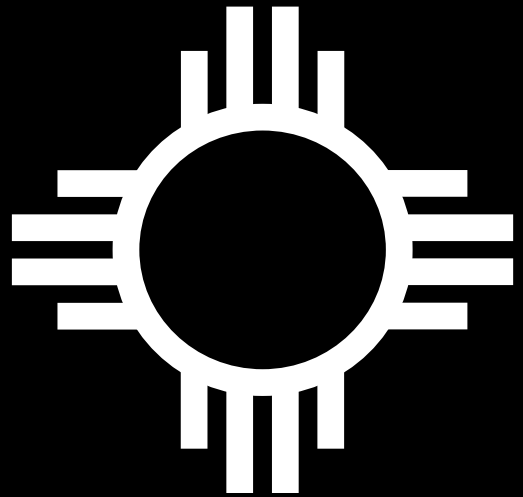


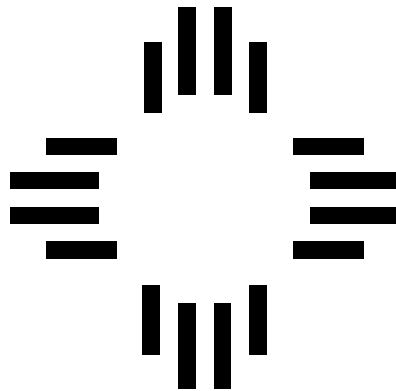
**NEW
MEXICO
REGISTER**



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New Mexico Register

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

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New Mexico Register

Volume XIV, Number 4

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A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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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

NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF PUBLIC HEARING TO
CONSIDER PROPOSED REVISION OF
AIR QUALITY REGULATIONS

20.2.77 NMAC - *New Source Performance Standards*

20.2.82 NMAC - *Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants*

The New Mexico Environmental Improvement Board (Board) will hold a public hearing on April 11, 2003 at 9:30 a.m. at City County Government Center, One Civic Plaza, Room 9081, Albuquerque, New Mexico. The purpose of the hearing is to consider proposed revisions to Air Quality Control Regulations, 20.2.77 NMAC - *New Source Performance Standards* and 20.2.82 NMAC - *Maximum Achievable Control Technology Standards for Source Categories of Hazardous Air Pollutants*.

The proponent of this regulatory change is the New Mexico Environment Department (NMED). Parts 77 and 82 are to be revised to incorporate by reference the federal requirements promulgated by the U.S. Environmental Protection Agency from September 2, 2001 to September 1, 2002.

The proposed changes may be reviewed during regular business hours at the office of the Environmental Improvement Board, Harold Runnels Building, 1190 St. Francis Drive, Room N-2150 Santa Fe, NM. Copies of the proposed revisions may be obtained by contacting Andy Berger at (505) 955-8034 or by email at Andy_Berger@nmenv.state.nm.us or by visiting the Department's web site at www.nmenv.state.nm.us. Follow the links to the Air Quality Bureau's page. Written comments regarding the proposed revisions may be addressed to Mr. Berger at Air Quality Bureau, 2044 Galisteo, Santa Fe, NM, 87505.

The hearing will be conducted in accordance with 20.1.1 NMAC (Rulemaking Procedures) Environmental Improvement Board, the Environmental Improvement Act, Section 74-1-9 NMSA 1978, the Air Quality Control Act Section 72-2-6 NMSA 1978 and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- identify the person for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of their education and work background;
- summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;
- list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing; and
- attach the text of any recommended modifications to the proposed changes.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on March 31, 2003, and should reference the name of the regulation and the date of the hearing. Notices of intent to present technical testimony should be submitted to:

Geraldine Madrid-Chavez
Office of the Environmental Improvement Board
Harold Runnels Building
1190 St. Francis Dr., Room N-2150
Santa Fe, NM 87502

Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony shall file such statement prior to the close of the hearing.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact Cliff Hawley by March 28, 2003. Mr. Hawley can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, NM 87502, (505) 827-2844. TDD or TDY users may access his number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

The Board may make a decision on the proposed regulatory change at the conclusion of the hearing, or the Board may convene a meeting after the hearing to consider action on the proposal.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL
IMPROVEMENT BOARD
NOTICE OF PUBLIC HEARING

The New Mexico Environmental Improvement Board ("EIB") will hold a public hearing after its regularly convened meeting on May 8-9, 2003 beginning at 8:30 a.m. at the City County Government Center, One Civic Plaza, 9th Floor Committee Room, Albuquerque, New Mexico.

The public hearing will be held to consider the following proposed amendments to 20.5.1 NMAC, 20.5.4 NMAC, 20.5.5 NMAC, 20.5.6 NMAC, 20.5.7 NMAC, and 20.5.8 NMAC. The reasons for the proposed amendments are to make parts 1, and 4-8 of 20.5 NMAC consistent with legislative amendments to the Hazardous Waste Act, NMSA 1978, §§74-4-1 through 74-4-14 (HWA). The HWA now provides regulatory authority for above ground storage tanks (ASTs) as it already does for underground storage tanks (USTs). The EIB is required to adopt regulations concerning "storage tanks" which includes ASTs as well as USTs pursuant to NMSA 1978, §74-4-4C. Any interested persons or parties are encouraged to participate or attend.

The hearing will be conducted in accordance with 20.1.1 NMAC Environmental Improvement Board's Rulemaking Procedures, promulgated pursuant to the Environmental Improvement Act, NMSA 1978, Section 74-1-9.

The proponent of the proposed amendments is the New Mexico Petroleum Storage Tank Bureau (the "Bureau") of the New Mexico Environment Department (Department). In summary, the Bureau proposes to amend parts 1, and 4-8 as follows:

20.5.1 NMAC -General Provisions

The proposed amendments in this

part add and amend definitions as required by the changes in the following sections.

20.5.4. NMAC – New and Upgraded Storage Tank Systems: Design, Construction and Installation

The proposed amendments to this part add design, construction and installation requirements for ASTs, and some changes and reformatting to the requirements for USTs.

20.5.5 NMAC – General Operating Requirements

The proposed amendments to this part add general operating requirements for ASTs, with some changes and reformatting to the requirements already in place for USTs.

20.5.6 NMAC – Release Detection

The proposed amendments to this part add release detection requirements to ASTs, with some changes and reformatting to the requirements already in place for USTs.

20.5.7 NMAC – Release Reporting and Investigation of Suspected and Confirmed Releases

The proposed amendments to this part add release reporting, investigation and confirmation requirements for ASTs, and make the requirements for USTs more efficient and clear.

20.5.8 NMAC – Out-of-Service Systems and Closure

The proposed amendments to this part add requirements for temporary and permanent closure for ASTs, with some changes and reformatting to the requirements for USTs.

Any person may provide a general written statement concerning the regulations at or before the hearing by filing the statement with Geraldine Madrid-Chavez at Environment Department, Secretary to EIB, P.O. Box 26110, Santa Fe, New Mexico 87502. Any person may provide a general oral statement or non-technical testimony concerning the application for modification at the hearing.

Any person who intends to provide a technical written statement or technical oral testimony concerning the proposed changes to the regulations shall file a state-

ment of intent to present technical testimony on or before April 28, 2003. The statement of intent to present technical testimony shall:

1. Identify the person filing the statement, the witness, and the person for whom the witness will testify;
2. State whether the person filing the statement supports or opposes the regulations;
3. Identify each fact and/or expert witness, qualifications of each witness, including name, address, affiliations and educational work background;
4. Summarize or copy any direct testimony of each witness, stating any opinions to be offered by such witness, and an explanation of the basis for such opinions, and the anticipated duration of the testimony of each witness;
5. Identify all exhibits anticipated to be offered;
6. List or make available all technical materials relied upon by each witness in making a statement of technical fact or opinion contained in his or her direct testimony; and
7. Include the text of any recommended modifications to the proposed regulatory changes.

Interested persons may review hard copies of the proposed amendments during regular business hours at the Petroleum Storage Tank Bureau located at 2044 Galisteo Street, Suite A, in Santa Fe, New Mexico, the Albuquerque field office located at 4131 Montgomery NE, or at the Environment Department's web site www.nmenv.state.nm.us. You may also contact Jerry Schoepner at 984-1787 to obtain hard copies if you do not have access to the Department's web site.

The EIB may make a decision on the proposed regulatory changes at the conclusion of the hearing.

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

NEW MEXICO OIL CONSERVATION COMMISSION

NOTICE OF RULEMAKING

STATE OF NEW MEXICO OIL CONSERVATION COMMISSION SANTA FE, NEW MEXICO

The State of New Mexico, through its Oil Conservation Commission, hereby gives notice that the Commission will conduct a public hearing commencing at 9:00 A.M. on March 20, 2003 in Porter Hall, 1220 South St. Francis Drive, Santa Fe, New Mexico concerning amendment of 19.15.9.711 NMAC. The proposed amendment would permit commercial waste management facilities regulated by the Oil Conservation Division to accept non-hazardous, non-oil-field wastes for disposition with prior approval of the Oil Conservation Division. Notice is also given of the regular meeting of the Oil Conservation Commission on March 20, 2003 (to follow the public hearing just described), when amendment of 19.15.9.711 NMAC will be considered. If you are an individual with a disability who is in need of 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 Florene Davidson at 505-476-3458 or through the New Mexico Relay Network, 1-800-659-1779 immediately. A copy of the text of proposed regulation is available from Ms. Davidson at 505-476-3458 or from the Division's Internet web site at <http://www.emnrd.state.nm.us/ocd/what-snew.htm>

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 7th day of February, 2003.

STATE OF NEW MEXICO OIL CONSERVATION DIVISION

Lori Wrotenbery, Director

S E A L

End of Notices and Proposed Rules Section

Adopted Rules and Regulations

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 2 ACUPUNCTURE
AND ORIENTAL MEDICINE PRACTI-
TIONERS
PART 15 I N A C T I V E
LICENSE**

16.2.15.1 ISSUING AGENCY: New Mexico Board of Acupuncture and Oriental Medicine.
[16.2.15.1 NMAC - N, 3-16-03]

16.2.15.2 SCOPE: All licensed and inactive licensed Doctors of Oriental Medicine.
[16.2.15.2 NMAC - N, 3-16-03]

**16.2.15.3 S T A T U T A R Y
AUTHORITY:** This Part is promulgated pursuant to the Acupuncture and Oriental Medicine Practice Act, Sections 61-14A-8, 9 and 15, NMSA 1978.
[16.2.15.3 NMAC - N, 3-16-03]

16.2.15.4 D U R A T I O N : Permanent.
[16.2.15.4 NMAC - N, 3-16-03]

16.2.15.5 EFFECTIVE DATE: March 16, 2003, unless a later date is cited at the end of a section.
[16.2.15.5 NMAC - N, 3-16-03]

16.2.15.6 OBJECTIVE: This Part defines the requirements for renewal of licenses and the procedures to place an active license on inactive status or to reinstate the license to active status.
[16.2.15.6 NMAC - N, 3-16-03]

16.2.15.7 D E F I N I T I O N S :
[RESERVED]
[16.2.15.7 NMAC - N, 3-16-03]

**16.2.15.8 I N A C T I V E
LICENSE GENERAL PROVISIONS:** A Licensee in good standing is eligible to have his or her license placed on inactive status. A Licensee who failed to renew his or her license by July 31st shall renew the license in accordance with the provisions of Sections 10, 11 and 12 of 16.2.15 NMAC (Part 15 of the Rules) before the licensee can apply for an inactive license.

A. The Board will not accept an inactive license application from a

Licensee who is under investigation for violations of the Act or who has an active complaint pending before the Board with the exception of an impaired Licensee who is participating in a rehabilitation plan approved by the Board. Impaired means the inability to practice acupuncture and oriental medicine with reasonable skill and safety to patients as a result of mental illness or habitual or excessive use or abuse of alcohol or drugs as defined in the Controlled Substances Act, Sections 30-31-1, et seq., NMSA 1978.

B. An Inactive Licensee shall not practice acupuncture and oriental medicine, as defined in the Act, in New Mexico. An Inactive Licensee shall not represent himself or herself as a Doctor Of Oriental Medicine in public statements that include, but are not limited to, paid or unpaid advertising, brochures, printed or copied materials, electronic or digital media, directory listings, personal resumes or curricula vitae, business cards, interviews or comments for use in media, statements in legal proceedings, lectures and public presentations. An Inactive Licensee shall not teach acupuncture and oriental medicine at an Educational Program.

C. Providing or offering to provide oriental medical services, engaging in the practice of acupuncture and oriental medicine or teaching acupuncture and oriental medicine at an Educational Program by an Inactive Licensee shall be grounds for disciplinary action by the Board for unprofessional conduct and potentially for other appropriate reasons pursuant to Section 61-14A-17 of the Act and 16.2.12 NMAC (Part 12 of the Rules).

D. An Inactive Licensee shall comply with the requirements of Section 61-14A-17 of the Act and 16.2.12 NMAC (Part 12 of the Rules).
[16.2.15.8 NMAC - N, 3-16-03]

**16.2.15.9 I N A C T I V E
LICENSE APPLICATION:** A Licensee in good standing may apply to have his or her license placed on inactive status. Upon approval of an application for an inactive license that fulfills the requirements listed below, the Board shall place the license on inactive status. The application requirements for an inactive license shall be receipt of the following by the Board:

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

B. An inactive license 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 provided on the "Inactive License Reinstatement Application" 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

(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 official license history since last renewing his or her license with the Board, 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

E. An affidavit as provided on the "Inactive License Reinstatement Application" stating that the applicant understands that:

(1) An applicant who has been subject to any action or proceeding comprehended by Subsection C of 16.2.15.9 NMAC (Part 15 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 "Inactive License 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 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

(3) An Inactive Licensee shall comply with any continuing education requirements established by the Board; and

(4) An inactive license shall expire after fifteen (15) years; and

(5) An Inactive Licensee shall not practice acupuncture and oriental medicine, as defined in the Act, in New Mexico. An Inactive Licensee shall not represent himself or herself as a Doctor Of Oriental Medicine in public statements that include, but are not limited to, paid or unpaid advertising, brochures, printed or copied materials, electronic or digital media, directory listings, personal resumes or curricula vitae, business cards, interviews or comments for use in media, statements in legal proceedings, lectures and public presentations. An Inactive Licensee shall not teach acupuncture and oriental medicine at an Educational Program; and

(6) Providing or offering to provide oriental medical services, engaging in the practice of acupuncture and oriental medicine or teaching acupuncture and oriental medicine at an Educational Program by an Inactive Licensee shall be grounds for disciplinary action by the Board for unprofessional conduct and potentially for other appropriate reasons pursuant to Section 61-14A-17 of the Act and 16.2.12 NMAC (Part 12 of the Rules); and

(7) An Inactive Licensee shall comply with the appropriate requirements of Section 61-14A-17 of the Act and 16.2.12 NMAC (Part 12 of the Rules); and

(8) The Board will not accept an inactive license application from a Licensee

who is under investigation for violations of the Act or who has an active complaint pending before the Board with the exception of an impaired Licensee who is participating in a rehabilitation plan approved by the Board; 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.

[16.2.15.9 NMAC - N, 3-16-03]

16.2.15.10 INACTIVE LICENSE RENEWAL: An inactive license shall be renewed by July 31st of every year. Upon approval of an application for inactive license renewal that fulfills the requirements listed below, the Board shall renew the inactive license. The application requirements for inactive license renewal shall be receipt of the following by the Board:

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

B. An inactive license 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 "Inactive License Renewal Form" stating that the applicant understands that:

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

(2) An inactive license shall expire after fifteen (15) years.

[16.2.15.10 NMAC - N, 3-16-03]

16.2.15.11 INACTIVE LICENSE EXPIRATION: An inactive license that is not renewed by September 30 shall expire and the person shall reapply for Licensure as a new Applicant.

[16.2.15.11 NMAC - N, 3-16-03]

16.2.15.12 LICENSE REINSTATEMENT GENERAL PROVISIONS: An Inactive Licensee whose license has been inactive for varying periods up to fifteen (15) years may apply to have his or her

license reinstated. The following provisions apply.

A. Any applicant for license reinstatement who has been subject to any action or proceeding comprehended by Subsection C of 16.2.15.13 NMAC (Part 15 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.

B. Any applicant for license reinstatement who provides the Board with false information or makes a false statement to the Board 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.

C. The Board will not approve a license reinstatement application from an Inactive Licensee who is under investigation for violations of the Act or who has an active complaint pending before the Board.

D. The Board will not approve a license reinstatement application from an impaired Inactive Licensee, or an impaired Inactive Licensee who is currently participating in a rehabilitation plan approved by the Board until the rehabilitation plan is successfully completed. Impaired means the inability to practice acupuncture and oriental medicine with reasonable skill and safety to patients as a result of mental illness or habitual or excessive use or abuse of alcohol or drugs as defined in the Controlled Substances Act, Section 30-31-1, et seq., NMSA 1978. [16.2.15.12 NMAC - N, 3-16-03]

16.2.15.13 LICENSE REINSTATEMENT APPLICATION - 5 YEARS OR LESS:

An Inactive Licensee whose license has been inactive for five (5) years or less may apply to have his or her license reinstated. Upon approval of an application for license reinstatement that fulfills the requirements listed below, the Board shall reinstate the license. The application requirements for license reinstatement shall be receipt of the following by the Board:

A. The administrative fee for license reinstatement application 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 reinstatement 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 "Inactive License Renewal Form" as provided on the "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

(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 official license history since last renewing his or her license with the Board, 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

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

(1) An applicant who has been subject to any action or proceeding comprehended by Subsection A of 16.2.15.12 NMAC (Part 15 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 "Inactive 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

(3) The applicant shall not practice acupuncture and oriental medicine in New Mexico until the applicant receives a new active license issued by the Board except as provided in Subsection C of 16.2.15. 14 NMAC or Subsection E of 16.2.15.15 NMAC (Part 15 of the Rules); 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 for all years the license was on inactive status.

[16.2.15.13 NMAC - N, 3-16-03]

16.2.15.14 LICENSE REIN-STATEMENT APPLICATION - 5 TO 10 YEARS: An Inactive Licensee whose license has been inactive for more than five (5) years and less than ten (10) years may apply to have his or her license reinstated. Upon approval of an application for license reinstatement that fulfills the requirements

listed below, the Board shall reinstate the license. The application requirements for license reinstatement shall be receipt of the following by the Board:

A. Fulfillment of the requirements of Section 13 of 16.2.15 NMAC (Part 15 of the Rules); and

B. Either providing proof of Clinical Experience for at least two out of every three years in another jurisdiction where the Inactive Licensee was licensed, certified, registered or legally recognized to practice acupuncture and oriental medicine, while the license was on inactive status; or

C. Proof of completion of 300 hours of Clinical Experience as an Extern supervised by and Externship Supervisor as part of an Externship as provided in 16.2.14 NMAC (Part 14 of the Rules).

[16.2.15.14 NMAC - N, 3-16-03]

16.2.15.15 LICENSE REIN-STATEMENT APPLICATION - MORE THAN 10 YEARS: An Inactive Licensee whose license has been inactive for more than ten (10) years may apply to have his or her license reinstated. Upon approval of an application for license reinstatement that fulfills the requirements listed below, the Board shall reinstate the license. The application requirements for license reinstatement shall be receipt of the following by the Board:

A. Fulfillment of the requirements of Section 13 of 16.2.15 NMAC (Part 15 of the Rules); and

B. Passing the Clinical Skills Examination; and

C. Passing the Board approved jurisprudence examination; and

D. Either providing proof of Clinical Experience for at least two out of every three years in another jurisdiction where the Inactive Licensee was licensed, certified, registered or legally recognized to practice acupuncture and oriental medicine, while the license was on inactive status; or

E. Proof of completion of 600 hours of Clinical Experience as an Extern supervised by and Externship Supervisor as part of an Externship as provided in 16.2.14 NMAC (Part 14 of the Rules).

[16.2.15.15 NMAC - N, 3-16-03]

16.2.15.16 I N A C T I V E LICENSE EXPIRATION: An inactive license that has been inactive for more than fifteen (15) years shall expire and the person who was previously licensed shall be required to apply as a new Applicant.

[16.2.15.16 NMAC - N, 3-16-03]

History of 16.2.15 NMAC: [RESERVED]

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.9.6 NMAC.

16.2.9.6 OBJECTIVE: This Part ~~[establishes that there are currently no]~~ defines continuing education requirements for Doctors of Oriental Medicine.

NEW MEXICO BOARD OF ACUPUNCTURE AND ORIENTAL MEDICINE

This is an amendment to 16.2.14.8, 16.2.14.9, 16.2.14.10, 16.2.14.11 and 16.2.14.12 NMAC.

16.2.14.8 GENERAL REQUIREMENTS FOR EXTERNS:

~~[A. An Extern applicant must provide an affidavit stating whether he or she:~~

~~(1) Has been the subject of 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 Extern certification 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 for Extern certification 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, any plea or judgment of conditional discharge, 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. An Extern applicant who is or has been licensed, certified, registered or legally recognized to practice any other profession, including other health care professions, in any jurisdiction, shall provide a certificate from each such jurisdiction or licensing authority stating the disciplinary record of the Extern applicant.]~~

~~[C] A. An Extern applicant who has been subject to any action or proceeding described in [Paragraphs (1), (2) or (3) of Subsection A of 16.2.14.8] Subsection C of 16.2.14.10 NMAC [of]~~

(Part 14 of the Rules) or who has violated the Act or 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 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.*

B. 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

~~[D] C.~~ C. An Extern applicant must [provide an affidavit as to whether he or she is] be an Applicant for licensure.

16.2.14.9 EDUCATIONAL AND EXAMINATION REQUIREMENTS FOR EXTERNS

A. An Extern applicant shall provide satisfactory proof that he or she has completed a Board approved Educational Program.

B. An Extern applicant shall provide satisfactory proof from the National Certification Commission for Acupuncture and Oriental Medicine that he or she has successfully passed the following:

(1) the National Certification Commission for Acupuncture and Oriental Medicine Comprehensive Written Exam (Acupuncture Portion); and

(2) the National Certification Commission for Acupuncture and Oriental Medicine Comprehensive Written Exam (Clean Needle Technique Portion), if this exam was not included in 16.2.14.9.B.(1) NMAC (Paragraph 9.B.(1) of Part 14 of the Rules); and

(3) the National Certification Commission for Acupuncture and Oriental Medicine Practical Examination of Point Location Skills (PELPE) or the Computer-Simulated Point Location Exam (CSPLE).

C. An Extern applicant must have graduated from a Board approved Educational Program within twelve (12) months of filing the application.

16.2.14.10 [ISSUANCE OF] EXTERN CERTIFICATION APPLICATION:

~~[Within thirty (30) days of receipt of the completed Board approved application that satisfies the requirements of 16.2.14.8 and 16.2.14.9 NMAC (Sections 8 and 9 of Part 14 of the Rules), receipt of a signed statement by a registered Externship~~

~~Supervisor stating his or her willingness to supervise the Extern and receipt of payment of the required application fee specified in 16.2.10 NMAC (Part 10 of the Rules), the Board shall issue the Extern certification.] Upon approval of an application for Extern certification that fulfills the requirements listed below, the Board shall issue an Extern certification. In the interim between regular board meetings, whenever a qualified applicant for Extern certification has filed his or her application and complied with all other requirements of this section, the Board's chairman or an authorized representative of the Board may grant an interim temporary Extern certification that will suffice until the next regular meeting of the Board. In no event shall the applicant begin the practice of acupuncture and oriental medicine until the Extern certification or interim temporary Extern certification is issued by the Board. The application requirements for Extern certification shall be receipt of the following by the Board:~~

A. The fee for application for Extern certification specified in 16.2.10 NMAC (Part 10 of the Rules).

B. A application for Extern certification 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. An affidavit as provided on the "Extern Certification Application" as 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, 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

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

D. An affidavit as provided on the "Extern Certification Application" stating that the applicant is an Applicant for licensure; and

E. An affidavit as provided on the "Extern Certification Application" stating that the applicant understands that:

(1) An applicant who has been subject to any action or proceeding comprehended by Subsection D of 16.2.3.10 NMAC (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 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

(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

(4) The scope of practice of an Extern shall be limited to the practice of acupuncture and oriental medicine as defined in the Act and 16.2.2 NMAC (Part 2 of the Rules), except that the Extern shall not prescribe or administer any herbal, nutritional, homeopathic or any other medicines or substances. When diagnosing and treating a patient, the Extern shall practice only within the limits of his or her education and training. The Extern shall possess and apply the knowledge, and use the skill and care ordinarily used by reasonably well-qualified Doctors of Oriental Medicine practicing under similar circumstances, giving due consideration to their limited clinical experience; and

(5) The Extern certification shall expire automatically twelve (12) months after the date of issuance unless the certificate expires sooner for any of the following reasons:

(a) Upon licensure;

(b) If the Extern fails the Board's Clinical Skills Examination more than once; or

(c) If the Extern is no longer under the supervision of the Externship Supervisor; and

(6) If the Externship relationship terminates before the expiration of the Extern certification, the Extern may reapply to be supervised by another Externship Supervisor by filing the appropriate forms required by the Board. The Extern certification time limit of twelve (12) months shall remain the same and shall not be extended; and

(7) In no event shall an Extern practice under Extern certification(s) for more than a total of twelve (12) months or after failing the Board's Clinical Skills Examination more than once. The Extern certification is not renewable. Exceptions for Good Cause shall not apply to the Extern certification; and

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

(9) The Board may refuse to issue, or may suspend, or revoke any license, Extern certification or Externship Supervisor registration in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in section 61-14A-17 NMSA 1978 of the Act and clarified in 16.2.12 NMAC (Part 12 of the Rules).

E. 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.

16.2.14.11 REQUIREMENTS AND RESPONSIBILITIES OF SUPERVISORS

A. The Externship Supervisor shall:

(1) Provide a clinical environment where the Extern is able to further his or her knowledge and apply acupuncture and oriental medicine theory and techniques; and

(2) Directly supervise the Extern on the premises of the treating facility at all times and be available for consultation, intervention, and decisions about patient care; and

(3) Supervise no more than two Externs at any given time and have no more than a total of two Externs in his or her overall Externship program at a time; and

(4) Inform patients with a written signed consent form outlining the responsibility of the Extern and the scope and limits of practice; and

(5) Prescribe all herbal, nutritional, homeopathic and any natural substances. Any recommendations of these substances by the Extern must be signed by the Externship Supervisor[-]; and

(6) Approve the diagnosis and treatment plan and oversee the techniques of oriental medicine and delivery of patient care; and

(7) Notify the Board in writing, within five (5) days working days, when the Extern enters into an Extern supervisory contract with the Externship Supervisor or terminates the Externship participation.

B. The Externship Supervisor shall be responsible for the delivery of competent professional services, obtaining patient consents, and maintaining patient records.

C. The Externship Supervisor shall document approval and oversight of diagnosis, treatment, and patient care in the [patients] patient's permanent file.

D. The Externship Supervisor shall terminate the Externship relationship if the Externship Supervisor has the reasonable belief that the Extern has violated the Act or the Rules. The Externship Supervisor shall notify the Board, in writing, within five (5) working days that the Externship relationship is terminated and give the reasons for the termination.

16.2.14.12 ISSUANCE OF EXTERNSHIP SUPERVISOR REGISTRATION: ~~[Within thirty (30) days of receipt of the completed Board approved application for an Externship Supervisor registration that includes proof of five (5) years Clinical Experience, proof of maintaining a clinical facility, proof of appropriate professional and facility insurance and payment of the required application fee for Externship Supervisor registration specified in 16.2.10 NMAC (Part 10 of the Rules), the board shall issue the Externship Supervisor registration.] Upon approval of an application for Externship Supervisor registration that fulfills the requirements listed below, the Board shall issue an Extern certification. In the interim between regular Board meetings, whenever a qualified applicant for Externship Supervisor registration has filed his or her application and complied with all other requirements of this section, the Board's chairman or an authorized representative of the board may grant an interim temporary Externship Supervisor registration that will suffice until the next~~

regular meeting of the Board. In no event shall the Externship Supervisor begin supervising an Extern until the Externship Supervisor registration or interim temporary Externship Supervisor registration is issued by the Board. The application requirements for an Externship Supervisor registration shall be receipt of the following by the Board:

A. The fee for application for Externship Supervisor registration specified in 16.2.10 NMAC (Part 10 of the Rules).

B. An application for Externship Supervisor registration 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. Proof of five (5) years of Clinical Experience; and

D. Proof of maintaining a clinical facility; and

E. Proof of appropriate professional and facility insurance; and

F. An affidavit as provided on the "Extern Supervisor Registration Application" stating that the applicant understands that:

(1) The scope of practice of an Extern shall be limited to the practice of acupuncture and oriental medicine as defined in the Act and 16.2.2 NMAC (Part 2 of the Rules), except that the Extern shall not prescribe or administer any herbal, nutritional, homeopathic or any other medicines or substances. When diagnosing and treating a patient, the Extern shall practice only within the limits of his or her education and training. The Extern shall possess and apply the knowledge, and use the skill and care ordinarily used by reasonably well-qualified Doctors of Oriental Medicine practicing under similar circumstances, giving due consideration to their limited clinical experience; and

(2) The Extern certification shall expire automatically twelve (12) months after the date of issuance unless the certificate expires sooner for any of the following reasons:

(a) Upon licensure;

(b) If the Extern fails the Board's Clinical Skills Examination more than once; or

(c) If the Extern is no longer under the supervision of the Externship Supervisor; and

(3) In no event shall an Extern practice under Extern certification(s) for more than a total of twelve (12) months or after failing the Board's Clinical Skills Examination more than once. The Extern certification is not renewable. Exceptions for Good Cause shall not apply to the

Extern certification; and

G. An affidavit as provided on the "Extern Supervisor Registration Application" stating that the applicant understands that the Externship Supervisor shall:

(1) Provide a clinical environment where the Extern is able to further his or her knowledge and apply acupuncture and oriental medicine theory and techniques; and

(2) Directly supervise the Extern on the premises of the treating facility at all times and be available for consultation, intervention, and decisions about patient care; and

(3) Supervise no more than two Externs at any given time and have no more than two Externs in his or her Externship program at a time; and

(4) Inform patients with a written signed consent form outlining the responsibility of the Extern and the scope and limits of practice; and

(5) Prescribe all herbal, nutritional, homeopathic and any natural substances. Any recommendations of these substances by the Extern must be signed by the Externship Supervisor; and

(6) Approve the diagnosis and treatment plan and oversee the techniques of oriental medicine and delivery of patient care; and

(7) Notify the Board in writing, within five (5) days working days, when the Extern enters into an Extern supervisory contract with the Externship Supervisor or terminates the Externship participation; and

(8) Be responsible for the delivery of competent professional services, obtaining patient consents, and maintaining patient records; and

(9) Document approval and oversight of diagnosis, treatment, and patient care in the [patients]patient's permanent file; and

(10) Terminate the Externship relationship if the Externship Supervisor has the reasonable belief that the Extern has violated the Act or the Rules. The Externship Supervisor shall notify the Board, in writing, within five (5) working days that the Externship relationship is terminated and give the reasons for the termination; and

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

(12) The Board may refuse to issue, or may suspend, or revoke any license, Externship Supervisor Registration or Externship Supervisor registration in accordance with the Uniform Licensing Act, 61-1-1 to 61-1-31 NMSA 1978, for reasons authorized in section 61-14A-17

NMSA 1978 of the Act and clarified in 16.2.12 NMAC (Part 12 of the Rules).

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

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Issue Number 7	April 1	April 15
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Issue Number 23	December 1	December 15
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