B. Establish a parent advisory committee, representative of the language and culture of the students, to assist and advise in the development, implementation, and evaluation of the program.

C. Provide procedures to ensure that parental notification is given prior to program placement.

D. Provide personnel endorsed in bilingual education or certified in Native Languages and Culture License. The state superintendent may authorize other personnel to implement programs if qualified personnel are not available by the submission of an approved program design that addresses recruitment, professional development, and staffing patterns. [6.32.2.8 NMAC - N, 07-01-03]

6.32.2.9 STUDENT ELIGIBILITY AND PARTICIPATION

A. A student must be enrolled in a public school participating in an approved Bilingual Multicultural and/or Language Revitalization Education program.

B. A student may participate in the program with parental notification. [6.32.2.9 NMAC - N, 07-01-03]

6.32.2.10 PROGRAM ELEMENT: INSTRUCTION

A. Public schools providing an approved Bilingual Multicultural Education program shall include:

- (1) Literacy skills in two languages one of which is English; and
- (2) Sequential curriculum and instruction in the history and cultures of New Mexico.

B. Public schools providing an approved Language Revitalization or Indigenous Language program shall include:

- (1) Literacy skills in English;
- (2) Oral and/or written language skills in Native American languages and other indigenous languages; and
- (3) Sequential curriculum and instruction in the history and cultures of New Mexico Native American Languages and other indigenous languages.

(4) Public Schools providing an approved Language Revitalization or Indigenous Language program may include literacy skills in Native American languages

with approval from tribal departments of education/tribal councils.

C. The following content areas shall be included in all programs:

- (1) Daily instruction in the language arts of the primary or home language;
- (2) Modifications of instruction in the English language arts that address the developmental, linguistic and academic needs of students; and
- (3) Depending on the model:

(a) Content area instruction in two languages that utilizes the student's language, history, and/or culture;

(b) Fine arts instruction in two languages that utilizes the student's language, history, culture, and the arts traditions of his/her community.

D. All programs shall implement one or more of the following models in the school program:

(1) Dual Language Immersion: Designed to develop bilingualism and biliteracy in English and the home language for both English-speaking and minority language students.

(2) Enrichment: Designed to further develop the home language of fully English proficient students and to teach the cultures of the state.

(3) Indigenous Language: Designed to support and revitalize a student's native language and culture through oral and/or written language instruction. Native American language programs require approval from tribal departments of education or tribal councils.

(4) Maintenance: Designed to develop and maintain proficiency and literacy in the primary or home language while developing a student's literacy and oral skills in English.

(5) Transitional: Designed to transfer students from home language instruction with gradual transition to an all-English curriculum.

[6.32.2.10 NMAC - N, 07-01-03]

6.32.2.11 PROGRAM ELEMENT: ASSESSMENT

A. Trained personnel shall administer language proficiency assessments/tests in English and the home language annually until proficiency in each language is achieved.

B. Public school districts shall comply with federal assessment requirements, including Title I, III, and Office for Civil Rights.

C. Students enrolled in this program shall participate in the New Mexico Achievement Assessment Program.

D. In those grades that students do not participate in the New Mexico Achievement Assessment Program, the

public school district shall design an assessment and evaluation program. The State Department of Education shall approve the assessment and evaluation plan prior to program approval.

[6.32.2.11 NMAC - N, 07-01-03]

6.32.2.12 PROGRAM ELEMENT: PROFESSIONAL DEVELOPMENT

A. Public school districts shall provide professional development to teachers, teacher assistants, principals, bilingual directors or coordinators, associate superintendents, superintendents, and financial officers in the areas of:

(1) Research-based bilingual/multicultural and/or language revitalization programs and implications for instruction;

(2) Best practices of English as a Second Language (ESL); English Language Development (ELD) and Bilingual/Multicultural and/or Language Revitalization Programs; and

(3) Principles of peer coaching.

B. Bilingual/Multicultural Education or Language Revitalization programs shall be part of the district's professional development plan as required in Section 22-2-2 (AA) NMSA 1978. Bilingual educators, including teachers, instructional support personnel, principals, and program administrators, will participate in professional development. Principals and program administrators shall participate in training that addresses program supervision and coaching. [6.32.2.12 NMAC - N, 07-01-03]

6.32.2.13 PROGRAM APPROVAL

A. A public school district shall submit an initial application to the SDE by March 1st of the preceding school year for each school requesting program approval.

B. The initial application shall include:

(1) Number of students to be served;

(2) Identification of language proficiency of students;

(3) Verification of classroom space conducive to learning;

(4) Identification of scientifically researched-based model(s) to include program content, program objectives, and evaluation;

(5) Identification of assessment measures;

(6) Description of professional development plan;

(7) Identification of personnel to implement program;

(8) Parent participation in an

advisory capacity;

(9) Required state and federal assurance;

(10) Instructional materials inventory;

(11) Budget outline; and

(12) Verification of Tribal approval for Native American programs.

C. SDE shall review initial applications. The department shall approve, approve with conditions or disapprove the applications. If the application is submitted by March 1st, the department shall notify the public school districts prior to the district's Program/Budget Review.

[6.32.2.13 NMAC - N, 07-01-03]

6.32.2.14 EVALUATION

A. Public School District Biennial Progress Report

(1) Districts shall submit to SDE an biennial progress report;

(2) Reports shall be submitted by September 1st of the following year;

(3) The Biennial report will be based on annual assessment data;

(4) The report shall include:

(a) Verification that the program has identified and served students most in need based on language proficiency (English and Home Language) and academic achievement;

(b) A current analysis of assessment results by school and by model(s);

(c) A summary of proposed modifications to program design and implementation must be based in data with timelines if needed;

(d) Annual student progress inclusive of language proficiency and academic achievement; and

(e) Data demonstrating that participating students have made measurable growth (AYP) in meeting New Mexico Content Standards, Benchmarks and Performance Standards.

B. The State Department of Education will compile student data analysis submitted by public school districts and provide a biennial report.

[6.32.2.14 NMAC - N, 07-01-03]

6.32.2.15 PROGRAM RENEWAL

A. After the second year of successful implementation based upon measurable progress, the public school district may continue the program as previously outlined in the initial or modified application.

B. After the second year of implementation when measurable progress cannot be demonstrated, the SDE shall:

(1) Notify the public school district that the school has not demonstrated

reasonable progress;

(2) Assist the school in the development of an improvement plan; and

(3) Provide technical assistance to the school and district.

C. After an additional two years of technical assistance when measurable progress cannot be demonstrated, the program shall be redesigned, modified, or discontinued by the SDE.

[6.32.2.15 NMAC - N, 07-01-03]

HISTORY OF 6.32.2 NMAC:

PRE-NMAC HISTORY: The material in this regulation is derived from that previously filed with the State Records Center and Archives under: State Board of Education Regulation 73-21, Guidelines for Submitting Bilingual-Multicultural Education Proposals, filed June 18, 1973 and State Board of Education Regulation No. 75-19, Guidelines for Implementing Bilingual-Multicultural Programs, filed January 22, 1976.

HISTORY OF REPEALED MATERIAL: 6.32.2 NMAC, Guidelines for Implementing Bilingual-Multicultural Programs, repealed effective 07-01-03.

NEW MEXICO BOARD OF EDUCATION

TITLE 6 PRIMARY AND SECONDARY EDUCATION

CHAPTER 63 SCHOOL PERSONNEL - LICENSURE REQUIREMENTS FOR ANCILLARY AND SUPPORT PERSONNEL

PART 6 LICENSURE FOR SCHOOL COUNSELORS, K-12

6.63.6.1 ISSUING AGENCY:

State Board of Education

[6.63.6.1 NMAC - Rp 6 NMAC 4.2.3.12.1, 02-14-03]

6.63.6.2 SCOPE:

All persons seeking licensure in school counseling on or after July 1, 1993.

[6.63.6.2 NMAC - Rp 6 NMAC 4.2.3.12.2, 02-14-03]

6.63.6.3 STATUTORY

AUTHORITY: Sections 22-2-1, NMSA 1978 and 22-2-2, NMSA 1978.

[6.63.6.3 NMAC - Rp 6 NMAC 4.2.3.12.3, 02-14-03]

6.63.6.4 DURATION:

Permanent

[6.63.6.4 NMAC - Rp 6 NMAC 4.2.3.12.4, 02-14-03]

6.63.6.5 EFFECTIVE DATE:

February 14, 2003, unless a later date is cited in the history note at the end of a section.

[6.63.6.5 NMAC - Rp 6 NMAC 4.2.3.12.5, 02-14-03]

6.63.6.6 OBJECTIVE:

This regulation governs licensure in school counseling, grades K-12 for those persons seeking such licensure on or after July 1, 1993.

[6.63.6.6 NMAC - Rp 6 NMAC 4.2.3.12.6, 02-14-03]

6.63.6.7 DEFINITIONS:

[RESERVED]

6.63.6.8 REQUIREMENTS:

Applicants may meet this requirement by meeting requirements of subsections A and D, B and D, or C and D of 6.63.6.8 NMAC:

A. National certified school counselor credential issued by the national board for certified counselors.

B. Licensed Professional Mental Health Counselor (LPC) or Licensed Professional Clinical Mental Health Counselor (LPCC) credential issued by the New Mexico Counseling and Therapy Practice Board and a minimum of six semester hours of graduate credit in school counseling coursework.

C. Master's degree from a regionally accredited college or university. The master's degree requirement shall be satisfied by meeting the requirements of paragraphs (1) and (2) of subsection C of 6.63.6.8 NMAC.

(1) Master's degree in school counseling from a regionally accredited college or university and meeting the applicable program requirements as follows:

(a) A master's degree awarded by a New Mexico college or university must incorporate the New Mexico State Board of Education's ("SBE") approved competencies in the area of school counseling.

(b) A master's degree awarded by a college or university outside of New Mexico must be for a school counseling program approved by the SBE.

(2) Master's degree in a discipline other than school counseling and 36-42 graduate hours in school counseling, (which may be completed as a part of the master's degree program or in addition to the master's) meeting the applicable program requirements as follows:

(a) The 36-42 graduate hours awarded by a New Mexico college or university must incorporate the SBE's

approved competencies in the area of school counseling and include 300 hour_a practicum or internship in a school setting.

(b) The 36-42 graduate hours awarded by a college or university outside of New Mexico must be for a school counseling program approved by the SBE and include a practicum in a school setting.

D. Background experience. The applicant may meet this requirement by meeting the requirements of paragraphs (1) or (2) of subsection D of 6.63.6.8 NMAC.

(1) Holding a valid New Mexico teaching license; provided, however, that a level 1 license will not meet this requirement.

(2) Demonstrating three (3) years of documented, verified satisfactory experience in one or a combination of the following areas:

(a) teaching, educational administration, or school counseling,

(b) clinical practice,

(c) mental health work.

[6.63.6.8 NMAC - Rp 6 NMAC 4.2.3.12.8, 02-14-03]

6.63.6.9 REFERENCED MATERIAL: Competencies for School Counselors

A. The counselor will develop and implement a comprehensive school level guidance program based on the American School Counseling Association National Standards and focused on the physical, social, intellectual, emotional, and vocational growth of each student by:

(1) Determining guidance priorities based on local assessed needs.

(2) Formulating measurable objectives from identified needs and priorities.

(3) Formulating specific tasks relating to achieving the objectives.

(4) Coordinating a continuing evaluation of the program.

(5) Serving all students at the prevention level.

(6) Coordinating with the appropriate administration to achieve items in paragraphs (1) to (4) of subsection A of 6.63.6.9 NMAC.

B. The counselor will coordinate activities in the guidance and counseling program by:

(1) Communicating the curriculum based on Content Standards and Benchmarks.

(2) Working with other staff members to encourage the inclusion of a student-oriented philosophy in all school activities.

(3) Helping to integrate the guidance and counseling program within the

total school program.

(4) Communicating with parents and the community about services available within the guidance and counseling program.

(5) Learning about available school and community resources.

(6) Establishing and maintaining contact with school and community resources.

(7) Working with the administration to utilize community resources related to the guidance program.

C. The counselor will provide information and facilitate guidance activities for students, staff, and parents by:

(1) Assisting others in their understanding of personal and social development.

(2) Serving as a resource to facilitate groups and presentations on pertinent issues.

(3) Providing prevention strategies which address current issues such as chemical dependency, teenage pregnancy, suicide, dropping out, and various forms of abuse.

(4) Conducting activities on educational career themes.

(5) Conducting orientation/training programs for students, parents, and staff.

(6) Interpreting test results to students, parents, and staff.

D. The counselor will serve as a consultant to the school and community by:

(1) Providing mediation for change in behavior and conflict resolution.

(2) Serving as a liaison for issues pertinent to the learning environment of the school.

(3) Supporting the staff with assistance in developing positive rapport with students to maximize learning potential by reducing or mitigating the impact of learning barriers.

(4) Assisting teachers in identifying students who would benefit from counseling and providing feedback on referred students as appropriate.

(5) Providing information to parents and students to aid in their understanding of educational goals and barriers to learning.

(6) Providing resource materials and expertise dealing with issues affecting students, staff, and family.

(7) Providing information about appropriate community resources or organizations which provide services to students and their families.

(8) Developing strategies and methods of working with parents and guardians.

E. The counselor will provide individual and group counseling by:

(1) Providing crisis intervention.

(2) Using appropriate interventions in situations detrimental to the physical, mental, educational, and emotional well-being of the individual.

(3) Providing support to individuals by addressing topics such as interpersonal relations, communication, decision-making, problem-solving skills, academic programs, and career and life planning.

(4) Making referrals to school and community resources when necessary.

F. The counselor will uphold the standards of the counseling profession by:

(1) Meeting the state competency standard and the requirements for preparation.

(2) Participating in the development of policies concerning guidance and counseling.

(3) Keeping informed about developments and innovations within the profession at the local, state, and national levels.

(4) Following the legal and ethical standards of the counseling profession.

(5) Realizing personal and professional limitations.

G. The counselor will understand the cultural context of relationships, issues and trends in a multicultural and diverse society related to such factors as culture, ethnicity, nationality, age, gender, sexual orientation, mental and physical characteristics, education, family values, religious and spiritual beliefs, and socioeconomic status, and unique characteristics of individuals, couples, families, ethnic groups, and communities.

H. The counselor will be able to use technology in the design, implementation, monitoring, and evaluation of a comprehensive school counseling program. [6.63.6.9 NMAC - Rp 6 NMAC 4.2.3.12.9, 02-14-03]

HISTORY OF 6.63.6 NMAC:

PRE-NMAC HISTORY: The material in this regulation was derived from that previously filed with the Commission of Public Records - state records center and archives under:

SBE Regulation 72-14, New Mexico School Counseling Certification, filed June 19, 1972;

SBE Regulation 74-21, Governing New Mexico Elementary Counseling Certification, filed February 20, 1975;

SBE Regulation 74-22, Governing New Mexico Secondary Counseling Certification, filed February 20, 1975;

SBE Regulation 79-13, Ten Year

Professional Elementary School Guidance Counselor Licensure, filed October 18, 1979;
 SBE Regulation 79-14, Ten Year Professional Secondary School Guidance Counselor, filed October 18, 1979;
 SBE Regulation 79-15, Four Year Elementary School Guidance Counselor Certificate, filed October 18, 1979;
 SBE Regulation 79-16, Four Year Secondary School Guidance Counselor Certificate, filed October 18, 1979;
 SBE Regulation 91-1, Licensure for School Counselors, Grades K-12, filed January 22, 1991; and
 SBE Regulation 91-1, Amendment No. 1 Licensure for School Counselors, Grades K-12, filed January 6, 1993.

HISTORY OF REPEALED MATERIAL: 6 NMAC 4.2.3.12, Licensure for School Counselors, K - 12, Repealed 02-14-03

NEW MEXICO BOARD OF EDUCATION

TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 64 SCHOOL PERSONNEL - COMPETENCIES FOR LICENSURE PART 12 LICENSURE IN MODERN, CLASSICAL, AND NATIVE LANGUAGES

6.64.12.1 ISSUING AGENCY: State Board of Education
 [6.64.12.1 NMAC - N, 02-14-03]

6.64.12.2 SCOPE: All persons who are seeking an endorsement in modern, classical, and native languages to a New Mexico educator license.
 [6.64.12.2 NMAC - N, 02-14-03]

6.64.12.3 STATUTORY AUTHORITY: Sections 22-2-1, 22-2-2, 22-10-3, and 22-10-22, NMSA 1978.
 [6.64.12.3 NMAC - N, 02-14-03]

6.64.12.4 DURATION: Permanent
 [6.64.12.4 NMAC - N, 02-14-03]

6.64.12.5 EFFECTIVE DATE: February 14, 2003, unless a later date is cited in the history note at the end of a section.
 [6.64.12.5 NMAC - N, 02-14-03]

6.64.12.6 OBJECTIVE: This regulation establishes entry-level modern, classical, and native languages competen-

cies that are based on what beginning language teachers must know and be able to do to provide effective language programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's Content Standards and Benchmarks and with the American Council of Teachers of Foreign Languages (ACTFL).

[6.64.12.6 NMAC - N, 02-14-03]

6.64.12.7 DEFINITIONS:

A. "Language Competency" is defined as the proficiency level for language communication. Language competency classification for modern, classical and native language teachers is based on the American Council of Teachers of Foreign Languages *Program Standards for Foreign Language Teacher Preparation (March, 2002)*.

B. "Heritage Language" means that students speak a language other than English as their first or native language, either because they were born in another country, or because their families speak a language other than English at home.

C. "Idiolect" means the speech of an individual, considered as a linguistic pattern unique among speakers of his language or dialect.

D. "Second Language" refers to the language of study that is not the native or home language of the student.

E. "Target Language" refers to the language that is being taught in the classroom.

[6.64.12.7 NMAC - N, 02-14-03]

6.64.12.8 CORE LICENSURE REQUIREMENTS: Persons seeking an endorsement in modern, classical, and native languages to a New Mexico educator license must complete the following core requirements.

A. Hold a minimum of a baccalaureate degree from a regionally accredited college or university,

B. Have completed an approved educator preparation program that includes at least 14 weeks of supervised student teaching, and

C. Pass the State Board of Education's required licensure examination.
 [6.64.12.8 NMAC - N, 02-14-03]

6.64.12.9 COMPETENCIES FOR ENTRY-LEVEL MODERN, CLASSICAL, AND NATIVE LANGUAGES TEACHERS

A. Language Competency
 (1) Speaking: The modern, classical, and native language teacher is able to converse fluently in the target language in

instructional settings. The teacher is able to engage students in a variety of conversations that relate to the acquiring of the target language and to their unique cultural and linguistic contexts as appropriate. The teacher uses clear and precise language and is able to use a variety of effective strategies to help students build their skills in acquiring the spoken target language.

(2) Listening Comprehension: The modern, classical, and native language teacher is capable of understanding the spoken target language both formally and informally and can accurately relate meaning. The teacher is able to identify specific strategies and approaches to help students develop listening comprehension skills. The teacher understands main ideas of speech in a standard dialect and most details on a variety of topics. The teacher comprehends description and narration in different time frames and understands interviews, short lectures on familiar topics, news items, and reports dealing with facts. The teacher is aware of culturally implied meaning.

(3) Reading: The modern, classical, and native language teacher is able to read with comprehension expository prose and a variety of literary texts. The teacher can readily follow author intent in materials (e.g., editorials, journal articles, novels, plays, poems). The teacher is able to move beyond literal comprehension to analyze author's perspective and/or cultural perspectives, and offer personal interpretation of text.

(4) Writing: The modern, classical, and native language teacher is able to write correspondence about familiar topics by means of narratives, descriptions, and summaries in major time frames (present, past, and future). Teachers are able to write paragraphs and demonstrate good control of frequently-used syntactic structures.

B. Knowledge of Language Variation, and the Relations of Language to Culture and Community

(1) The modern, classical, and native language teacher understands the connections among the perspectives of a culture and its practices and products. The teacher:

(a) recognizes cultural perspectives and provides support through description and use of practices and products;

(b) demonstrates understanding and sensitivity toward the existence of multiple perspectives within a culture; and

(c) demonstrates an understanding of the role of language as a social instrument (e.g., socio-linguistic variation, styles and registers, dialects and idiolects, the characteristics of a multilingual society).

(2) The modern, classical, and native language teacher recognizes the

value and role of literary and cultural texts and artifacts and uses them to interpret and reflect upon the perspectives of the culture over time. The teacher:

(a) understands and uses the intellectual, artistic and literary contributions of the culture; and

(b) uses a variety of works that depict culture and literary value.

(3) The modern, classical, and native language teacher knows similarities and differences between the target language and other languages; identifies key differences in varieties and perspectives of the language. The teacher:

(a) describes the concept of subcultures and provides examples of subcultures; and

(b) understands and explains how social and political conditions influence language variations; and

(c) recognizes that languages change over time.

C. Knowledge of the Nature of Language and Language Acquisition

(1) The modern, classical, and native language teacher demonstrates knowledge and understanding of language structure as applied to language instruction. The teacher

(a) demonstrates an understanding of the concepts of native language, heritage language, and second language;

(b) demonstrates correct pronunciation;

(c) describes how words are formed and used, how sentences are put together, and how discourse is constructed;

(d) explains major components of the grammar system of the target language;

(e) describes syntactic patterns of the target language; and

(f) models and explains structures of the target language and relevant contrasts and similarities with English and/or the home language.

(2) The modern, classical, and native language teacher demonstrates an understanding of language acquisition theories, to include:

(a) developmental stages;

(b) variability in learners' language;

(c) role of input and attitudes;

(d) learning styles and strategies;

(e) language transfer; and

(f) differences between academic and informal language.

D. Knowledge of Instructional Methodology (Pedagogy)

(1) The modern, classical, and native language teacher understands and applies second language theories and methods for teaching: speaking, listening, read-

ing, and writing. The teacher:

(a) uses the target language to the maximum extent in classes at all levels of instruction;

(b) encourages student use of the target language to the maximum extent possible in all classes at all levels;

(c) tailors language use to students' developing proficiency levels;

(d) uses a variety of strategies to help students understand oral and written input, and produce oral and written output in the target language; and

(e) uses the target language to design content-based language lessons.

(2) The modern, classical, and native language teacher plans, develops, implements, and assesses a standard-driven curriculum that is aligned with New Mexico Content Standards and Benchmarks for Modern, Classical and Native Languages.

(3) The modern, classical, and native language teacher selects and uses appropriate instructional materials and technologies that apply to language acquisition, to include the following criteria:

(a) age-appropriateness;

(b) developmental level;

(c) authenticity/accuracy;

(d) cultural and linguistic background;

(e) awareness of bias and/or stereotyping;

(f) relevance to curriculum; and

(g) user friendliness.

(4) The modern, classical, and native language teacher selects and uses appropriate technology to access information.

(5) The modern, classical, and native language teacher creates a culturally appropriate, language-rich environment that is conducive to language acquisition.

(6) The modern, classical, and native language teacher uses strategies that support and encourage the learning of languages and cultures in a global society.

(7) The modern, classical, and native language teacher employs techniques of classroom management, lesson planning, and implementation for effective teaching, as well as strategies to engage students (e.g., discussion, cooperative learning, interdisciplinary activities) in the promotion of language acquisition.

(8) The modern, classical, and native language teacher demonstrates an awareness of varied students' needs and knows how to modify and implement instruction for diverse learners.

(9) The modern, classical, and native language teacher understands and uses a variety of assessment modes and instruments (e.g., norm-referenced, criterion-referenced, performance-based, teacher

observation, informal) to guide instruction and program development.

(10) The modern, classical, and native language teacher establishes a classroom environment that supports development of students' taking responsibility for their own learning (e.g., self-evaluation, cooperative learning, role playing.)

(11) The modern, classical, and native language teacher knows and uses strategies for involving and working with parents, community members, support staff, teachers and administrators for effective program implementation. The teacher:

(a) describes ways to relate language knowledge with other subject areas and topics;

(b) coordinates language instruction with the school community and encourages students to explore the resources of language(s) and culture(s) within and beyond the community;

(c) describes ways to use the target language to participate effectively in social, professional, civic, and avocational (e.g., hobbies, sports) activities in communities beyond the school; and

(d) designs and implements curriculum that incorporates interdisciplinary resources, cultural events and celebrations.

E. Professional Development

(1) The modern, classical, and native language teacher demonstrates awareness of the need to actively seek and participate in professional growth activities (e.g., professional organizations, conferences, workshops, coursework, research projects, immersion opportunities).

(2) The modern, classical, and native language teacher self-assesses teaching practices and language proficiency, and seeks opportunities to strengthen these skills (e.g., peer coaching, mentoring, academic coursework).

(3) The modern, classical, and native language teacher is able to use a variety of technologies for professional growth.

(4) The modern, classical, and native language teacher advocates for second language learning (e.g. with students, parents, colleagues, community leaders, government representatives).

[6.64.12.9 NMAC - N, 02-14-03]

6.64.12.10 IMPLEMENTATION:

Institutions of higher education that prepare teachers shall deliver the competencies in a State Board of Education approved endorsement program within a range of twenty-four (24) to thirty-six (36) semester hours of credit. For persons with secondary and K-12 licenses, a minimum of twelve (12) semester hours must be upper division

credit.

[6.64.12.10 NMAC - N, 02-14-03]

**HISTORY OF 6.64.12 NMAC:
[RESERVED]**

**NEW MEXICO BOARD OF
EDUCATION**

This is an amendment to 6.60.5 NMAC. The amendment makes changes to sections 6, 7, 8, and 10 of the rule and adds new subsections E through H to section 8 of the rule.

6.60.5.6 OBJECTIVE: This regulation is adopted by the State Board of Education (hereinafter "State Board") for the purpose of establishing the New Mexico Teacher Assessments ("NMTA") as the ~~[sole]~~ primary acceptable examination for educator licensure in New Mexico. Although the State Board adopts the New Mexico Teacher Assessments as the successor examination to the Core Battery of the National Teachers Examination, this regulation also provides ~~[a reasonable but limited timeline]~~ for acceptance of passing test scores from those applicants who took the Core Battery of the National Teachers Examination ~~[during a specific period of time]~~ and have applied for licensure on or after July 30, 1999. This regulation also establishes the New Mexico Content Knowledge Assessments ("NMCKA"), which is part of the NMTA, as the content tests required to be taken to hold certain endorsements on teaching licenses or to receive an initial elementary K-8 license. This regulation also establishes ~~[La]~~ Prueba de Español para la Certificación Bilingüe as the State Board's required Spanish language proficiency examination for persons seeking an endorsement to a teaching license in Spanish/English bilingual education. Lastly, this regulation establishes procedures for investigating NMTA testing irregularities and taking corrective action.

[12-31-98, 07-30-99; 6.60.5.6 NMAC - Rn, 6 NMAC 4.2.2.2.6 & A, 10-13-00; A, 07-01-01; A, 07-15-02; A, 02-14-03]

6.60.5.7 DEFINITIONS:

A. "NMCKA" means the New Mexico Content Knowledge Assessments, which are the teacher-tests approved by the State Board, portions of which individuals must take and pass in order to receive endorsements in language arts, reading, mathematics, science and social studies, or to receive initial licensure in elementary education from grades K-8.

B. "NMTA" means the New Mexico Teacher Assessments, which are the teacher-tests approved by the State

Board that all individuals must take and pass in order to receive initial educator licensure; the NMTA consists of the New Mexico Assessment of Teacher Basic Skills, the New Mexico Assessment of Teacher General Knowledge, until August 1, 2003, at which time that test shall be discontinued. the New Mexico Assessment of Teacher Competency (both at the elementary and secondary levels), and the New Mexico Content Knowledge Assessments ("NMCKA"); it shall include any test materials related to a testing applicant's taking of or registration for the NMTA.

C. "test administrator" means the business entity, namely, the National Evaluation Systems, Inc. or NES that developed the NMTA, administers the NMTA at testing centers throughout New Mexico, scores the NMTA, and reports NMTA testing results to the State Department of Education ("SDE").

D. "testing applicant" means a person who has filed an NMTA registration form with the test administrator, or has yet taken a portion of the NMTA.

E. "testing irregularity" means any circumstance within or beyond the control of a testing applicant that, in the sole opinion of the SDE or NES raises doubts about the propriety of a testing applicant's NMTA registration, NMTA score, or conduct during an NMTA test.

F. "withheld NMTA score(s)" means the suspension of use by and disclosure to a testing applicant of his NMTA score(s) for up to 120 days upon a determination made by the SDE professional licensure unit director that testing irregularity is likely to have occurred.

G. "voided NMTA score(s)" means the cancellation, invalidation and non-disclosure of a testing applicant of his NMTA score(s) after a final determination of testing irregularity by the SDE professional licensure unit director or by a hearing officer of the State Board of Education.

H. "rules of test participation" means any written rules in the applicable NMTA Registration Bulletin that a testing applicant has expressly agreed to comply with as a condition of registering for or taking the NMTA.

I. "educator licensure application" means an application for any professional teaching or administrative license, excluding licensure for an athletic coach, educational assistant, substitute teacher, or related service providers.

[6.60.5.7 NMAC - N, 07-01-01; A, 07-15-02; A, 02-14-03]

6.60.5.8 REQUIREMENTS:

The NMTA consists of two generic cate-

gories of assessments. The first category is the basic knowledge, skills and competency assessments identified at Subsection A of 6.60.5.8 NMAC below. The second category is the content knowledge assessments, sometimes called content tests, identified at Subsection B of 6.60.5.8 NMAC below.

A. Beginning July 30, 1999 and except for those individuals covered by Subsections C, D and E of 6.60.5.8 NMAC below, and commencing on August 1, 2003, when the Assessment of Teacher General Knowledge shall be discontinued, all applicants for initial licensure and all applicants whose prior licensure has expired for more than one year, in addition to meeting all other licensure and background check requirements of the State Board, are required to take the basic knowledge, skills and competency assessments of the New Mexico Teacher Assessments, which consist of the following tests and obtaining the following passing scores:

(1) Assessment of Teacher Basic: Passing Score = 240; and

(2) Assessment of Teacher General Knowledge: Passing Score = 240; and either

(3) Assessment of Teacher Competency, Elementary Level (for those seeking Early Childhood B-3 or Elementary K-8 licensure including Special Education K-12, Middle Level 5-9 and Grade K-12 licensure): Passing Score = 240, or

(4) Assessment of Teacher Competency, Secondary Level (for those seeking 7-12 licensure including Special Education K-12, Middle Level 5-9 and Grade K-12 licensure): Passing Score = 240.

B. Beginning with the September 2002 administration of the State Board's content testing and in addition to the testing requirement above, all applicants for initial teacher licensure must take and pass a test in their content area subject to the following schedule:

(1) if they are seeking licensure in Elementary K-8, they shall take and pass the State Board's content knowledge assessment in elementary education prior to issuance of that license;

(2) if they are applying for licensure in Secondary 7-12, Middle Level 5-9 and/or Grade K-12 and are also seeking endorsement in language arts, reading, mathematics, science or social studies, or any combination thereof, they must take and pass the State Board's content knowledge assessment(s) in the respective content area prior to issuance of the endorsement(s);

(3) if they currently hold a license but seek to add an endorsement in language arts, reading, mathematics, science or social studies, or any combination thereof, they

must take and pass the State Board's content knowledge assessment(s) in the respective content area prior to issuance of the endorsement(s);

(4) regardless of which of the content knowledge assessments they take, they must attain a score of 240 to pass.

C. Except as set forth in Subsection G of 6.60.5.8 NMAC below, a license that has been expired for more than one year shall be deemed to have lapsed. Anyone holding a license requiring the taking of the State Board's teacher test to be valid that has lapsed shall not be required to take the State Board's teacher test, provided that on a form acceptable to the professional licensure unit ("PLU") of the SDE, they submit evidence of having satisfactorily taught under their previous state license for at least five (5) complete school years. All licenses issued under this subsection shall be a level 1 license regardless of the level of the license that lapsed.

D. Applicants for an initial Spanish/English bilingual endorsement to a teaching license must, in addition to meeting all other State Board requirements for the endorsement, pass [La] Prueba de Español para la Certificación Bilingüe by obtaining a score of 2 or higher on any 12 of the 15 subsections. Applicants seeking this endorsement through licensure reciprocity should consult 6.60.4 NMAC for guidance.

E. Commencing on August 1, 2003, the Assessment of Teacher General Knowledge will be discontinued and eliminated as a requirement to obtain educator licensure in New Mexico.

F. A person who has failed any portion of the NMTA, excluding any New Mexico Content Knowledge Assessment, may nevertheless qualify for issuance of a Level I license provided that he or she:

(1) must at the time of issuance of such a license, have attempted but failed at least twice any portion of the NMTA, excluding any New Mexico Content Knowledge Assessment;

(2) must at the time of issuance of such a license, have attained a score of at least 170 on each of the basic skills, general knowledge and teacher competency tests;

(3) must at the time of issuance of such a license, have been employed and observed teaching in the same school district on either a substandard, temporary or combination of such licenses for at least two full school years;

(4) must at least once annually retake any failed test; and,

(5) must, pursuant to 6.60.10 NMAC ("Mentorship Programs for Beginning Teachers"), be assigned a mentor by a school district and must successfully

complete at least one year of an approved mentorship program.

G. No such Level I license authorized by Subsection F of 6.60.5.8 NMAC, shall be issued unless:

(1) the superintendent of the employing school district certifies in writing to the State Board of Education through the Professional Licensure Unit of the SDE, that the individual failing a portion of the NMTA as described above, should be relieved from passing one or more portions of the NMTA because he/she has successfully performed at a high degree in the same school district during at least two consecutive school years;

(2) the required high degree of performance in the case of an elementary K-8 teacher, must be documented on at least two annual evaluations and address the individual's subject knowledge and teaching skills in reading, mathematics, and other areas of the basic elementary school curriculum;

(3) the required high degree of performance in the case of a secondary 7-12 teacher, must be documented on at least two annual evaluations and address the individual's subject knowledge and teaching skills in the endorsement area in which licensure is sought.

H. Limitations on Level I licenses issued pursuant to Subsections F and G of 6.60.5.8 NMAC:

(1) There shall be no exception to the requirement that a person must take and pass a state content knowledge assessment required under this rule;

(2) Although a person issued such a license may receive an unrestricted Level II license once he/she receives a certification of competencies at the time of licensure renewal, until this occurs he/she must, as a condition of holding this licensure, remain employed in the school district that certified that he/she should be relieved from passing one or more portions of the NMTA;

(3) During the time that a person holds such a license, if he/she was hired by a district after the first day of school of the 2002-2003 school year, he/she may not be assigned by the district to work in a targeted assistance program or school-wide program that is funded by Title I of the Elementary and Secondary Education Act;

(4) Under no circumstances shall any Level I license be issued under these subsections after June 30, 2005;

(5) A person issued a Level I license under these subsections, shall not acquire a property interest in that license. Nor shall a person issued such a license acquire professional status by reason of being issued that license and holding it from year to year. Accordingly, such a license

may be suspended, revoked, or its issuance denied for any reason without a hearing at any time by a vote of the state board upon a written recommendation by the state superintendent of public instruction or his designee that states the reason for the recommendation. The individual whose license is considered for suspension, revocation, or denial of issuance, shall be given notice from the state superintendent of the reason for the proposed suspension, revocation or denial of issuance of his license, the date and time when the state board will consider taking final action against his license, and an opportunity to address the state board. Besides acts of immorality, incompetence or misconduct, such a license may be suspended, revoked or its issuance denied, for any condition not satisfied in Subsection F or G of 6.60.5.8 NMAC.

[12-31-98, 07-30-99, 02-14-00; 6.60.5.8 NMAC - Rn, 6 NMAC 4.2.2.2.8 & A, 10-13-00; A, 07-15-02; A, 02-14-03]

6.60.5.10 SAVINGS CLAUSE:

[Applicants described in Section 6.60.5.8 NMAC applying for licensure between July 30, 1999, and June 30, 2002 who have taken all portions of the Core Battery of the National Teachers Examination between January 1, 1996, and July 29, 1999, will be exempt from taking the basic knowledge, skills and competency assessments of the NMTA provided they have obtained the following minimum scaled score associated with each test of the Core Battery of the National Teachers Examination:] Applicants described in Section 6.60.5.8 NMAC applying for licensure after July 30, 1999, who have taken the Professional Knowledge portion of the Core Battery of the National Teachers Examination within ten years of application for licensure or who have ever taken the Communications Skills and General Knowledge portions of the Core Battery of the National Teachers Examination that correspond with portions of the NMTA as indicated below, will be exempt from taking the same portions of the NMTA provided they have obtained the following minimum scaled score that correspond with each test of the Core Battery of the National Teachers Examination:

A. Professional Knowledge 630 corresponds with NMTA-Teacher Proficiency 240

B. Communication Skills 644 corresponds with NMTA-Basic Skills 240

C. General Knowledge 645 corresponds with NMTA-General Knowledge 240

[07-30-99; 6.60.5.10 NMAC - Rn, 6 NMAC 4.2.2.2.10 & A, 10-13-00; A, 07-15-02; A, 02-14-03]

NEW MEXICO BOARD OF EDUCATION

This is an amendment to section 14 of 6.61.9 NMAC.

6.61.9.14 PRE - EXISTING HOLDING OF SUBSTANDARD LICENSURE: Upon the effective date of this section and even if he/she has failed a portion of the NMTA, including Prueba de Español para la Certificación Bilingüe, anyone holding a substandard license for the 2001-2002 school year, may be eligible for a renewed substandard license that would expire July 31, 2003, provided that no other terms and conditions were imposed by the PLU on the previous substandard license, and provided further that their employing school district requests this one-year substandard license. After July 31, 2003, should the local district or state institution seek to continue using that individual's services for another school year to perform services for which they are not appropriately licensed, including those individuals who have taken but failed Prueba de Español para la Certificación Bilingüe, a request for renewal of substandard licensure [based on lack of course work must be filed and justified in accordance with section 12 of 6.61.9 NMAC above] is subject to being denied where the individual covered by this section has failed a portion of the NMTA, including Prueba de Español para la Certificación Bilingüe.

[6.61.9.14 NMAC - N, 07-16-01; A, 07-15-02; A, 02-14-03]

NEW MEXICO DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES OIL CONSERVATION DIVISION

This is an amendment to 19.15.6 NMAC, Section 402.

19.15.6.402 [METHOD AND TIME OF SHUT-IN PRESSURE TESTS [RESERVED]]

A. Shut-in pressure tests shall be taken on all natural gas wells annually. Such tests shall be taken by the operator of the well during the months of July, August, or September unless otherwise specified by special pool rules or special directive. Tests shall be reported as prescribed by the Division on Form C-125 not later than October 15 of the same year.

B. Shut-in pressures shall be taken with a dead weight gauge after a

minimum shut-in period of 24 hours. When the shut-in period exceeds 24 hours, the length of time the well was shut-in shall be reported to the Division.

C. The Division Director may prescribe special shut-in pressure test periods and procedures for pools when he deems the same necessary in order to obtain more accurate pressure data.]

[7-15-63...2-1-96; 19.15.6.402 NMAC - Rn, 19 NMAC 15.F.402, 12-14-01; 19.15.6.402 NMAC - Repealed, 02-17-03]

NEW MEXICO LIVESTOCK BOARD

This is an amendment to 21.32.5 NMAC, Section 11. This action also renumbers 21.32. 5 NMAC, EXHIBITION SWINE, from 21 NMAC 32.5, EXHIBITION SWINE to conform to the current NMAC requirements.

21.32.5.11 [INSPECTION REQUIREMENTS] [RESERVED]

A. All exhibition swine shall be inspected by the New Mexico Livestock Board through an inspector, or authorized agent, upon change of ownership, importation into New Mexico, or for swine shown by the original breeder, prior to the deadline of declaration of entry into a given show season.

B. Upon change of ownership, the buyer shall notify an inspector of the New Mexico Livestock Board within forty eight (48) hours of change of possession from the seller to the buyer to request the appropriate inspection.

C. Upon importation from outside of New Mexico, the owner shall notify an inspector of the New Mexico Livestock Board within forty eight (48) hours of the time of entry into New Mexico that the entry has occurred and request the appropriate inspection.

D. All exhibition swine, regardless of origin, shall be inspected by the New Mexico Livestock Board, prior to entry into any individual event or the 15th of July of the show season in which the animal is entered, whichever date comes first. Shows that have entry declaration dates after the 15th of July, may apply to the New Mexico Livestock Board for an extension of the deadline of inspection for the participants in that event. No swine may enter any show prior to inspection and certification. Any swine not inspected on or before the 15th of July, or on or before the special deadline granted by the New Mexico Livestock Board for a specific event, shall be ineligible for any New Mexico show, fair, exhibition, contest, or other event

described in this rule.

E. At the time of inspection the following applicable items and documents must be presented to the New Mexico Livestock Board inspector for complete visual inspection: each animal to be inspected, all Bills of sale for said animals, all health certificates for import animals, notarized copies of the herd validation/certification documents for swine coming from other than Stage V states, and any other documents deemed appropriate and necessary by the Board to properly inspect the animals in accordance with this section.

F. The inspection of exhibition swine shall be recorded upon a New Mexico Livestock Board Form 1-S.

G. Distribution of the copies of the Form 1-S shall be as follows: White copy, New Mexico Livestock Board Main Office; Blue copy, to the buyer; Canary copy, County Extension Agent or Future Farmers of America (FFA) instructor; Green copy, State Veterinarian; Goldenrod copy, New Mexico Livestock Board inspector. The inspector shall send the white, green, and canary copies to the Main Office of the Board. The Main Office shall distribute the canary copies to the proper individuals.

H. At the time of inspection, the inspector shall collect the fees for conducting the inspection before issuing the Form 1-S certificate. The fee shall include the New Mexico Livestock Board service charge and the fee per head, as set by this rule in 21 NMAC 32.10. The service charge for field inspection shall be paid for each Form 1-S certificate written by the inspector, regardless of the number of certificates completed for that visit.]

[3-1-99; 21.32.5.11 NMAC - Rn & Repealed, 21 NMAC 32.5.11, 2-14-2003]

NEW MEXICO PUBLIC SCHOOL CAPITAL OUTLAY COUNCIL

This is an amendment to section 9 of 6.27.2 NMAC. The amendment amends subsection C and paragraph (2) of subsection C. The amendment further adds new subparagraphs (a) and (b) to paragraph (2) of subsection C.

6.27.2.9 GRANTS

A. The Council will consider all applications meeting the requirements of this rule and, after public hearing, will either approve or deny each application. The Council will prioritize all applications and all allocations will be made on a priority basis, except:

(1) twenty million dollars

(\$20,000,000) of the proceeds from supplemental severance tax bonds available for the funding cycle in fiscal years 2002 and 2003 will be set aside solely for projects in school districts that are eligible for grants from the fund and that receive grants from the federal government as assistance to areas affected by federal activity in accordance with Title 20 of the United States Code, commonly known as "PL 874 funds" or "impact aid";

(2) in the case of an emergency as determined by the Council, the order of priority will first reflect those projects previously funded but not yet completed, excluding expansion of those projects, and contingent upon maintenance of the required local support; and

(3) the total amount of assistance grants made in a fiscal year for the purpose of implementing full-day kindergarten programs shall not exceed five million dollars (\$5,000,000)

B. Priorities for funding shall be given to those capital projects that:

(1) are necessary for health and safety;

(2) were previously funded by the Council but are not yet completed;

(3) are for school districts with low assessed valuation compared to other districts;

(4) provide necessary classrooms due to student population increases or that improve existing school facilities, including portable classroom facilities that have been used for a long period of time; and

(5) are renovation projects that will forestall substantial capital outlay costs in the future rather than new construction, unless health and safety concerns require new construction.

C. In establishing the priority for capital projects to be funded for allocation cycles prior to September 1, 2003, the Council shall consider:

(1) the school district's total assessed valuation per student relative to other school districts in the State;

(2) the school district's remaining bonding capacity calculated from its bonding capacity on May 15 of the grant year, as determined annually by the capital outlay unit[?]. The Council may modify the May 15 date for good cause shown due to circumstances beyond the control of the school district as set forth in subparagraphs (a) and (b) upon a finding by the Council that the indebtedness will be incurred during the current grant year and prior to the award of the grant:

(a) a bond sale which would result in the school district's being indebted at not less than 65% has been initiated prior to May 15 but has not closed on or before May

15, or

(b) an ordinance imposing a county education gross receipts tax which would result in the school district's being indebted at not less than 65% has been enacted by the governing body of a county and approved by the voters but has not resulted in a sale of county education gross receipts tax bonds which has closed on or before May 15;

(3) other sources of revenue available to the school district for capital outlay projects; and

(4) whether the project is shown as a priority project in the school district's most recent five-year facilities plan.

D. Maintenance projects will not be funded from money allocated to the Council.

E. Grants for the capital needs of charter schools shall be contingent upon the submission of documentation sufficient to ensure that the provisions of Article IX, Section 14 of the New Mexico Constitution (the "anti-donation clause") are not violated.

[6.27.2.9 NMAC - N, 11/14/2000; A, 3/29/02; A, 2/14/03]

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2003

Volume XIV	Submission Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 3	February 14
Issue Number 4	February 17	February 28
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
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 30
Issue Number 11	June 2	June 13
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 18	August 29
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rule making, proposed rules, adopted rules, emergency rules, and other similar material. The Commission of Public Records, Administrative Law Division publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. For further subscription information, call 505-476-7907.