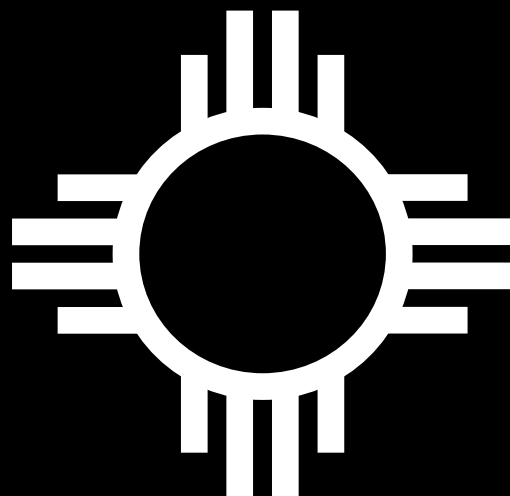


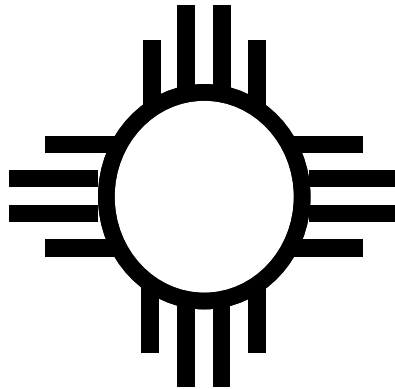
NEW MEXICO REGISTER



Volume XIX
Issue Number 8
April 30, 2008

New Mexico Register

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April 30, 2008



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

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Administrative Law Division
Santa Fe, New Mexico
2008

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New Mexico Register

Volume XIX, Number 8

April 30, 2008

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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.

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Notices of Rulemaking and Proposed Rules

NEW MEXICO PUBLIC ACCOUNTANCY BOARD

PUBLIC ACCOUNTANCY BOARD NOTICE OF PROPOSED RULEMAKING

The New Mexico Public Accountancy Board ("Board") will convene a public hearing and regular Board meeting on Thursday, June 5, 2008. The hearing and meeting will be held at 9:00 a.m. in the Conference Room of the Regulation and Licensing Department Building, 5200 Oakland NE, Albuquerque, New Mexico. Notice of the meeting is given in accordance with the Board's Open Meetings Policy. The hearing will be held for the purpose of affording members of the public the opportunity to offer comments on proposed amendments to existing Board rules.

The Board staff will recommend that the Board adopt amendments to the following rules:

NMAC NUMBER	RULE NAME
16.60.1 NMAC	General Provisions
16.60.2 NMAC	Certified Public Account Examination Requirements
16.60.3 NMAC	Licensure and Continuing Professional Educational Requirements
16.60.4 NMAC	Firm Permit, Peer Review Requirements, And Business Name Prohibitions
16.60.5 NMAC	Code of Professional Conduct

Notice of the hearing and Board meeting has been published in the New Mexico Register and in the Albuquerque Journal. Interested parties may access the proposed amendments on the Board's website at www.rld.state.nm.us/b&c/accountancy. Copies may also be obtained by contacting the Board office at (505) 222-9853. Written comments regarding the proposed amendments should be directed to Ms. Marie Aragon, Licensing Manager, Public Accountancy Board, 5200 Oakland NE, Suite D, Albuquerque, New Mexico 87113 or faxed to (505) 222-9855. Comments must be received by 5:00 p.m. on Tuesday, June 3, 2008; however, the submission of written comments as soon as possible is encouraged.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting should contact the Board office at (505) 222-9852 by 5:00 p.m. on Thursday, May 29, 2008.

NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS HISTORIC PRESERVATION DIVISION

NEW MEXICO CULTURAL AFFAIRS DEPARTMENT STATE HISTORIC PRESERVATION DIVISION NOTICE OF PROPOSED RULEMAKING

The Department of Cultural Affairs, State Historic Preservation Division (HPD) will convene a public hearing on Monday, May 12, 2008, on proposed changes to 4.10.11.9 NMAC, "Permitting Procedures and Requirements Pertaining to the Removal of Human Burials." The hearing will be held at 10:00 AM in the Conference Room in the Office of the Secretary, Bataan Memorial Building, 407 Galisteo Street, Suite 260, Santa Fe, New Mexico.

Copies of the proposed changes to rule 4.10.11.9 NMAC may be obtained from the HPD website (www.nmhistoricpreservation.org), by calling the Historic Preservation Division at (505) 827-6320 between 8:00 AM and 5:00 PM Monday through Friday, or by email to glen-na.dean@state.nm.us. Interested persons may testify at the hearing or submit written comments on the proposed amendments to the Historic Preservation Division, 407 Galisteo Street, Suite 236, Santa Fe, New Mexico 87501, or via fax to (505) 827-6338. Written comments must be received by 5:00 PM on Friday, May 9, 2008; however, the submission of written comments as soon as possible is encouraged. Written comments will be given the same consideration as oral testimony at the public hearing. 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 the Historic Preservation Division at 827-6320 or

glen-na.dean@state.nm.us at least 48 hours prior to the hearing.

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

Notice of Proposed Rulemaking

The Economic Development Department ("EDD or Department") hereby gives notice that the Department will conduct a public hearing as indicated to obtain input on amending the following rules:

5.5.50 NMAC (Industrial Development Training Program); and adopting:

5.5.51 Development Employment Funding for Film and Multimedia Production Companies

5.5.52 Development Pre-Employment Training for Film and Multimedia Production Companies

A public hearing regarding the rules will be held on Thursday, May 8, 2008 in the board room of the Mid-Region Council of Government, 809 Copper Avenue, NW, Albuquerque, NM 87102. The time for the hearing on the proposed rules is 9:00 AM MDT.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program to Therese R. Varela, JTIP Program Manager, New Mexico Economic Development Department, Joseph M. Montoya Building, 1100 St. Francis Drive, Santa Fe, New Mexico 87504, or therese.varela@state.nm.us (505) 827-0323, fax (505) 827-1672. Written comments must be received no later than 5:00 pm on May 5, 2008. The proposed rule-making actions specific to the Job Training Incentive Program may be accessed on the Department's website (www.gonm.biz) or obtained from Therese Varela at the contact above.

The proposed rulemaking actions specific to the Film and Multimedia Training Program may be accessed on the Film Website (<http://www.nmfilm.com/>) or obtained from Tobi Ives, New Mexico State Film Office, 418 Montezuma Ave., Santa Fe, NM 87501 (505) 476-5612, fax (505) 476-5601 or Tobi.Ives@state.nm.us.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or

participate in this hearing are asked to contact Therese Varela as soon as possible. The Department requests at least ten days advanced notice to provide requested special accommodations.

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The New Mexico Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on May 30, 2008, from 1:00 p.m. to 3:00pm. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
5.55.4 NMAC	Dual Credit	Repeal and replace Dual Credit rule

Dual credit allows high school students to enroll in college-level courses offered by a public postsecondary institution that may be academic or career technical but not remedial or developmental. The student would simultaneously earn credit toward high school graduation and a postsecondary degree or certificate.

Interested individuals may testify at the public hearing or submit written comments to Dr. Tanya I. Garcia, P20 Policy Analyst, New Mexico Higher Education Department, located at the New Mexico School for the Deaf, 1068 Cerrillos Rd., Santa Fe, New Mexico 87505 (tanya.garcia@state.nm.us) (telefax (505) 476-6557).

Written comments must be received no later than 5 p.m. on May 30, 2008. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department's website (<http://hed.state.nm.us/>) or obtained from Dr. Tanya I. Garcia at the address listed above, or by phone (505) 476-6550. The proposed rules will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to con-

tact Dr. Garcia as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

The rules will be formally filed with the State Records and Archives Center and become effective on the date specified in rule.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Service Department will hold a public hearing to consider proposed rules to the Food Stamp Program, case administration and case management. The hearing will be held on Friday, May 30, 2008 at 1:30 pm to 2:30 pm at the Income Support Division conference room, 2009 S. Pacheco Street., Santa Fe, NM. The conference room is located on in Room 120 on the lower level of Pollon Plaza.

The Department proposes amending section 8.139.120.9 NMAC. This change will require that all households receiving food stamp benefits that are eligible for semiannual reporting be assigned a 12-month certification period.

The household will still be required to submit a semiannual report in the sixth month of the certification period to report any changes that could affect eligibility. During the rest of the certification period these households are only required to report changes that result in their gross monthly income exceeding 130 percent of the monthly federal poverty guideline for the size of their household.

The Department is also proposing amending the language related to action on changes reported between reporting periods, as well as the language to simplify budgeting methodology for processing of semiannual reports.

The proposed regulation is available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/ISDRegisters.html>. Individuals wishing to testify or requesting 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 505-827-7250.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommo-

dation to participate in any HSD public hearing, program, or service, please contact the New Mexico Human Services Department toll free at 1-800-432-6217, in Santa Fe at 827-9454, 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 who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 P.M. on the date of the hearing. Please send comments to

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

You may send comments electronically to: sandra.bivens@state.nm.us or via fax to (505) 476-7073.

NEW MEXICO MEDICAL BOARD

NEW MEXICO MEDICAL BOARD

Notice

The New Mexico Medical Board will convene a regular Board Meeting on Thursday, May 22, 2008 at 8:30 a.m. and Friday, May 23, 2008 at 8:30 a.m. in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico. A Public Rule Hearing will be held on Friday, May 23, 2008 at 9:00 a.m. The Board will reconvene after the Hearing to take action on the proposed rules. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider amending 16.10.6 NMAC (Complaint Procedure and Institution of Disciplinary Action), 16.10.13 NMAC (Delegated Use of Devices and Procedures by Medical Assistants; Cosmetic Injections) and 16.10.16 (Administering, Prescribing and Distribution of Medication).

Changes to Parts 13 and 16 will provide further clarification of definitions and procedures for physician assistants and medical assistants. Compliance procedures to the Parental Responsibility Act were added to Part 6, Section 29.

Copies of the proposed rules will be available on April 22nd on request from the Board office at the address listed above, by phone (505) 476-7220, or on the Internet at www.nmmb.state.nm.us.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m., May 16, 2008, to the board office, 2055 S. Pacheco, Building 400, Santa Fe, NM, 87505.

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 in order to attend or participate in the hearing, please contact Lynnelle Tipton, Administrative Assistant at 2055 S. Pacheco, Building 400, Santa Fe, NM at least one week prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on **Monday**, June 2, 2008 from 9:00 A.M. until 11:00 A.M. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
6.80.4 NMAC	CHARTER SCHOOL APPLICATION AND APPEAL REQUIREMENTS	AMENDMENTS

Interested individuals may testify at the public hearing or submit written comments to Charter Schools Division, Public Education Department, 5600 Eagle Rock Ave. N.E., Albuquerque, N.M., 87113, Tel.: (505) 222-4762; Fax: (505) 222-4769 (don.duran@state.nm.us) Written comments must be received no later than 5 p.m. on June 2, 2008. However, the submission of written comments as soon as possible is encouraged. Written comments shall suggest specific reasons for any suggested amendments or comments and include any proposed amendatory language.

Copies of the proposed rules may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Michael C de Baca, Administrative Assistant, Charter Schools Division, Public Education Department, 5600 Eagle Rock Ave. N.E., Albuquerque, N.M., 87113, and Tel.: (505) 222-4762 michael.cdebaca@state.nm.us. The proposed rule will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Mr. C de Baca, as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on **Monday**, June 2, 2008 from 1:00 P.M. until 3:00 P.M. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
6.22.3 NMAC	CHARTER SCHOOL STIMULUS FUND	REPEAL

Interested individuals may testify at the public hearing or submit written comments to Charter Schools Division, Public Education Department, 5600 Eagle Rock Ave. N.E., Albuquerque, N.M., 87113, Tel.: (505) 222-4762; Fax: (505) 222-4769 (don.duran@state.nm.us) Written comments must be received no later than 5 p.m. on June 2, 2008. However, the submission of written comments as soon as possible is encouraged.

Copies of the repealed rules may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Michael C de Baca, Administrative Assistant, Charter Schools Division, Public Education Department, 5600 Eagle Rock Ave. N.E., Albuquerque, N.M., 87113, and Tel.: (505) 222-4762 michael.cdebaca@state.nm.us. The repealed rule will be made available at least thirty days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact Mr. C de Baca, as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

Santa Fe - The Public Education Department will conduct a public hearing on May 30, 2008 from 1:00 to 3:00 pm in Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, in Santa Fe for the purpose of obtaining input on suggested rules on dual credit.

Dual credit allows high school students to enroll in college-level courses offered by a public postsecondary institution that may be academic or career technical but not remedial or developmental. The student would simultaneously earn credit toward high school graduation and a postsecondary degree or certificate.

Interested individuals may testify at this public hearing or submit written comments regarding the proposed rulemaking to Marcia Knight, Education Administrator, Career Technical Workforce Education Bureau, Public Education Department, 120 S. Federal Place, Room 206, Santa Fe, New Mexico 87501. (marcia.knight@state.nm.us; 505-827-1802 or fax 505-827-1820)

Written comments may be sent to the above address and must be received no later than 5:00 pm on May 30, 2008.

The proposed rule may be accessed on the Department's website <http://ped.state.nm.us/> or obtained from Marcia Knight.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to con-

tact Ms. Knight as soon as possible. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

Following the hearings, Secretary of Education, Dr. Veronica C. García, will review comments from the public and make a decision on the rules. The rules will be formally filed with the State Records and Archives Center and become effective on the date stated in the rules. Individual school districts will then draft local policies that will be approved by their Boards of Education and the Public Education Department.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
PRIVATE INVESTIGATIONS
ADVISORY BOARD**

The New Mexico Private Investigations Advisory Board will hold a Rule Hearing on June 4, 2008 and will convene at 1:00 pm. The rule hearing will be held at the NM Farm & Ranch Heritage Museum 4100 Dripping Springs Road, Las Cruces, NM.

If you would like a copy of the proposed rules you may access the website at www.rld.state.nm.us after May 5, 2008 to get a draft copy. In order for Board members to review the comments in their meeting packets prior to the meeting, public comments must be received in writing no later than May 26, 2008. Persons wishing to present their comments at the hearing will need to bring (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4639 at least two weeks prior to the meeting or as soon as possible.

**NEW MEXICO
DEPARTMENT OF
WORKFORCE SOLUTIONS
LABOR RELATIONS DIVISION**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Workforce Solutions, Labor Relations Division, will conduct a rule making hearing to consider amendments to the regulations regarding

the employment of children in the entertainment industry. Current regulations are in the 11.1.4.1 through 11.1.4.9 NMAC. The current rules are available on-line at: <http://www.nmcpr.state.nm.us/nmac/parts/tile11/11.001.0004.htm>

Written or verbal input from all interested parties will be received at the hearing. The hearing will be recorded and transcribed. Interested parties may contact Tiffany Starr-Salcido, Student Labor Specialist or Arlene Rodriguez, Secretary (505) 827-6827 prior to the meeting to secure copies of the agenda, rule changes, current rules or to request a reasonable accommodation pursuant to the Americans with Disabilities Act. Proposed regulation changes can be viewed on-line at: <http://www.dws.state.nm.us>

DATE: June 5, 2008

TIME: 9:00 am till 5:00 pm

SUBJECT: Child Labor Law Rule Change
11.1.4.9 NMAC

LOCATION: State Personal Building
The Large Conference Room
2600 Cerrillos Rd.
Santa Fe, NM 87505

**End of Notices and
Proposed Rules Section**

Adopted Rules

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

These are amendments to 16.30.3 NMAC, Sections 11 and 13, Effective May 4, 2008.

16.30.3.11 REGISTRATION RENEWAL:

A. Fees: Renewal fees are paid biennially in even-numbered years. New registrations occurring in a non-renewal year shall be prorated on a yearly basis and shall expire on December 31st of that odd-numbered year. The fees for two (2) years are:

- (1) in state\$225.00
- (2) out of state \$325.00

B. Continuing education: Effective December 31, 2001, all architects will be required to show compliance with these mandatory education requirements as a condition for renewing registration:

(1) Purpose and scope:

(a) These rules provide for a continuing education program to insure that all architects remain informed of these technical subjects necessary to safeguard life, health, property, and promote the public welfare.

(b) Continuing education is focused on registrants becoming more proficient at their architectural practice. Activities not at an architectural registrant level or within an architectural context cannot be claimed for continuing education credit.

~~[(e) Pro bono activities should be seen as the opportunity to "round out" one's continuing education experience; all pro bono activities (serving on committees, providing architectural services and mentoring) as well as tours, business seminars or classes, and architectural history seminars or classes will be considered general subject hours.]~~

~~[(d)] (c)~~ These rules apply to all architects registered in New Mexico.

(2) Definitions:

(a) "Eligible contact hour" means fifty (50) minutes actual time engaged in continuing education activities supported by documentation of content and registrant participation.

(b) "Health, safety and welfare in architecture" is anything that relates to the structure or soundness of a building or site or its role in promoting the health, safety or well being of its occupants.

(c) "Public protection hours" means continuing education contact hours in which the subject matter is health, safety

and welfare as defined in Subparagraph (b) of Paragraph (2) of Subsection B of 16.30.3.11 NMAC above. ~~[Sixteen (16) public protection hours are required for each renewal cycle, however registrants may complete all twenty four (24) contact hours in public protection subjects.]~~ Twenty-four (24) public protection hours are required for each renewal cycle.

~~[(d) "General subjects" refers to eight (8) of the total twenty four (24) contact hours required per renewal cycle which may be in areas other than public protection but which must focus on increasing the registrant's architectural knowledge. All pro bono activities must be listed under general subjects.]~~

~~[(e)] (d)~~ "Continuing education provider" means any association, organization or business entity which supplies structured, architectural registrant continuing education activities and the corresponding documentation of content and participation. If a continuing education provider includes a testing component to be successfully completed in order to receive a certificate, the registrant must complete all phases of the provider's program. Contact hours shall be credited as indicated by the provider.

(3) Requirements:

(a) To renew registration, in addition to other requirements, an architect must have acquired continuing education for each 24-month period since the architect's last renewal of initial registration, or be exempt from these continuing education requirements as provided below. Failure to comply with these requirements may result in non-renewal of the architect's registration, or other disciplinary action, or both.

(b) Renewal period: For any 24-month biennial renewal period a total of twenty-four (24) contact hours from the activities listed in Paragraph (4) of Subsection B of 16.30.3.11 NMAC below must be reported. ~~[At least sixteen (16) contact hours]~~ All twenty-four (24) contact hours shall be in public protection subjects: safeguarding life, health, property and promoting the public welfare. [The remaining eight (8) hours may be acquired in more general subjects. No more than eight (8) hours may be carried over from one renewal cycle to another. Hours that are carried over must be obtained in the renewal cycle immediately preceding the current renewal period. The intent of using carry over hours is to allow a registrant who has obtained up to thirty two (32) hours in the previous renewal cycle to be able to carry over up to eight (8) of those hours.]

(4) Activities: The following list shall be used by all registrants in determining the types of activities that would fulfill

continuing education requirements:

(a) contact hours in attendance at short courses or seminars dealing with architectural subjects and sponsored by academic institutions;

(b) contact hours in attendance at technical presentations on architectural subjects which are held in conjunction with conventions or at seminars related to materials use and functions; such presentations as those sponsored by the American institute of architects, construction specifications institute, construction products manufacturers council or similar organizations devoted to architectural education may qualify;

(c) contact hours in attendance at short courses or seminars related to business practice or new technology and offered by colleges, universities, professional organizations or system suppliers;

(d) contact hours spent in self-study courses such as those sponsored by the national council of architectural registration boards, American institute of architects or similar organizations;

(e) up to three preparation hours may be credited for each class hour spent teaching architectural courses or seminars; college or university faculty may not claim credit for teaching regular curriculum courses;

(f) up to three (3) contact hours spent in architectural research that is published or formally presented to the profession or public;

(g) college or university credit courses dealing with architectural subjects or business practice; each semester hour shall equal fifteen (15) contact hours; a quarter hour shall equal ten (10) contact hours;

~~[(h) the following activities are allowed under general subject hours only and may not be used for public protection hours:~~

~~(i) contact hours spent in professional service to the public or profession on boards, commissions or committees that draw upon the registrant's professional expertise, such as: serving on planning commissions, building code advisory boards, urban renewal boards, professional boards or committees or code study committees; except as allowable by law, all services must be provided pro bono;~~

~~(ii) a maximum of eight (8) contact hours biennially for architectural services donated to charitable, religious, educational or other public or private non-profit organization, as defined under Section 501 (c) (3) of the Internal Revenue Code, organized for the benefit of the general public;~~

~~(iii) mentoring: a maximum of eight (8) contact hours biennially may be acquired for serving as a mentor for the intern development program (IDP) or the A.R.E. study sessions; alternatively, a maximum of eight (8) contact hours may be acquired for serving as mentor for student/intern architectural projects that benefit the general public;~~

~~(iv) contact hours spent in educational tours of architecturally significant buildings, where the tour is sponsored by a college, university or professional organization and the presentation content is designed for architect participants.]~~

(h) up to four (4) contact hours in service to the public that is directly related to the practice of architecture in the area of public protection, also known as health, safety and welfare.

(5) Records and record-keeping:

(a) A registered architect shall complete and submit forms prescribed or accepted by the board certifying to the architect's having obtained the required continuing education hours. Registrants also shall maintain substantiating information in support of each continuing education claim.

(b) One (1) continuing education hour shall represent a minimum of actual course time. No credit will be allowed for introductory remarks, meals, breaks or administrative matters related to courses of study.

(c) Failure to fulfill the continuing education requirements, or file the required biennial report, properly and completely signed, shall result in non-renewal of an architect's certificate of registration.

(d) Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and will subject the registrant to revocation of registration or other disciplinary action.

(6) Initial registration:

(a) An architect whose initial registration occurs less than twelve (12) months from the December 31st deadline of the next renewal cycle shall not be required to report continuing education hours.

(b) An architect whose initial registration occurs more than twelve (12) months from the December 31st deadline of the next renewal cycle but less than twenty-four (24) months from the date of initial registration shall be required to report twelve (12) contact hours, ~~[eight (8)]~~ all of which shall be in public protection subjects.

(7) Reinstatement: A former registrant may only apply for reinstatement under 16.30.3.13 NMAC if all delinquent contact hours are earned within the ~~[twelve (12)]~~ twenty-four (24) months preceding the application to renew. However, if the

total number of contact hours required to become current exceeds twenty-four (24), then twenty-four (24) shall be the maximum number of contact hours required.

(8) Exemptions: A registrant shall be deemed to have complied with the foregoing continuing education requirements if the architect attests in the required affidavit that for not less than twenty-one (21) months of the preceding two-year period of registration, the architect:

(a) has served honorably on active duty in the military service (exceeding ninety (90) consecutive days); or

~~[(b) is a resident of another state or district that accepts New Mexico requirements to satisfy its continuing education requirements, and certifies that all requirements for current continuing education compliance and registration have been met in that jurisdiction; or]~~

~~[(c)] (b)~~ is a government employee working as an architect and assigned to duty outside the United States.

(9) The board may consider a hardship case.

(10) Audit: A number of registrants shall be selected at random to submit substantiating information to support their continuing education claim. If any credits are disallowed by the board, then the registrant shall have one hundred and eighty (180) calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements. Such contact hours shall not be used again in the next renewal cycle. Additional audits may be conducted at the board's discretion.

(11) Non-compliance: Failure to comply with the requirements of this section shall result in non-renewal of registration and forfeit of the renewal fee.

[16.30.3.11 NMAC - Rp 16 NMAC 30.3.11, 9/6/2001; A, 9/15/2003; A, 4/15/2004; A, 9/16/2004; A, 3/12/2006; A, 5/4/2008]

16.30.3.13 RENEWAL OF AN EXPIRED CERTIFICATE:

A. A registrant whose license has expired for no more than one (1) month shall be required to pay the registration fee and a late fee of fifty (\$50) dollars.

B. A reinstatement applicant whose license has been expired for more than one (1) month shall be required to:

(1) pay a registration fee and a penalty equal to one (1) year's registration fee for each year expired but in no case shall the penalty exceed three times the annual registration fee;

(2) submit a signed and notarized reinstatement affidavit; and

(3) complete continuing education requirements as stated in Paragraph (7) of Subsection B of 16.30.3.11 NMAC; at

the board's discretion, the former registrant may be required to present evidence to the board of continued proficiency, complete additional requirements, and appear personally before the board in order that the board may determine whether to renew the lapsed certificate.

C. Reinstatement of a certificate that has been lapsed for more than three (3) years requires submittal of an NCARB certificate and required application forms.

[16.30.3.13 NMAC - Rp 16 NMAC 30.3.11.3, 9/6/2001; A, 9/15/2002; A, 4/15/2004; A, 5/4/2008]

NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

This is an amendment to 16.30.5 NMAC, Section 9, Effective May 4, 2008.

16.30.5.9 SETTLEMENT AGREEMENTS: For all non-parental responsibility actions:

A. The enforcement subcommittee may enter into a settlement agreement ~~[prior to the subcommittee's vote for or prior to the issuance of a notice of contemplated action]~~ at any time. The settlement agreement is subject to approval by the rules and regulations committee.

B. The board shall require an acknowledgement of disciplinary action for all violations.

C. The board shall require an admission of guilt in a settlement agreement for any non-minor violation.

D. The board may report the settlement agreement to the relevant computer database(s).

[16.30.5.9 NMAC - N, 9/6/2001; A, 9/16/2004; A, 5/4/2008]

NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 1 GENERAL PROVISIONS

16.36.1.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.36.1.1 NMAC - N, 05/16/2008]

16.36.1.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.1.2 NMAC - N, 05/16/2008]

16.36.1.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-3, 61-17B-5, 61-17B-7 and 61-17B-13.

[16.36.1.3 NMAC - N, 05/16/2008]

16.36.1.4 DURATION:

Permanent

[16.36.1.4 NMAC - N, 05/16/2008]

16.36.1.5 EFFECTIVE DATE:

May 16, 2008 unless a later date is cited in the history note at the end of a section.

[16.36.1.5 NMAC - N, 05/16/2008]

16.36.1.6 OBJECTIVE:

To define terms relevant to body art, custody and alteration of licenses, license posted, exemptions and municipalities

[16.36.1.6 NMAC - N, 05/16/2008]

16.36.1.7 DEFINITIONS:

As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning.

A. **"Aftercare"** means written instructions given to the client, specific to the body piercing or tattooing procedure(s) rendered, on caring for the body piercing or tattoo and surrounding area.

B. **"Antiseptic"** means an agent that destroys disease-causing microorganisms on human skin or mucosa.

C. **"Autoclave"** means a piece of medical equipment that employs the steam under pressure method of sterilization.

D. **"Board"** means the board of barbers and cosmetologists.

E. **"Body art"** means tattooing, body piercing or scarification but does not include practices that are considered medical procedures by the New Mexico medical board.

F. **"Body art establishment"** means a fixed or mobile place where body art is administered on the premises.

G. **"Body artist"** means a person who administers body piercing, tattooing or scarification.

H. **"Body piercing"** means to cut, stab or penetrate the skin to create a permanent hole or opening.

I. **"Equipment"** means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances.

J. **"Instruments used for body art"** means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the

administration of body art.

K. **"Operator"** means the owner in charge of a body art establishment.

L. **"Scarification"** means cutting into the skin with a sharp instrument or branding the skin with a heated instrument to produce a permanent mark or design on the skin.

M. **"Sharps"** means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades.

N. **"Single use"** means products or items that are intended for one-time, one-person use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

O. **"Sterilization"** means destruction of all forms of microbiotic life, including spores.

P. **"Tattooing"** means the practice of depositing pigment, which is either permanent, semipermanent or temporary, into the epidermis using needles by someone other than a state-licensed physician or a person under the supervision of a state-licensed physician and includes permanent cosmetics, dermography, micropigmentation, permanent color technology and micropigment implantation.

[16.36.1.7 NMAC - N, 05/16/2008]

16.36.1.8 CUSTODY AND ALTERATION OF LICENSES

A. Licenses issued by the board are at all times the property of the board, and may remain in the custody of the licensee only as long as the licensee complies with the act and board rules.

B. Licenses shall not be altered in any way.

C. Inspectors or board designees may retrieve any license which is suspended, revoked, expired, or left by a licensee who is no longer employed at an establishment.

D. A current body art apprenticeship, practitioner or operator license is not transferable from one person to another.

[16.36.1.8 NMAC - N, 05/16/2008]

16.36.1.9 LICENSES POSTED

A. All licenses, except identification licenses, issued by the board shall be posted where clearly visible to the public at all times.

B. Licensees must attach a recent passport size colored photograph to the board issued license and sign the license where indicated.

C. All licensees, who have

been placed on probation, will be issued a license, which states the licensee is on disciplinary probation. The license shall be posted where clearly visible to the public at all times.

D. Licensees must present a driver's license or other identification when requested by the public, the board or its authorized representative.

[16.36.1.9 NMAC - N, 05/16/2008]

16.36.1.10 EXEMPTIONS

A. A person who pierces only the outer perimeter of the ear, not including any cartilage, using a pre-sterilized encapsulated single use stud ear piercing system, implementing appropriate procedures, is exempt from the requirements of the Body Art Safe Practices Act [61-17B-1 NMSA 1978].

B. A member of a federally recognized tribe, band, nation or pueblo who performs scarification rituals for religious purposes is exempt from the requirements of the Body Art Safe Practices Act.

C. Operators and body artists engaged in the body art business before the effective date of the Body Art Safe Practices Act shall have one hundred eighty days from May 16, 2008 to comply with license requirements.

[16.36.1.10 NMAC - N, 05/16/2008]

16.36.1.11 MUNICIPALITIES:

The Body Art Safe Practices Act [61-17B-1 NMSA 1978] provides minimum standards for safe body art practices. A municipality may by ordinance provide more stringent standards.

[16.36.1.11 NMAC - N, 05/16/2008]

HISTORY OF 16.36.1 NMAC: [RESERVED]**NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS****TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS****PART 2 LICENSE REQUIREMENTS****16.36.2.1 ISSUING AGENCY:**

Regulation and Licensing Department, Board of Barbers and Cosmetologists

[16.36.2.1 NMAC - N, 05/16/2008]

16.36.2.2 SCOPE:

Any person licensed to practice body art tattoo, piercing, scarification and all operators.

[16.36.2.2 NMAC - N, 05/16/2008]

16.36.2.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5.

[16.36.2.3 NMAC - N, 05/16/2008]

16.36.2.4 DURATION:

Permanent

[16.36.2.4 NMAC - N, 05/16/2008]

16.36.2.5 EFFECTIVE DATE:

May 16, 2008 unless a later date is cited in the history note at the end of a section.

[16.36.2.5 NMAC - N, 05/16/2008]

16.36.2.6 OBJECTIVE:

To outline the application process, training and examination requirements and the renewal procedures

[16.36.2.6 NMAC - N, 05/16/2008]

16.36.2.7 DEFINITIONS:

[RESERVED]

16.36.2.8 APPLICATION FOR BODY ART TATTOO OR PIERCING-SCARIFICATION APPRENTICE LICENSE

A. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) applicant name;

(c) proof of age indicating applicant is at least 18 years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);

(d) mailing address;

(e) business address;

(f) phone number;

(g) place of employment as a practitioner;

(h) proof of completion of tattoo or piercing-scarification training program as set forth below;

(i) an apprentice sponsorship form which must be signed by a body art practitioner licensed in the kind of body art the applicant is seeking an apprenticeship license;

(j) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

B. **Photographs:** Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The

applicant must pass the jurisprudence exam with a minimum score of 75% or higher.

[16.36.2.8 NMAC - N, 05/16/2008]

16.36.2.9 APPLICATION FOR BODY ART TATTOO OR PIERCING-SCARIFICATION PRACTITIONER LICENSE

A. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) name;

(c) proof of age indicating applicant is at least 18 years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);

(d) mailing address;

(e) business address;

(f) phone number;

(g) place of employment as a practitioner;

(h) proof of completion of tattoo, piercing, or scarification training program and examination as set forth below;

(i) verification of completion of tattoo or piercing-scarification apprenticeship or experience as set forth below;

(j) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

B. **Photographs:** Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of 75% or higher. If the applicant took and passed the jurisprudence exam to obtain an apprentice license within the prior two years the exam results will transfer to the application for a practitioner license.

[16.36.2.9 NMAC - N, 05/16/2008]

16.36.2.10 APPLICATION FOR PERMANENT COSMETIC PROFESSIONAL

A. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) name;

(c) proof of age indicating applicant is at least eighteen years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);

(d) mailing address;

(e) business address;

(f) phone number;

(g) place of employment as a practitioner;

(h) proof of completion of permanent cosmetic training program and examination as set forth below;

(i) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

B. **Photographs:** Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of 75% or higher.

[16.36.2.10 NMAC - N, 05/16/2008]

16.36.2.11 APPLICATION FOR BODY ART ESTABLISHMENT LICENSE

A. Any establishment licensed by the board must be under the immediate supervision of a board licensed practitioner while licensed activity is being practiced therein.

B. The supervising licensee(s) must be licensed by the board in each aspect of the licensed activity being practiced in the establishment during the time licensee is in charge (e.g. tattoo, piercing, permanent cosmetics or scarification).

C. Application forms:

(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) name of the body art establishment;

(c) name of the operator of the establishment;

(d) proof of age indicating applicant is at least eighteen years of age (copy of birth certificate, driver's license, state issued identification card, or baptismal certificate);

(e) mailing address;

(f) physical business address;

(g) business phone number;

(h) name(s) of the body art supervising practitioner(s) working at the establishment;

(i) non-refundable application fee as required by the board in the form of a money order, cashier's check, business check, or credit card, (no personal checks will be accepted).

[16.36.2.11 NMAC - N, 05/16/2008]

16.36.2.12 PROOF OF CURRENT IMMUNIZATIONS: Proof shall be provided upon request of the board or board representative that apprentice, practitioner, and permanent cosmetic practitioner licensee has either completed or declined, on a form provided by the board, the hepatitis B vaccination series. For those who decline the hepatitis B vaccination series, an information brochure developed by the New Mexico department of health will be provided which explains the risks of hepatitis B and C.

[16.36.2.12 NMAC - N, 05/16/2008]

16.36.2.13 PROOF OF COMPLETION OF TRAINING PROGRAM: Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a body artist apprentice, body artist practitioner, permanent cosmetic professional or body art operator. Such training must include:

A. blood borne pathogens (disease) training that meets OSHA standards and center for disease control recommendations; an examination is required as a condition of training completion:

(1) the training must be completed within 12 months prior to application and include, at a minimum, the following:

(a) a copy and explanation of the OSHA bloodborne pathogen standard;

(b) an explanation of the epidemiology and symptoms of bloodborne diseases;

(c) an explanation of the modes of transmission of bloodborne pathogens;

(d) an explanation of an exposure control plan and the means by which the employee can obtain a copy of the written plan;

(e) an explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials;

(f) an explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices, and personal protective equipment;

(g) information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment;

(h) an explanation of the basis for

selection of personal protective equipment;

(i) information on the hepatitis B vaccine, including information on its efficacy, safety, method of administration, the benefits of being vaccinated, and that the vaccine and vaccination will be offered free of charge;

(j) information on the appropriate actions to take and persons to contact in an emergency involving blood or other potentially infectious materials;

(k) an explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that must be made available;

(l) information on the post-exposure evaluation and follow-up that an employer is required to provide for the employee following an exposure incident;

(m) an explanation of the signs and labels or color coding required by OSHA standards; and

(n) an opportunity for interactive questions and answers with the person conducting the training session;

(2) the training may be obtained through any of the following:

(a) nationally accredited organization;

(b) local government sponsored;

(c) hospital sponsored;

(d) college sponsored;

(e) OSHA (occupational safety and health administration) sponsored;

(f) red cross; or

(g) board approved;

B. current certification in first aid and cardiopulmonary resuscitation (CPR); the training may be obtained through any of the following:

(1) nationally accredited organization;

(2) local government sponsored;

(3) hospital sponsored;

(4) college sponsored;

(5) OSHA (occupational safety and health administration) sponsored;

(6) red cross; or

(7) board approved;

C. an applicant for a tattoo or body piercing-scarification apprenticeship shall file an apprentice agreement notarized by all parties that applicant shall complete the board required training requirements.

[16.36.2.13 NMAC - N, 05/16/2008]

16.36.2.14 TATTOO OR BODY PIERCING-SCARIFICATION APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS

A. An applicant for original tattoo or piercing-scarification practitioner license shall provide proof, acceptable to the board, that applicant has com-

pleted a theory curriculum and a 1500 hour apprenticeship program under the direct supervision of a licensed practitioner with instruction and experience in the kind of body art for which the applicant seeks a body art practitioner license.

B. Tattoo and body piercing-scarification theory shall be taught over a minimum of 40 hours and shall include the following requirements:

(1) Microbiology:

(a) microorganisms, viruses, bacteria, fungi;

(b) transmission cycle of infectious diseases; and

(c) characteristics of antimicrobial agents.

(2) Immunization:

(a) types of immunizations; and

(b) general preventative measures to protect the apprentice and client.

(3) Sanitation and disinfection:

(a) definition of terms;

(b) use of steam sterilization equipment and techniques;

(c) use of chemical agents, antiseptics, disinfectants, and fumigants;

(d) use of sanitation equipment;

(e) preservice sanitation procedure; and

(f) post-service sanitation procedure.

(4) Safety:

(a) proper needle handling and disposal;

(b) how to avoid overexposure to chemicals;

(c) use of material safety data sheets;

(d) blood spill procedures;

(e) equipment and instrument storage; and

(5) Bloodborne pathogen standards.

(a) OSHA bloodborne pathogen standards;

(b) control plan for bloodborne pathogens;

(c) exposure control plan;

(d) overview of compliance requirements; and

(e) disorders and when not to service a client.

(6) Professional standards:

(a) client preparation;

(b) recordkeeping;

(c) client health history;

(d) consent and disclosure forms;

(e) sanitation and safety precautions;

(f) HIPAA (Health Insurance Portability and Accountability Act of 1996 Privacy Rule) standards.

(g) implement selection and use;

(h) proper use of equipment;

(i) material selection and use;

- (j) needles.
- (7) Anatomy:
- (a) understanding of skin; and
- (b) parts and functions of skin.
- (8) New Mexico laws and regula-

tions.

(9) Tattoo apprentice shall also complete the following:

- (a) pigments and color mixing;
- (b) machine: construction, adjustment and power supply;
- (c) art, drawing; and
- (d) portfolio.

C. Proof of completing 1500 hour apprentice program shall include:

(1) verification of completion of apprenticeship program on form provided by the board;

(2) a minimum of 10 original photographs of healed tattoos or piercings-scarifications which the artisan has personally performed and a minimum of three signed testaments from previous clients.

D. Applicants engaged in the tattoo or body piercing-scarification business before November 12, 2008 may submit notarized letters of employment from past employers or employment records as substitution for an apprenticeship to prove completion of at least 1500 hours of actual experience in the practice of performing body art activities of the kind for which the applicant seeks a body art practitioner license.

E. An applicant for a body art tattoo, piercing-scarification practitioner license shall take the tattoo or body piercing-scarification exam approved by the board with a passing score approved by the board. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.

[16.36.2.14 NMAC - N, 05/16/2008]

16.36.2.15 APPRENTICE SPONSOR

A. Upon filling an application with the board a licensee may be approved to sponsor a tattoo or body piercing-scarification apprentice if the licensee:

- (1) holds a New Mexico tattoo or body piercing-scarification license;
- (2) provides documentation of legally practicing tattoo or body piercing-scarification for at least five years without any board sanctioned disciplinary action; and

(3) provides a curriculum as required in 16.36.2.14 NMAC to the board for approval.

B. Theory curriculum may

be taught in groups. However, the practical experience shall be one-on-one with no more than one apprentice working under the sponsor's supervision.

[16.36.2.15 NMAC - N, 05/16/2008]

16.36.2.16 PERMANENT COSMETIC TRAINING AND EXAMINATION REQUIREMENTS

A. The permanent cosmetic professional applicant shall have completed a 60-hour training program approved by the board, and shall perform under the direct supervision of a board approved practitioner a minimum of five of each of the following procedures:

- (1) eye brow simulation;
- (2) lip liner;
- (3) lip color; and
- (4) eye liner/eyelash enhancer.

B. Client records shall be maintained by the practitioner applicant to verify that the minimum requirements for the procedures were completed.

C. The practitioner applicant shall submit a minimum of one photograph whereby the professional has personally performed one complete procedure for each of the following areas:

- (1) eye brow simulation;
- (2) lip liner;
- (3) lip color; and
- (4) eye liner/eyelash enhancer.

D. A practitioner performing areola restoration shall have completed a training program approved by the board.

E. An applicant for a permanent cosmetic professional license shall take an exam approved by the board with a passing minimum score approved by the board.

[16.36.2.16 NMAC - N, 05/16/2008]

16.36.2.17 LICENSE RENEWAL

A. The body artist and operator shall renew the license annually.

B. Timely renewal of license(s) is the full and complete responsibility of the LICENSEE. Failure to renew the license by the expiration date will result in a late fee.

C. Renewal application shall include the following information:

- (1) proof of completion of blood borne pathogens training within the prior 12 months; and
- (2) current CPR and first aid certification.

D. The board will issue renewal licenses within 15 working days of receipt of the renewal application and applicable fee.

E. An applicant whose license has expired for one year but less than five years shall submit a reinstatement application, payment of reinstatement fee;

proof of completion of blood borne pathogens training within the prior 12 months, current CPR and first aid certification and take and pass a board approved jurisprudence examination with a minimum score of 75% or higher.

F. An applicant whose license has expired for more than five years shall re-enter an approved training program and complete a 40 hour theory curriculum, take the tattoo or body piercing-scarification exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of 75%.

[16.36.2.17 NMAC - N, 05/16/2008]

16.36.2.18 SPECIAL EVENT, MOBILE BODY ART AND GUEST LICENSE REQUIREMENTS

A. Any licensee desiring to sponsor a special event that will not be conducted at a licensed establishment must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least ten days prior to the event. Approval for the special events may be made administratively.

B. All provisions of these regulations shall apply with the following exceptions.

(1) Hand wash facilities shall be easily accessible to each procedure area and designated for use by artists only. Hand wash facilities or temporary hand wash facilities shall consist of antibacterial liquid soap, single-use paper towels, and adequate supply of potable water dispensed through a continuous flow spout. Wastewater shall be collected and disposed of in a sanitary manner.

(2) Body artists may bring pre-sterilized instruments or instruments that have been sterilized at another location with documentation showing a negative spore test result within the previous 30 days. On site sterilization units may be used and shall comply with Part 5 of these rules.

(3) After the last procedure is completed, all procedure areas shall be cleaned and disinfected.

C. A guest licensee is a body artist who is licensed in another jurisdiction or meets the requirements of licensure in New Mexico and shall practice 30 days or less in New Mexico. Registration is required before any person may act as a guest licensee. An applicant for registration as a guest licensee must:

(1) hold current licensure as a body artist in another jurisdiction or have the education or experience relating to the applicable type of New Mexico license

requested; and

(2) be under the sponsorship of a New Mexico licensed body artist.

D. To be registered as a guest licensee the following must be submitted to the board:

(1) verification of sponsorship by a licensed body artist;

(2) a complete application;

(3) registration fee; and

(4) verification of licensure in another jurisdiction.

E. Applicants not licensed in another jurisdiction must provide documentation of education and experience relating to the applicable type of New Mexico license requested.

F. Guest body art registration will expire 30 days from the date of issuance. A guest license shall not extend beyond 30 days unless the licensee petitions the board and provides documentation that licensee has not worked thirty days in New Mexico. A guest license shall be granted only once within a 12 month period.

[16.36.2.18 NMAC - N, 05/16/2008]

HISTORY OF 16.36.2 NMAC:
[RESERVED]

NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 3 REQUIREMENTS FOR ESTABLISHMENTS

16.36.3.1 ISSUING AGENCY:
Regulation and Licensing Department,
Board of Barbers and Cosmetologists
[16.36.3.1 NMAC - N, 05/16/2008]

16.36.3.2 SCOPE: Any person
licensed to practice body art tattoo, pierc-
ing, scarification and all operators.
[16.36.3.2 NMAC - N, 05/16/2008]

**16.36.3.3 STATUTORY
AUTHORITY:** These rules are promulgat-
ed pursuant to the Body Art Safe Practices
Act, Section 61-17B-5.
[16.36.3.3 NMAC - N, 05/16/2008]

16.36.3.4 DURATION :
Permanent
[16.36.3.4 NMAC - N, 05/16/2008]

16.36.3.5 EFFECTIVE DATE:
May 16, 2008 unless a later date is cited in
the history note at the end of a section.
[16.36.3.5 NMAC - N, 05/16/2008]

16.36.3.6 OBJECTIVE: To out-
line the requirements for all establishments
[16.36.3.6 NMAC - N, 05/16/2008]

16.36.3.7 DEFINITIONS :
[RESERVED]

16.36.3.8 REQUIREMENTS FOR ESTABLISHMENT

A. All walls and floors of a
body art establishment shall be washable
and in good repair. Walls and floors shall be
maintained in a clean condition. All sur-
faces, including client chairs and benches
shall be of such construction as to be easily
cleaned and sanitized after each client pro-
cedure. All body art establishments shall be
completely separated by solid partitions, or
by walls extending from floor to ceiling,
from any room used for human habitation, a
food establishment or room where food is
prepared, a hair salon, retail sales, or other
such activity which may cause potential
contamination of work surfaces.

B. Insects, vermin and
rodents shall not be present in any part of
the body art establishment, its appurte-
nances or appertaining premises.

C. There shall be a mini-
mum of 40 square feet of floor space for
each procedure room. Each body art estab-
lishment shall have an area which may be
screened from public view for clients
requesting privacy. Multiple procedure
rooms shall be separated by wipe able
dividers, curtains or partitions.

D. The body art establish-
ment shall be well-ventilated and provided
with an artificial light source equivalent to
at least 20 foot candles three feet off the
floor, except that at least 100 foot candles
shall be provided at the level where the
body art procedure is being performed, and
where instruments and sharps are assem-
bled.

E. No animals of any kind
shall be allowed in a procedure room except
service animals used by persons with limi-
tations. Small animals confined to a cage or
aquariums are allowed only outside a proce-
dure room.

F. A separate, readily
accessible, hand sink with hot and cold run-
ning water, under pressure, preferably
equipped with wrist or foot operated con-
trols and supplied with liquid antimicrobial
soap and disposable paper towels shall be
readily accessible within the body art estab-
lishment. One hand sink shall serve no more
than three operators. In addition, there shall
be a minimum of one lavatory, excluding
any service sinks, and one toilet in a body
art establishment.

G. At least one covered
waste receptacle shall be provided in each

operator area and each toilet room.
Receptacles in the operator area shall be
emptied daily and solid waste shall be
removed from the premises at least weekly.
Receptacles in the operator area shall either
have a foot operated lid or a lid that can and
shall remain open during body art proce-
dures to prevent hand contact with the
receptacle during a procedure. All refuse
containers shall be cleanable and kept clean.

H. All instruments and
supplies shall be stored in clean dry covered
containers.

I. If reusable cloth items,
including but not limited to lap-cloths, are
used, they shall be mechanically washed
after each client procedure. Reusable cloth
items shall be mechanically washed with
detergent and dried. The cloth items shall be
stored in a clean dry environment.

J. The following informa-
tion shall be kept on file on the premises of
a body art establishment and available for
inspection by the board:

(1) the full names of all employ-
ees in the establishment and their exact
duties;

(2) the board-issued license with
identification photograph;

(3) the body art establishment
name and hours of operation;

(4) the name and address of the
body art establishment owner;

(5) a complete description of all
body art performed;

(6) maintenance of a material
safety data sheet (MSDS) file containing
pertinent information regarding products ;
and

(7) a copy of the Body Art Safe
Practices Act and current rules.

K. An operator shall notify
the board in writing not less than 30 days
before changing the location of a body art
establishment. The notice shall include the
street address of the new location.
[16.36.3.8 NMAC - N, 05/16/2008]

HISTORY OF 16.36.3 NMAC:
[RESERVED]

NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 4 ENFORCEMENT, COMPLAINTS AND DISCIPLINARY ACTION

16.36.4.1 ISSUING AGENCY:
Regulation and Licensing Department,

Board of Barbers and Cosmetologists
[16.36.4.1 NMAC - N, 05/16/2008]

16.36.4.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.4.2 NMAC - N, 05/16/2008]

16.36.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5, 61-17B-9, 61-17B-10, 61-17B-11.
[16.36.4.3 NMAC - N, 05/16/2008]

16.36.4.4 DURATION: Permanent
[16.36.4.4 NMAC - N, 05/16/2008]

16.36.4.5 EFFECTIVE DATE: May 16, 2008 unless a later date is cited in the history note at the end of a section.
[16.36.4.5 NMAC - N, 05/16/2008]

16.36.4.6 OBJECTIVE: To inform licensees of the complaint procedures, enforcement and disciplinary actions.
[16.36.4.6 NMAC - N, 05/16/2008]

16.36.4.7 DEFINITIONS: [RESERVED]

16.36.4.8 ENFORCEMENT, COMPLAINTS AND DISCIPLINARY ACTION

A. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Barbers and Cosmetologists Act and the Body Art Safe Practices Act.

B. It shall be unlawful for any artist to perform body piercing or tattoo procedures outside of a licensed body piercing or tattooing establishment.

C. It shall constitute a violation of the Body Art Safe Practices Act when a licensee:

(1) attempts by means of any threat, force, intimidation or violence to deter, interfere with or prevent any inspector or board designee from performing any official duty of the department or board;

(2) willfully resists, delays or obstructs an inspector or board designee in the performance of his/her official duty;

(3) fails to comply with the lawful command of an inspector or board designee in the discharge of his/her official duty; or

(4) fails to cooperate in investigations, proceedings, and requirements of this code.

D. The board, or its designee, will consider a formal complaint filed against a licensee or an establishment provided the complaint is on the proper

form, signed and notarized.

E. When a complaint is received on the proper form, the board, or its designee, will write to the licensee the complaint is against and request a response within fifteen days of receipt of such request.

F. The response will be reviewed by a committee designated by the board chairman.

G. If the committee's recommendation is that the complaint be taken before the board, the complaint will be reviewed at the next regularly scheduled board meeting. The board shall:

(1) take no further action; or
(2) issue a notice of contemplated action (NCA) under the Uniform Licensing Act; or

(3) assess an administrative penalty subject to appropriate procedural requirements and safeguards.

H. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Body Art Safe Practices Act.

I. The board may fine, deny, revoke, suspend, stipulate, or otherwise limit a license if the board determines the licensee is guilty of violating any of the provisions of the act, the Uniform Licensing Act, or these rules.

J. Subject to legally required procedural safeguards, any person who violates any provisions of the act or any rule adopted by the board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of less than one thousand dollars (\$1000) for each violation. The board will serve on the licensee official notice of any such fine that the board proposes to assess. Failure to pay a fine, once properly assessed, may result in an additional fine and revocation of license or other disciplinary action. The penalties to be assessed are as follows:

(1) Failure to comply with operator requirements:

(a) first offense: one hundred dollars (\$100)

(b) second offense: three hundred dollars (\$300)

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(2) Failure to comply with sanitation and safety requirements:

(a) first offense: warning from inspector/"board"

(b) second offense: one hundred dollars (\$100)

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred

ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(3) Failure to post required licenses:

(a) first offense: fifty dollars (\$50)

(b) second offense: three hundred dollars (\$300)

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(4) Working on an expired or invalid license:

(a) first offense: fifty dollars (\$50)

(b) second offense: three hundred dollars (\$300)

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act

(5) Performing services for compensation in an unlicensed establishment:

(a) first offense: three hundred dollars (\$300)

(b) second offense: five hundred dollars (\$500)

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(6) Any violation of the Body Art Safe Practices Act or rules:

(a) first offense: one hundred dollars (\$100).

(b) second offense: three hundred dollars (\$300).

(c) third and subsequent offenses: The board shall take steps to impose a further fine up to the limit of nine hundred ninety nine dollars (\$999) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

K. The board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize a body art establishment. A suspension action taken pursuant to this section is effective when communicated to the operator or body artist. Suspension action taken pursuant to this section shall not continue beyond the time that the conditions causing the suspension cease to exist, as determined by a board inspection at the request of the operator or body artist. A license holder may request an

administrative hearing, as provided by Section 5 [61-17B-5 NMSA 1978] of the Body Art Safe Practices Act, if the board does not lift an immediate suspension within ten days.

[16.36.4.8 NMAC - N, 05/16/2008]

HISTORY OF 16.36.4 NMAC: [RESERVED]

NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 5 STANDARDS OF PRACTICE

16.36.5.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Barbers and Cosmetologists
[16.36.5.1 NMAC - N, 05/16/2008]

16.36.5.2 SCOPE: Any person licensed to practice body art tattoo, piercing, scarification and all operators.
[16.36.5.2 NMAC - N, 05/16/2008]

16.36.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-8.
[16.36.5.3 NMAC - N, 05/16/2008]

16.36.5.4 DURATION: Permanent
[16.36.5.4 NMAC - N, 05/16/2008]

16.36.5.5 EFFECTIVE DATE: May 16, 2008 unless a later date is cited in the history note at the end of a section.
[16.36.5.5 NMAC - N, 05/16/2008]

16.36.5.6 OBJECTIVE: To provide minimum licensure with minimum practice of standards.
[16.36.5.6 NMAC - N, 05/16/2008]

16.36.5.7 DEFINITIONS: [RESERVED]

16.36.5.8 STANDARDS OF PRACTICE AND PROFESSIONAL STANDARDS: Practitioners are required to comply with the following minimum standards.

A. A practitioner shall perform all body art procedures in accordance with universal precautions set forth by OSHA and the U.S. centers for disease control.

B. Smoking, eating, or drinking by anyone is prohibited in the pro-

cedure room while body art preparation, procedure and clean up is being performed.

C. A practitioner shall refuse service to any person who, in the opinion of a reasonable objective observer, may be under the influence of alcohol or drugs.

D. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art, the licensee must thoroughly wash their hands in hot running water with liquid antimicrobial soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.

E. The skin of the licensee shall be free of rash or infection. No licensee affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.

F. In performing body art procedures, a practitioner shall wear disposable single-use gloves. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Subsection D before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for hand washing procedures as part of a good personal hygiene program.

G. If, while performing body art, the licensee's glove is pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person, the procedures in subsections D and E above shall be repeated immediately. Any item or instrument used for body art which is contaminated during the procedure shall be discarded and replaced immediately with new sanitary items or instrument before the procedure resumes.

H. Contaminated waste, which may release liquid blood or body fluids when compressed or may release dried blood or body fluids when handled must be placed in an approved "red" bag which is marked with the international "biohazard" symbol. It must then be disposed of by an approved medical waste facility pursuant to federal and state regulations including but not limited to 29 CFR 1910.1030 and New Mexico solid waste management regulations promulgated by the New Mexico environment department. Sharps ready for dis-

posal shall be disposed of in approved sharps containers. Contaminated waste which does not release liquid blood or body fluids when compressed or does not release dried blood or body fluids when handled may be placed in a covered receptacle and disposed of through normal, approved disposal methods. Storage of contaminated waste on-site shall not exceed 90 days. Establishment shall maintain records of waste removal.

I. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its content. The applicator or gauze shall be used once and then discarded.

J. It is the responsibility of the operator of the body art establishment to be in possession of the most current regulations and aftercare instructions.

K. Jewelry inserted into a newly pierced area must be made surgical implant-grade stainless steel that is ASTM F138 compliant; solid 14k or 18k white or yellow gold, niobium (Nb), titanium (Ti6A4V ELI) that is ASTM F136 compliant, platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

[16.36.5.8 NMAC - N, 05/16/2008]

16.36.5.9 STERILE PROCEDURES AND SANITATION

A. All non-disposable instruments used for body art shall be cleaned thoroughly after each use by scrubbing with an antimicrobial soap solution and hot water or an appropriate disinfectant to remove blood and tissue residue and placed in an ultrasonic unit which shall remain on the premises of the body art establishment and which will be operated in accordance with the manufacturer's instructions.

B. All facilities that reprocess reusable instruments shall have an equipment cleaning room that is physically separated from the work stations. Facilities that use all disposable equipment shall be exempt from this requirement.

C. After cleaning, all non-disposable instruments used for body art shall be packed individually in paper peel-packs and sterilized. All paper peel-packs shall contain either a sterilizer indicator or internal temperature indicator. Properly packaged, sterilized and stored equipment can be stored no more than one year. Paper peel-packs must be dated with an expiration date not to exceed one year. Sterile equipment may not be used after the expiration

date without first repackaging and resterilizing.

D. All non-disposable instruments used for body art shall be sterilized in an autoclave at the body art establishment. Off site sterilization is prohibited. The sterilizer shall be used, cleaned, and maintained according to manufacturer's instructions. A copy of the manufacturer's recommended procedures for the operation of the sterilization unit must be available for inspection by the board.

E. Each holder of a license to operate a body art establishment shall demonstrate that the sterilizer used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. These test records shall be retained by the operator for a period of three years and provided to the board upon request.

F. After sterilization, the instrument used for body art, tattooing or body piercing shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.

G. All instruments used for body art, tattooing or body piercing shall remain stored in sterile packages until just prior to performing a body art procedure. When assembling instruments used for performing body art, the operator shall wear disposable medical gloves and use techniques to ensure that the instruments and gloves are not contaminated.

H. All inks, dyes, pigments and sharps shall be specifically manufactured for performing body art procedures and shall not be adulterated. Immediately before applying a tattoo, the quantity of the dye to be used for the tattoo shall be transferred from the bottle and placed into sterile, single use paper cups or plastic caps. Upon completion of the tattoo, these single cups or caps and their contents shall be discarded.

I. For body piercing and tattooing establishments primarily utilizing a Statim autoclave, reusable items shall be sterilized in an autoclave in a bulk load without sterilization pouches, previous to sterilization in the Statim autoclave, for the body piercing or tattoo procedure. Reusable instruments and single use items sterilized in a Statim autoclave cassette must be used immediately after opening the Statim autoclave cassette. The items contained in the Statim autoclave cassette shall be used for one client only and shall include use of an integrater strip.

[16.36.5.9 NMAC - N, 05/16/2008]

16.36.5.10 REQUIREMENTS FOR SINGLE USE ITEMS

A. All sharps shall be sterilized prior to use and stored in paper peel-packs.

B. Single use items shall not be used on more than one client for any reason. After use, all single use needles, razors and other sharps shall be immediately disposed of in approved sharps containers. Piercing needles are strictly single use.

C. All body art stencils shall be single use and disposable. Petroleum jellies, soaps and other products used in the application of stencils shall be dispensed and applied on the area to be tattooed with sterile gauze or in a manner which prevents contamination of the original container and its contents. The gauze shall be used only once and then discarded. [16.36.5.10 NMAC - N, 05/16/2008]

16.36.5.11 CLIENT CARE AND RECORDS REQUIREMENTS

A. Prior to performing a body art procedure on a client, the practitioner shall:

(1) inform the client, verbally and in writing that the following health conditions may increase health risks associated with receiving a body art procedure:

(a) history of diabetes;
(b) history of hemophilia (bleeding);

(c) history of skin disease, skin lesions, or skin sensitivities to soaps, disinfectants etc.;

(d) history of allergies or adverse reactions to pigment, dyes, or other sensitivities;

(e) history of epilepsy, seizures, fainting, or narcolepsy;

(f) use of medications such as anticoagulants, which thin the blood or interfere with blood clotting; and

(g) any other conditions such as hepatitis or HIV.

(2) require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents them from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Subsection J of 16.36.5.8 NMAC.

B. Preparation and care of a client's skin area must comply with the following:

(1) Any skin area or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.

(2) Before a body art procedure is performed, the immediate skin area and the areas of the skin surrounding where body art procedure is to be placed shall be washed with soap and water or an approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-use blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned

and autoclaved after each use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.

(3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with the OSHA bloodborne pathogens standard.

C. The body art establishment shall keep a record of all persons who have had body art procedures performed. The record shall include:

(1) client's name;
(2) date of birth;
(3) address;
(4) the date of the procedure;
(5) the name of licensee who performed the procedure(s);

(6) the type of procedure performed and its location on the client's body;

(7) the signature of the client and, if the client is a minor, written proof of parental or legal guardian presence and consent;

(8) specific ink color(s) applied, and, when available, the manufacturer, catalogue identification number or supplier invoice of each color used.

D. For jewelry, a record of the manufacturer, catalogue identification number or supplier invoice shall be maintained.

E. All records described in this paragraph shall be retained for a minimum of three years and provided to the board upon request. Records destroyed after three years shall be destroyed by shredding or appropriate destruction methods.

F. The licensee shall provide each client with verbal and written instructions on the aftercare of the body art site. The written instructions shall advise the client:

(1) on proper cleansing of the area which received the body art;

(2) to consult a health care provider for:

(a) unexpected redness, tenderness or swelling at the site of the body art procedure;

(b) any rash;

(c) unexpected drainage at or from the site of the body art procedure; or

(d) a fever within 24 hours of the body art procedure; and

(3) the address, and phone number of the establishment; a copy shall be provided to the client; a model set of aftercare instructions shall be made available by the board.

[16.36.5.11 NMAC - N, 05/16/2008]

HISTORY OF 16.36.5 NMAC [RESERVED]

NEW MEXICO BOARD OF BARBERS AND COSMETOLOGISTS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 6 FEES

16.36.6.1 ISSUING AGENCY:
Regulation and Licensing Department,
Board of Barbers and Cosmetologists
[16.36.6.1 NMAC - N, 05/16/2008]

16.36.6.2 SCOPE: Any person
licensed to practice body art tattoo, pierc-
ing, scarification and all operators.
[16.36.6.2 NMAC - N, 05/16/2008]

**16.36.6.3 STATUTORY
AUTHORITY:** These rules are promulgat-
ed pursuant to the Body Art Safe Practices
Act, Section 61-17B-5.
[16.36.6.3 NMAC - N, 05/16/2008]

16.36.6.4 DURATION:
Permanent
[16.36.6.4 NMAC - N, 05/16/2008]

16.36.6.5 EFFECTIVE DATE:
May 16, 2008 unless a later date is cited in
the history note at the end of a section.
[16.36.6.5 NMAC - N, 05/16/2008]

16.36.6.6 OBJECTIVE: To out-
line fees for examinations, applications,
renewal, late penalty fee, duplicate license
and administrative fees
[16.36.6.6 NMAC - N, 05/16/2008]

16.36.6.7 DEFINITIONS:
[RESERVED]

16.36.6.8 FEES: All fees are
payable to the board and are non-refund-
able. Fees are as follows:

A.	establishment	license	(original)	\$300
B.	establishment	license	(renewal)	\$300
C.	apprentice	sponsor	application	\$50
D.	apprentice	sponsor	license (original/renewal)	\$100
E.	apprentice	license	(original and renewal)	\$50
F.	practitioner	license per	specialty (original)	\$100
G.	practitioner	license per	specialty (renewal)	\$100
H.	permanent	cosmetic	license (original)	\$100
I.	permanent	cosmetic	license (renewal)	\$100

J.	administrative	fee
(electronic list)	\$100	
K.	duplicate licenses	\$25
L.	late fee	\$35

[16.36.6.8 NMAC - N, 05/16/2008]

HISTORY OF 16.36.6 NMAC:
[RESERVED]

NEW MEXICO DNA IDENTIFICATION SYSTEM OVERSIGHT COMMITTEE AND ADMINISTRATIVE CENTER

This is an amendment to 10.14.200 NMAC,
Sections 7 and 11. The purpose of these
changes are to effect the amending of
Paragraphs (1) through (4) and (16) through
(60) of Subsection C of 10.14.200.7
NMAC, and Subsections C through E of
10.14.200.11 NMAC all to be effective on
April 30, 2008.

10.14.200.7 DEFINITIONS:

A. "Administrative center"
means the law enforcement agency that
administers and operates the DNA identifi-
cation system and is governed by the DNA
oversight committee.

B. "Analysis" means DNA
profile generation.

C. "Arrestee" for purposes
of DNA sample collection means any per-
son as listed in Subsection A of 29-3-10
NMSA 1978 that is arrested for a felony
offense committed as an adult and as
defined by Paragraph (3) of Subsection D of
29-3-10 NMSA 1978. The qualifying
arrestee offenses are:

(1) 30-2-1~~[(A)]~~ Murder in the
first degree,

(2) 30-2-1~~[(B)]~~ Murder in the sec-
ond degree,

(3) 30-2-3~~[(A)]~~ Voluntary
manslaughter,

(4) 30-2-3~~[(B)]~~ Involuntary
manslaughter,

(5) 30-2-4 Assisting suicide,

(6) 30-3-2 Aggravated assault

(7) 30-3A-3.1 Aggravated stalk-
ing (if second or subsequent conviction),

(8) 30-3-5(C) Aggravated battery
(resulting in great bodily harm or with a
firearm or explosive),

(9) 30-3-7 Injury to pregnant
woman (resulting in a stillbirth),

(10) 30-3-8 Shooting at dwelling
or occupied building; shooting at or from a
motor vehicle (resulting in great bodily
harm),

(11) 30-3-9(C) Aggravated
assault upon a school employee,

(12) 30-3-9(F) Aggravated bat-
tery upon a school employee (resulting in

great bodily harm or with a firearm or
explosive),

(13) 30-3-9.1(D) Aggravated
assault upon a sports official,

(14) 30-3-9.1(H) Aggravated bat-
tery upon a sports official (resulting in great
bodily harm or with a firearm or explosive),

(15) 30-3-9.2(C) Aggravated
assault upon a health care worker,

(16) 30-3-9.2(F) Aggravated bat-
tery upon a health care worker (resulting in
great bodily harm or with a firearm or
explosive).

~~[(16)]~~(17) 30-3-13 Aggravated
assault against a household member,

~~[(17)]~~(18) 30-3-14 Assault
against a household member with intent to
commit a violent felony,

~~[(18)]~~(19) 30-3-16(C) Aggravated
battery against a household member (result-
ing in great bodily harm or with a firearm or
explosive),

~~[(19)]~~(20) 30-4-1 Kidnapping
(when the victim is less than eighteen years
of age and the offender is not a parent of the
victim),

~~[(20)]~~(21) 30-4-1 Attempted kid-
napping (when the victim is less than eight-
een years of age and the offender is not a
parent of the victim),

~~[(21)]~~(22) 30-4-1 Kidnapping,

~~[(22)]~~(23) 30-4-3 False imprison-
ment (when the victim is less than eighteen
years of age and the offender is not a parent
of the victim),

~~[(23)]~~ (24) 30-6-1 (B) Abandonment of a child (resulting in death
or great bodily harm),

~~[(24)]~~(25) 30-6-1(E) Abuse of a
child (negligent or intentional, resulting in
great bodily harm),

~~[(25)]~~(26) 30-6-1(F) Abuse of a
child (negligent, resulting in death),

~~[(26)]~~(27) 30-6-1(G) Abuse of a
child (12 to 18 years of age, intentional,
resulting in death),

~~[(27)]~~(28) 30-6-1(H) Abuse of a
child (under 12 years of age, intentional,
resulting in death),

~~[(28)]~~(29) 30-6A-3 Sexual
exploitation of children,

~~[(29)]~~(30) 30-6A-3 Attempted
sexual exploitation of children as defined in
30-6A-3(B), 30-6A-3(C) or 30-6A-3(D),

~~[(30)]~~(31) 30-6A-4 Sexual
exploitation of children by prostitution,

~~[(31)]~~(32) 30-6A-4 Attempted
sexual exploitation of children by prostitu-
tion,

~~[(32)]~~(33) 30-7-5 Dangerous use
of explosives,

~~[(33)]~~(34) 30-9-11 Aggravated
criminal sexual penetration; effective
7/1/2007,

~~[(34)]~~(35) 30-9-11 Attempted
aggravated criminal sexual penetration;

effective 7/1/2007,

~~[(35)]~~~~(36)~~ 30-9-11 Criminal sexual penetration in the first, second, third or fourth degree,

~~[(36)]~~~~(37)~~ 30-9-11 Attempted criminal sexual penetration in the first, second or third degree,

~~[(37)]~~~~(38)~~ 30-9-12 Criminal sexual contact in the fourth degree,

~~[(38)]~~~~(39)~~ 30-9-13 Criminal sexual contact of a minor in the second, third or fourth degree,

~~[(39)]~~~~(40)~~ 30-9-13 Attempted criminal sexual contact of a minor in the second or third degree,

~~[(40)]~~~~(41)~~ 30-9-13 Solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree,

~~[(41)]~~~~(42)~~ 30-9-14.3 Aggravated indecent exposure,

~~[(42)]~~~~(43)~~ 30-10-3 Incest (when the victim is less than eighteen years of age),

~~[(43)]~~~~(44)~~ 30-10-3 Attempted incest (when the victim is less than eighteen years of age),

~~[(44)]~~~~(45)~~ 30-16-1 Larceny (stolen property over \$500; livestock of any value; or firearm of any value),

~~[(45)]~~~~(46)~~ 30-16-2 Robbery,

~~[(46)]~~~~(47)~~ 30-16-3~~(A)~~ Burglary (dwelling house),

~~[(47)]~~~~(48)~~ 30-16-3~~(B)~~ Burglary,

~~[(48)]~~~~(49)~~ 30-16-4 Aggravated burglary,

~~[(49)]~~~~(50)~~ 30-17-6 Aggravated arson,

~~[(50)]~~~~(51)~~ 30-20A-3 Antiterrorism Act; unlawful acts,

~~[(51)]~~~~(52)~~ 30-22-17(B) Assault by prisoner,

~~[(52)]~~~~(53)~~ 30-22-22 Aggravated assault upon a peace officer,

~~[(53)]~~~~(54)~~ 30-22-25(C) Aggravated battery upon a peace officer (resulting in great bodily harm or with a firearm or explosive),

~~[(54)]~~~~(55)~~ 30-28-3 Solicitation to commit criminal sexual contact of a minor in the second, third or fourth degree,

~~[(55)]~~~~(56)~~ 30-37-3.2 Child solicitation by electronic communication device; effective 7/1/2007,

~~[(56)]~~~~(57)~~ 30-47-4(D) Abuse of a resident,

~~[(57)]~~~~(58)~~ 30-47-5(D) Neglect of a resident,

~~[(58)]~~~~(59)~~ 66-8-101 Homicide by vehicle; great bodily harm by vehicle,

~~[(59)]~~~~(60)~~ 66-8-101.1 Injury to pregnant woman by vehicle (resulting in a stillbirth),

~~[(60)]~~~~(61)~~ any federal offense equivalent to the above listed New Mexico qualifying felony offenses.

D. "Buccal cell" means cells from the interior linings of the cheek

and gum.

E. "CODIS" means the federal bureau of investigation's national DNA index system for storage and exchange of DNA records submitted by designated forensic DNA laboratories.

F. "Collection kit" see Subsection N of 10.14.200.7 NMAC.

G. "Core loci" means the chromosomal locations designated as being required for a convicted offender profile to be considered complete by the board of the national DNA index system, and consistent with the federal DNA Identification Act of 1994 and subsequent federal laws.

H. "Covered offender" for purposes of fee assessment means any person convicted of a felony offense, committed after July 1, 1997, and as defined by Subsection D of 29-16-3 NMSA 1978 and as described in Paragraphs (1) through (3) of Subsection A of 29-16-6 NMSA 1978.

I. "Covered offender" for purposes of DNA sample collection means any person as defined by Subsection D of 29-16-3 and Subsection A of 29-16-6 NMSA 1978.

J. "DNA" means deoxyribonucleic acid.

K. "DNA Identification Act" means Sections 29-16-1 to 29-16-13 NMSA 1978, and any subsequent amendments or additions to these sections, the law that authorizes the DNA identification system and the DNA oversight committee.

L. "DNA identification system" means the system established pursuant to the DNA Identification Act.

M. "DNA oversight committee" means the DNA identification system oversight committee.

N. "DNA sample collection kit" means materials designed for the collection of DNA samples.

O. "FTA card" means an FTA collection card, a card of blotter paper designed for the collection of liquid biological samples or any other device designed for the collection of liquid biological samples.

P. "Head of the administrative center" means the authorized person who supervises the day-to-day operations of the administrative center.

Q. "Identification system" see Subsection L of 10.14.200.7 NMAC.

R. "In writing" means a document hand or typewritten on paper and includes the use of facsimile copies or computer requests that can be printed.

S. "Kit" see Subsection N of 10.14.200.7 NMAC.

T. "Records" means the results of analysis, testing, and related information.

U. "Sample" means a sample of biological material sufficient for

DNA testing.

V. "Sample collection kit" see Subsection N of 10.14.200.7 NMAC.

W. "Sample profile hit" means a match of the examined loci as determined by the servicing forensic DNA laboratory.

X. "Secured" means limited and controlled access only by authorized personnel including use of protection and safety devices such as restricted space access, physical locks and keys, passwords, encryption, firewalls etc. to safeguard any and all functions of that equipment or facility.

[3/1/1998; 10.14.200.7 NMAC - Rn & A, 10 NMAC 14.200.7, 5/1/2000; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 5/15/2007; A, 4/30/2008]

10.14.200.11 ACCESS TO DNA SAMPLE INFORMATION, RECORDS AND SAMPLES:

A. Access to or disclosure of DNA records and samples collected shall be authorized only in the following circumstances:

(1) when used as statistical or research information, and only when all personal identification is removed; or

(2) for identification, comparison, and investigative purposes, to local, state, and federal law enforcement agencies and the state medical investigator in response to official inquiries as authorized by Section 29-16-2 and Subsection B of 29-16-8 NMSA 1978 and these rules; or

(3) in order to minimize duplicate sample collection and testing to local, state and federal law enforcement agencies, the corrections department, jails and detention facilities as provided by Subparagraph (e) of Paragraph (6) of Subsection B of 29-16-4 and Subsection C of 29-16-8 NMSA 1978; or

(4) pursuant to court order.

B. Access to the DNA identification system shall be consistent with the DNA identification act and only by:

(1) authorized law enforcement agencies and the state medical investigator through their servicing forensic DNA laboratory or by direct written request to the head of the administrative center; or

(2) authorized law enforcement agencies, the corrections department, jail and detention facilities through secure electronic methods established by the administrative center.

C. DNA records and samples.

(1) All requests for information on DNA records or requests for DNA samples, other than those intended to minimize duplicate sample collection and testing or accessed through the secure electronic

methods established by the administrative center, shall be submitted in writing to the administrative center.

(2) The head of the administrative center shall verify the validity of all written requests prior to releasing any DNA related information or samples pursuant to the DNA Identification Act.

(3) A copy of the request and resulting action shall be placed with the original sample records if such sample records exist at the time of the request.

(4) A separate file shall be established where copies of all requests and resulting actions shall be kept.

D. DNA database searches.

(1) All specific, non-routine requests for searches of, or through, the administrative center DNA database computers, other than those intended to minimize duplicate sample collection and testing or accessed through the secure electronic methods established by the administrative center, shall be submitted in writing to the administrative center.

(2) The head of the administrative center shall verify the validity of all written requests pursuant to the DNA Identification Act, prior to initiating any database searches or releasing information from such searches and shall reject inappropriate or invalid requests.

(3) A copy of the request and resulting action shall be placed with the original sample records if a database hit should occur. If a database hit should occur pursuant to this request, it shall be administratively handled pursuant to the provisions of Subsection E of 10.14.200.11 NMAC.

(4) A separate file shall be established where copies of all specific, non-routine requests and resulting action shall be kept.

(5) All routine searches will be performed in such a manner as to not target a specific covered offender or arrestee sample. No documentation of routine searches is required to be maintained.

E. Database hits.

(1) If a DNA profile match should occur ~~against~~ between the DNA profile from a covered offender or arrestee and an unknown forensic sample, an unidentified person or unidentified human remains, a reanalysis of the stored DNA sample shall be performed, if possible, to verify the generated profile.

(2) A written letter of notification indicating the hit shall be forwarded to the requesting agency through their servicing laboratory or directly by the head of the administrative center. Release of personal identifying information shall be made only after compliance with Subsection D of 10.14.200.11 NMAC.

(3) Should the reanalysis of a profile match not be confirmed, a written letter of notification to that effect shall be forwarded to the requesting agency through their servicing laboratory or directly by the head of the administrative center and a non-conformance investigation will be executed.

(4) All written letters of notification that possess an original signature shall be kept by the administrative center. Copies of letters of notification that possess an original signature will be distributed as deemed appropriate by the head of the administrative center. As required, a certified copy of a letter of notification that possesses an original signature will be distributed as deemed appropriate by the head of the administrative center.

F. Only DNA records that directly relate to the identification characteristics of individuals shall be collected and stored in the DNA identification system database. The information contained in the DNA identification system database shall not be collected, stored, or released for the purpose of obtaining information about physical characteristics, traits, or predisposition for a disease or mental illness or behavior and shall not serve any purpose other than those specifically allowed by the DNA Identification Act.

G. CODIS.

(1) The administrative center will contribute data obtained from the DNA identification system to CODIS.

(2) The information maintained and accessed by CODIS shall adhere to the procedures, rules and regulations established by the board of the national DNA index system and the FBI for CODIS access.

(3) Both state and national CODIS searches shall be performed via secured computer systems.

[3/1/1998; 10.14.200.11 NMAC - Rn & A, 10 NMAC 14.200.11, 5/1/2000; A, 1/23/2002; A, 7/1/2003; A, 7/1/2005; A, 12/29/2006; A, 4/30/2008]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.235.600 NMAC, section 12, effective May 1, 2008.

8.235.600.12 ONGOING BENEFITS:

A. Pregnancy-related services: A woman eligible for pregnancy-related services remains eligible throughout her pregnancy and for two months after the month of delivery or after the month in which the pregnancy terminates. Changes in household income do not affect her eligi-

bility during this period. No periodic reviews are required during this period. After the two-month post partum period, the woman will automatically be converted to family planning services if she meets the age requirement and has no other creditable health insurance.

B. Family planning services: A woman who is eligible for family planning services or who is automatically converted to family planning services after her pregnancy-related services end remains eligible for 12- months. No periodic reviews are required during this period. Changes in household income do not affect her eligibility during this period. If the woman should become pregnant during this period, she should contact her income support division worker to explore eligibility for other medicaid categories. If she moves out of state or requests case closure, she loses eligibility.

[2/1/95; 6/30/98; 8.235.600.12 NMAC - Rn, 8 NMAC 4.PSO.624 & A, 6/1/04; A, 5/1/08]

NEW MEXICO MINING SAFETY BOARD

The following rules are repealed by the Mining Safety Board, effective 06/01/2008:

MI 71-1, (filed 08/23/1971); MI 71-2 (filed 08/23/1971); MI 71-3 (filed 08/23/1971); MI 74-1 (filed 10/03/1974); MI 74-2 (filed 10/03/1974); MI 74-3 (filed 10/03/1974); MI 74-4 (filed 10/03/1974); MI 75-1 (filed 05/19/1975); MI 75-2 (filed 05/19/1975); MI 75-3 (filed 05/19/1975); MI 78-1 (filed 06/28/1978).

MI 81-1, New Mexico Mine Safety Code for All Mines Including Open-cut and Open-pit (filed 5/11/1981).

NEW MEXICO MINING SAFETY BOARD

TITLE 19 N A T U R A L RESOURCES AND WILDLIFE CHAPTER 7 MINING - GENERAL PROVISIONS

PART 20 NEW MEXICO MINE SAFETY CODE FOR ALL MINES INCLUDING OPEN-CUT AND OPEN-PIT

19.7.20.1 ISSUING AGENCY: Mining Safety Board.

[19.7.20.1 NMAC - Rp, MI 81-1, 06/01/08]

19.7.20.2 SCOPE: All owners, employees and visitors of mining operations in New Mexico, utilizing hoist to access underground mining operations.

[19.7.20.2 NMAC - N, 06/01/08]

**19.7.20.3 STATUTORY
AUTHORITY:** Section 69-8-4 NMSA
1978.

[19.7.20.3 NMAC - Rp, MI 81-1, 06/01/08]

19.7.20.4 DURATION:
Permanent.

[19.7.20.4 NMAC - N, 06/01/08]

19.7.20.5 EFFECTIVE DATE:
06/01/08, unless a later date is cited at the
end of a section.

[19.7.20.5 NMAC - N, 06/01/08]

19.7.20.6 OBJECTIVE:
Maintain a system of uniform hoist signals
for all underground mines.

[19.7.20.6 NMAC - N, 06/01/08]

19.7.20.7 DEFINITIONS:
[RESERVED]

**19.7.20.8 SIGNALS FOR ALL
MINES.** The following signal code shall be
used in all mines:

A. 1 bell, stop immediately
if in motion; 1-2-1 bells, hoist muck; 2-1-2
bells, release cage, skip or bucket; 2 bells,
lower; 3-1 bells, hoist persons; 3-2 bells,
lower persons, if bells rung slowly move
slowly; 7 bells, danger signal, followed by
station signal calls cage to that station. This
signal takes precedence over all other
except an accepted blasted signal.

B. Additional mine specif-
ic signals may be used if approved by the
state mine inspector.

C. Automated hoists shall
be exempt from compliance with the bell
signal requirements.

[19.7.20.8 NMAC - Rp, MI 81-1, 06/01/08]

HISTORY OF 19.7.20 NMAC:

Pre-NMAC History:

Rule MI 81-1, New Mexico Mine Safety
Code for All Mines Including Open-cut and
Open-pit, filed 5/11/1981.

History of Repealed Material:

Rule MI 81-1, New Mexico Mine Safety
Code for All Mines Including Open-cut and
Open-pit (filed 5/11/1981) repealed
06/01/08.

Other History:

Rule MI 81-1, New Mexico Mine Safety
Code for All Mines Including Open-cut and
Open-pit (filed 5/11/1981) was replaced by
19.7.20 NMAC, New Mexico Mine Safety
Code for All Mines Including Open-cut and
Open-pit, effective 06/01/08.

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

Notice of Repeal

1.18.969 NMAC, ERRDS, University of
New Mexico Hospital, is hereby repealed,
effective May 12, 2008.

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

This is an amendment to 1.18.665 NMAC,
Sections 2358 - 2361 effective 5/12/2008.

**1.18.665.2358 CONSUMER INCI-
DENT FILES:**

A. Program: incident
management

B. Maintenance system:
chrono-numerical by fiscal year and case
number

C. Description: record of
investigations by the department for alleged
incidents of misconduct, abuse, neglect and
exploitation of clients by ~~[health care facil-
ities]~~ community program agencies.
Portions of file are input to the *incident
management system*. File may contain *inci-
dent report form, case summary report,
report of findings*, correspondence, memo-
randa, etc.

D. Retention: six years
from the end of the fiscal year in which
~~[created]~~ investigation closed

E. Confidentiality:
Portions of this record are confidential ~~[per]~~
pursuant to but not limited to Section 14-6-
1 NMSA 1978 (i.e. all health information
that relates to and identifies specific indi-
viduals as patients is strictly confidential).

[1.18.665.2358 NMAC - N, 06/28/2004, A,
01/07/2008, A, 05/12/2008]

[If substantiated, a copy of the record is
transferred to the proper prosecuting
authority.]

**1.18.665.2359 COMPLAINT SUR-
VEY FILES:**

A. Program: health care

B. Maintenance system:
alpha-chronological by facility name and
surveyed date

C. Description: ~~[record
concerning the investigation into alleged
facility misconduct, abuse or neglect
against clients of health care facilities.]~~
records concerning surveys of licensed
health care facilities as a result of a com-
plaint made with the department for alleged
facility misconduct. Portions of file are
input to the ~~[incident management system]~~
facility (aspen) complaint system. File may

contain *medicare, medicaid, CLIA com-
plaint form* (HCFA-562); ~~[medicare, medi-
caid certification and transmittal form
(HCFA-1539)]~~; *plan of correction* (HCFA-
25671), plan of correction approval form;
correspondence; memoranda; *survey team
composition and workload report* (CMS-
670), etc.

D. Retention:

(1) Substantiated: ~~[five]~~ 10
years after date surveyed

(2) Unsubstantiated: one year
after date surveyed

E. Confidentiality:

Portions of this record are confidential ~~[per]~~
pursuant to but not limited to Subsection M
of Section 24-1-5 NMSA 1978 (i.e. unsub-
stantiated complaints of health facilities
under investigation).

[1.18.665.2359 NMAC - N, 06/28/2004, A,
01/07/2008, A, 05/12/2008]

[If substantiated, a copy of the record is
transferred to the proper prosecuting
authority.]

**1.18.665.2360 INCIDENT MAN-
AGEMENT SYSTEM:**

A. Program: incident
management

B. Maintenance system:
numerical by primary key

C. Description: system
that tracks all incidents and investigations
of alleged agency misconduct for all com-
munity health programs. Data may include
program name, information on incident,
consumer name, medical information,
information regarding investigation, mortal-
ity review information, etc.

D. Data retention: six
years after date of resolution

E. Confidentiality:
Portions of record may be confidential ~~[per]~~
pursuant to but not limited to 5 USC,
Section 552a (i.e., social security number)
and Section 14-6-1 NMSA 1978 (i.e., health
information).

F. Input: information
used as input for the *incident management
system* may include portions from
1.18.665.2358 *consumer incident files* [~~1.18.665.2359 complaint survey files~~].

G. Output: Because the
incident management system is a data based
system, ad hoc reports may be generated
upon request or demand. When produced,
these reports are forwarded to the request-
ing entity.

[1.18.665.2360 NMAC - N, 01/07/2008, A,
05/12/2008]

**1.18.665.2361 FACILITY (ASPEN)
COMPLAINT SYSTEM:**

A. Program: incident
management

B. Maintenance system:
numerical by primary key

C. Description: system that tracks all complaint intake information and complaint surveys for licensed health-care facilities. Data may include incident information, investigator assignments, facility report data, referrals to appropriate agencies, etc.

D. Data retention: ~~five years after date of complaint resolution~~

(1) Substantiated: 10 years after date surveyed

(2) Unsubstantiated: one year after date surveyed

(3) Complaint intake: five years after date of complaint resolution

E. Confidentiality: Portions of record may be confidential ~~per~~ pursuant to but not limited to 5 USC, Section 552a (i.e., social security number) and Section 14-6-1 NMSA 1978 (i.e., health information).

F. Data input: information used as input for the *facility (aspen) complaint system* may include portions from 1.18.665.2359 *complaint survey files*, and 1.18.665.2362 *complaint intake information files*, etc.

G. Data output: Because the *facility (aspen) complaint system* is a data based system, reports may be generated upon request or demand. When produced, these reports are forwarded to the requesting entity. Some of these reports include complaint survey reports, intake information report, etc.
[1.18.665.2361 NMAC - N, 01/07/2008, A, 05/12/2008]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

This is an amendment to 1.19.3 NMAC, Sections 102, 107, 112, 127, 130, 131, 134, 136-138, 143, 144, 147, 150, 156, 168, 202 and 203 effective May 12, 2008.

1.19.3.102 DOCUMENT AND INSTRUMENT FILE:

A. Program: clerk

B. Maintenance system: local government preference

C. Description: instruments recorded or documents filed by the general public. File may include type of document, document title, document number, fee, date and time filed or recorded, uniform commercial code statement, deeds (i.e., quitclaim warranty, tax, estate, executors, commissioners, administrators, etc.), liens (i.e., federal tax, hospital, judgments, etc.), lien releases, mining claims, labor records, oil and gas leases, certificates of incorporation, transcripts of court judgments, lis pendens, military discharges,

orders for change of name, continuation certificates, contracts of sale and purchase, real estate contracts, right of way easements, assignment of contracts, notices of disclaimer, patents, power of attorneys, probate files, bonds, wills, mortgage records (i.e., mortgages, releases, real estate assignments, etc.), book and page number, instrument number, plats and maps, marriage records (i.e., marriage license applications, marriage certificates, etc.), etc.

D. Retention: permanent

E. Confidentiality: Portions of the file may be confidential pursuant to but not limited to the following, Paragraphs 9 and 10 of Subsection A of Section 14-2-1 NMSA 1978 (i.e., veteran discharge papers), 5 USC 552a (i.e., social security number), 42 USC 1320d(4) and 42 USC 1320d-6 (i.e., health information).
[1.19.3.102 NMAC - Rp, 1.19.3.102 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.107 UNIFORM COMMERCIAL CODE STATEMENT FILE:

A. Program: clerk

B. Maintenance system: local government preference

C. Description: collateral and fixture filing of goods by commercial entities. File may include security agreement, filer name, filing type, filing number, book and page number, debtor's legal name, mailing address, type of organization, jurisdiction of organization, organizational identification number, name of additional debtors, secured party's name, alternative designation, lessee, lessor, consignee, consignor, bailee, bailor, seller, buyer, lien, description of real estate, name and address of record owner, continuations, amendments, terminations, partial releases, assignments, certification of county clerk (i.e., day, year, time, instrument number, county clerk signature, and seal etc.), etc.

D. Retention: five years after filing date

E. Confidentiality: Portions of the file may be confidential pursuant to but not limited to the following, 5 USC 552a (i.e., social security number) and Section 7-1-76 NMSA 1978 (i.e., tax identification number).
[1.19.3.107 NMAC - Rp, 1.19.3.107 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.112 BUSINESS LICENSE APPLICATION FILE:

A. Program: licensing

B. Maintenance system: local government preference

C. Description: records concerning annual application to obtain a business license. File may include license application (i.e., owner and establishment name, location, date, license fee, license

number, expiration date, etc.), license type (i.e., commercial, occupational, special event, etc.), receipt, zoning codes lists, etc.

D. Retention:

(1) Commercial and occupational: three years after date of application

(2) Special event: until expired

E. Confidentiality: Portions of the file may be confidential pursuant to but not limited to the following, Section 7-1-76 NMSA 1978 (i.e., tax identification number).
[1.19.3.112 NMAC - Rp, 1.19.3.112 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.127 [NOMINATING CANDIDACY PETITION] DECLARATION OF CANDIDACY AND NOMINATING PETITION FILE:

A. Program: elections

B. Maintenance system: local government preference

C. Description: ~~information that a potential candidate must obtain prior to running for office. Petition may include list of voter signatures, candidates name, precinct number, county, party affiliation, candidate's signature and mailing address, notary public information, certified copy of voter registration, vital candidate sheet, candidate declaration~~ records used for obtaining the required number of signatures of voters, which is signed on behalf of the person wishing to become a candidate for a political office requiring a nominating petition and filed with the county clerk prior to running for office that are submitted to the county clerk prior to running for office. File contains declaration of candidacy form and the authorized form.

D. Retention: ~~until term of office for which petition filed for has expired~~ until expiration of term of office for which candidacy was declared

[1.19.3.127 NMAC - Rp, 1.19.3.127 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.130 ELECTION PROCLAMATION FILE:

A. Program: elections

B. Maintenance system: local government preference

C. Description: ~~election proclamation issued by the governor. File may include purpose of election, office to be filled, names of precinct board members, precinct to which they are appointed, address of polling place, etc.~~ authenticated copy of an election proclamation issued by the governor calling for an election to be held in each county and precinct of the state on the date prescribed by law. File may contain copy of proclamation issued by the governor, notice of election proclamation issued by the county clerk, proof of election notice, correspondence, etc.

D. Retention: five years after ~~[term of office for which proclamation has expired]~~ election for which proclamation was issued
[1.19.3.130 NMAC - Rp, 1.19.3.130 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.131 CERTIFICATE OF VOTING ~~[MACHINE]~~ SYSTEM PREPARATION:

A. Program: elections
B. Maintenance system: local government preference
C. Description: ~~[records concerning voting machine certification]~~ certification of the voting system to be used in an election by the county clerk in accordance with specifications issued by the secretary of state. Certificate may include date of election, preparation date, machine number, precinct location, protective counter number, remarks, check list, voting ~~[machine]~~ system technician name and signature, county clerk name, signature and seal, etc.

D. Retention:
(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later
[1.19.3.131 NMAC - Rp, 1.19.3.131 NMAC, 09/25/2006; A, 05/12/2008]
[Note one: retention for federal election records for 22 months is pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978. Note two: retention for state or county election records is pursuant to Subsection B of Section 1-12-69 NMSA 1978.]

1.19.3.134 ELECTION DAY TROUBLE CALL LOG:

A. Program: elections
B. Maintenance system: local government preference
C. Description: a log of election day voting ~~[machine]~~ system problems. Log may include name of county, precinct number, date, time, voting machine number, malfunction, cause of malfunction, name of voting ~~[machine]~~ system technician, name of dispatcher, problem description, instructions given, technician dispatched, time of dispatch, signature of technician, etc.

D. Retention:
(1) Elections that involve federal candidacies: 22 months after election to which they apply

(2) Elections that do not involve federal candidacies: 45 days after adjournment of applicable state or county canvassing board, whichever is later
[1.19.3.134 NMAC - Rp, 1.19.3.134

NMAC, 09/25/2006; A, 05/12/2008]
[Note one: retention for federal election records for 22 months is pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978. Note two: retention for state or county election records is pursuant to Subsection B of Section 1-12-69 NMSA 1978.]

1.19.3.136 APPLICATION FOR ABSENTEE VOTER BALLOT:

A. Program: elections
B. Maintenance system: local government preference
C. Description: application submitted by a voter requesting absentee voter ballot for county, state and federal elections. Application may include election date, county name, type of absentee voter ballot (i.e. primary, general, school, special, etc.), name of voter, voter year of birth, physical address, unique identifier, mailing address, signature of registered voter, ~~[affidavit, current residence, previous residence, state and county, voter declaration of residence, physical address,]~~ etc.

D. Retention: ~~[22 months after election to which they apply]~~

(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later
[1.19.3.136 NMAC - Rp, 1.19.3.136 NMAC, 09/25/2006; A, 05/12/2008]
[Note one: ballots shall only be destroyed pursuant to rules promulgated by the state records center pursuant to Subsection D of Section 1-12-69 NMSA 1978. Note two: federal election ballots shall be maintained for 22 months pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978. Note three: retention for state or county election ballots is pursuant to Subsection B of Section 1-12-69 NMSA 1978.]

1.19.3.137 ~~[NOTICE OF ACCEPTANCE OF ABSENTEE BALLOT APPLICATION]~~

A. Program: elections
B. Maintenance system: local government preference

C. Description: ~~notice submitted by a voter requesting absentee voter ballot for county, state and federal elections. Notice may include election date, applicant's printed name, birth year, unique identifier, applicant's signature, date and time application received in clerk's office, type of absentee application (i.e., voter, an absent uniformed services voter or overseas voter), notification of acceptance, etc.~~

D. Retention: ~~45 days after adjournment of state canvassing~~

~~board~~ [RESERVED]

[1.19.3.137 NMAC - Rp, 1.19.3.137 NMAC, 09/25/2006; Repealed, 05/12/2008]

[Note on NOTICE OF ACCEPTANCE OF ABSENTEE BALLOT APPLICATION, approved absentee ballots are simply sent out.]

1.19.3.138 NOTICE OF REJECTION OF ABSENTEE BALLOT APPLICATION:

A. Program: elections
B. Maintenance system: local government preference

C. Description: ~~[notice submitted by a voter requesting absentee voter ballot for county, state, and federal elections. Notice may include election date, applicant's printed name, birth year, unique identifier, applicant's signature, date and time application received in clerk's office, type of absentee application (i.e., voter, an absent uniformed services voter or overseas voter), notification of rejection and explanation of rejection, etc.]~~ rejection notice submitted by the county clerk to a person requesting an absentee voter ballot. Notice may contain an explanation on the reasons for the rejection of an absentee ballot application (i.e., address on the application does not match the address of voter registration, the year of birth provided does not match the year of birth on the certificate of voter registration, county clerk records indicate that the person is ineligible to vote, name on the application does not match the name on the voter registration, a person is not a registered voter in the county, etc.), etc.

D. Retention:
(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later
[1.19.3.138 NMAC - Rp, 1.19.3.137 NMAC, 09/25/2006; A, 05/12/2008]
[Note one: retention on returned or undeliverable notices. Note two: retention for federal election records for 22 months is pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978. Note three: retention on state or county records is pursuant to Subsection B of Section 1-12-69 NMSA 1978.]

1.19.3.143 ~~[CERTIFIED]~~ CERTIFIED VOTERS INDEX LIST:

A. Program: elections
B. Maintenance system: local government preference

C. Description: ~~[a list that shows voter by precinct, party and address. List may include voter's name, gender, address, zip code, party affiliation,~~

~~last four digits of social security number,~~ certified list of voters by precinct, party affiliation and address. List includes voter's name, gender, address, zip code, party affiliation, county, precinct number, date, page number, etc.

D. Retention: until superseded by new listing
[1.19.3.143 NMAC - Rp, 1.19.3.143 NMAC, 09/25/2006; A, 05/12/2008]
[List is output comprised from data maintained by the secretary of state's office]

1.19.3.144 PRECINCT VOTER AND SIGNATURE ROSTER LIST:

A. Program: elections
B. Maintenance system: local government preference
C. Description: ~~[a voter list by precinct. List may include county, voter name, gender, place of residence, last four digits of social security number]~~ voter lists and signature rosters used for confirmation of registration and voting during an election. List may include county, voter name, gender, place of residence, birth year, party affiliation, precinct of residence, voter signature, voter consecutive number, page number, date and name of election, etc.

D. Retention: ~~[22 months after election to which they apply]~~

(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later

[1.19.3.144 NMAC - Rp, 1.19.3.144 NMAC, 09/25/2006; A, 05/12/2008]
[Note one: each index shall be certified by the county clerk and sent to secretary of state. Note two: retention for state or county election records is pursuant to Subsection B of Section 1-12-69 NMSA 1978. Note three: federal election records shall be maintained for 22 months pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978.]

1.19.3.147 VOTING MACHINE PERMIT:

A. Program: elections
B. Maintenance system: local government preference
C. Description: permit issued to a voter at the polls. Permit may include election date, voters list number, voting machine operator, public counter number, voting machine assigned letter, etc.

D. Retention:
(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after

adjournment of applicable state or county canvassing board, whichever is later
[1.19.3.147 NMAC - Rp, 1.19.3.147 NMAC, 09/25/2006; A, 05/12/2008]
[Note one: retention for federal election records for 22 months is pursuant to 42 USC 1974 and Subsection A of Section 1-12-69 NMSA 1978. Note two: retention for state or county election records is pursuant to Subsection B of Section 1-12-69 NMSA 1978.]

1.19.3.150 NOTICE OF APPOINTMENT OF ~~[PRECINCT BOARD]~~ ELECTION OFFICIALS FORM

A. Program: elections
B. Maintenance system: local government preference
C. Description: ~~[records concerning appointment of members to precinct board. Notice may include qualification of members, training received, certification by county clerk, member's oath of office, removal from the board, disqualification, refusal to serve or excuse by the county clerk for sufficient cause, etc.]~~ county clerk appointments of election officials to individual precinct boards. Form may include qualification of members, training received, certification by county clerk, member's oath of office, removal from the board, disqualifications, election information, precinct number, polling location, election date, election school information, return deadline date, official's name and address, official's response (i.e., ability to serve, inability to serve or willingness to remain on the standby list), etc.

D. Retention: two years from date of appointment
[1.19.3.150 NMAC - Rp, 1.19.3.150 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.156 BALLOTS:

A. Program: elections
B. Maintenance system: local government preference
C. Description: a printed and certified ballot used by voters to make decisions in elections (i.e., absentee, labels, cards, sheets, provisional paper and emergency paper, etc.). Ballot may include numbered position on ballot, physical ballot layout, office ~~[running for, names of candidates, certification of registration, occupation and post office address, bonds, constitutional amendments, propositions and other questions to be voted on, marking, casting and recording of votes, etc.]~~, names of candidates, bonds, constitutional amendments and other questions to be voted on, marking, casting and recording of votes, etc.

D. Retention:
~~[(1) State or county elections~~

~~paper ballots: 45 days after adjournment of state canvassing board if no contest or judicial inquiry made~~

~~(2) Federal election paper ballots: 22 months from date of any general, special or primary election~~

~~(3) Unused emergency ballots: precinct board will destroy upon the closing of polls~~

~~(4) Unused absentee ballots: at 5:00 p.m. on the Monday immediately preceding election date]~~

(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later

~~[(5)]~~ **(3) Sample ballots (one copy only):** three years after election to which they apply

[1.19.3.156 NMAC - Rp, 1.19.3.156 NMAC, 09/25/2006; A, 05/12/2008]
[Ballots shall only be destroyed pursuant to rules promulgated by the state records center and archives pursuant to Subsection D of Section 1-12-69 NMSA 1978. Unused paper ballots are classified as non-records (1.15.3.101 NMAC). Unused emergency ballots will be destroyed upon the closing of polls and unused absentee ballots at 5:00 p.m. on the Monday immediately preceding election date.]

1.19.3.168 PROVISIONAL BALLOT OUTER ENVELOPES:

A. Program: elections
B. Maintenance system: local government preference
C. Description: completed voter affidavit for provisional or absentee ballot never received. Affidavit may include county, precinct, voter information, voters affidavit and signature, presiding judge signature, initials of chair of the county canvassing board and information why ballot was counted or not counted, etc.

D. Retention:
~~[(1) Non federal candidates: 45 days after adjournment of state canvassing board]~~

~~(2) Federal candidates: 22 months after election to which they apply]~~

(1) Elections in which a federal candidate appears on the ballot: 22 months from the date of the election

(2) Elections in which there is no federal candidate: 45 days after adjournment of applicable state or county canvassing board, whichever is later

[1.19.3.168 NMAC - Rp, 1.19.3.168 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.202 DESCENDANTS PROBATE PACKET:

A. Program: probate
B. Maintenance system: local government preference
C. Description: forms and supporting documentation completed for the probate of an estate. Packet may include instructions for probate, explanation of forms, application for informal appointment of personal representative, order of informal appointment of personal representative, acceptance of appointment as personal representative, letters of testamentary or administration, notice of informal appointment of personal representative, proof of notice, notice of known creditors, notice to creditors, inventory of assets, accounting, verified statement of the personal representative pursuant to Section 34-7-17 NMSA 1978, etc.

D. Retention: permanent [1.19.3.202 NMAC - Rp, 1.19.3.202 NMAC, 09/25/2006; A, 05/12/2008]

1.19.3.203 RECORD OF DESCENDANTS ESTATES:

A. Program: probate
B. Maintenance system: local government preference
C. Description: records concerning actions filed against an estate in probate. Record may include all heirs', their decedents' surviving spouses' names, ages, place of residence; a note of every sale of real estate made under the order of the court; money received; reason received; relationship to the deceased, if a minor; list of warrants issued against the county treasury, and for what reason pursuant to Section 34-7-20 NMSA 1978; bonds given by personal representatives, conservators, guardians and all wills admitted to probate pursuant to Section 34-7-21 NMSA 1978; etc.

D. Retention: permanent [1.19.3.203 NMAC - Rp, 1.19.3.203 NMAC, 09/25/2006; A, 05/12/2008]

NEW MEXICO DEPARTMENT OF PUBLIC SAFETY TRAINING AND RECRUITING DIVISION Law Enforcement Academy

This is an amendment to 10.29.4 NMAC, Sections 8, 9, 10, 11, and 12, effective April 30, 2008

10.29.4.8 GENERAL INSTRUCTOR: To qualify for general instructor certification, an applicant shall satisfactorily demonstrate to the director of the training center a combination of education and experience in criminal justice, as well as proficiency in the instructional process, and meet the following require-

ments:

A. certified police officer or radio dispatcher in the state of New Mexico, or a duly elected sheriff;

B. has acquired three (3) years of practical experience as a police officer, or police administrator, or specialist in a field relevant to or related to the criminal justice system; this requirement may be waived by the director of the training center only upon request from the chief/sheriff/department head with supporting documentation;

C. completion of an instructor training or development course, or equivalent training approved by the director of the training center; and

D. qualified applicants for a general instructor designation will be issued a certification for a period of ~~[four (4) years]~~ two or more years; an evaluation will be completed by the students subsequent to the completion of each class taught by the instructor; the agency administrator responsible for conducting the class shall review the evaluations to ensure the quality of the instruction. ~~[Anyone currently on probation under 10.29.4 NMAC will, upon request, be issued a four (4) year certificate upon the implementation of this amendment and that probationary periods will cease as of that date.]~~

[9/14/85; 9/2/93; 10/1/97; 4/1/99; 10.29.4.8 NMAC - Rn, 10 NMAC 29.4.8, 7/1/01; A, 4/30/08]

10.29.4.9 PROFESSIONAL LECTURER: The director of the training center may certify as a professional lecturer a person in the formally recognized profession, e.g., medicine, law, psychology, who by virtue of formal academic graduate degrees and professional experience has developed special expertise in a subject area material to the presentation of criminal justice training or educational programs. To be eligible for certification, an applicant shall:

A. be properly licensed or certified by the legally recognized licensing agency for the designated profession to actively engage in the specific profession; this requirement may be waived should a professional or specialist not have an available or required licensing agency;

B. have acquired a minimum of one (1) year of practical experience in the designated profession and area of expertise; and

C. obtain an endorsement from the chief or administrator of the department conducting in-service training; such endorsement must:

(1) recommend the applicant's certification as a professional lecturer;

(2) describe the applicant's expected participation, topic areas, duties, and responsibilities in the criminal justice

conducted by the academy, school, or department; and

(3) specify the professional subject area and training course or courses in which certification is requested.

D. qualified applicants for a professional lecturer designation will be issued a certification for a period of ~~[four (4) years]~~ two or more years; an evaluation will be completed by the students subsequent to the completion of each class taught by the instructor; the agency administrator responsible for conducting the class shall review the evaluations to ensure the quality of the instruction. ~~[Anyone currently on probation under 10.29.4 NMAC will, upon request, be issued a four (4) year certificate upon the implementation of this amendment and that probationary periods will cease as of that date.]~~

[9/14/85; 9/2/93; 10/1/97; 4/1/99; 10.29.4.9 NMAC - Rn, 10 NMAC 29.4.9, 7/1/01; A, 4/30/08]

10.29.4.10 SPECIALIZED LAW ENFORCEMENT INSTRUCTOR:

A. To qualify for a specialized law enforcement instructor certification, an applicant shall be required to demonstrate to the director of the training center proof of skills, successful experience, and/or training in the related field for which they will be providing instruction, and must meet the following requirements:

(1) must be sponsored by a law enforcement agency in the state of New Mexico; this requirement may be waived by the director of the training center based on a showing of previous training/experience in the field for which certification is requested; the following fields will require specialized training: high risk, including such areas as firearms, baton, unarmed self-defense, etc.; and the following will require specialized training, two (2) years assignment to the specialty and a showing of a number of cases in the field that the applicant brought to a logical conclusion; technical including such areas as fingerprinting, photography, accident investigation, traffic enforcement, vehicle operations, radio-dispatching, etc.;

(2) completion of an instructor training or development course, or equivalent training approved by the director of the New Mexico law enforcement academy; and

(3) qualified applicants for a specialized law enforcement instructor designation will be issued a certification for a period of ~~[four (4) years]~~ two or more years; an evaluation will be completed by the students subsequent to the completion of each class taught by the instructor; the agency administrator responsible for conducting the class shall review the evaluations to ensure the quality of the instruction. ~~[Anyone currently on probation under~~

~~10.29.4 NMAC will, upon request, be issued a four (4) year certificate upon the implementation of this amendment and that probationary periods will cease as of that date.]~~

B. The director of the training center will maintain and provide to all agencies a listing of those courses which require an instructor to provide supporting documentation of training for certification to instruct in either the high risk or technical law enforcement training areas.

C. Specialized instructor certification subject areas - The following list is provided to each agency to assist in determining the area in which specialized training and/or prior training experience must be achieved by the individual requesting instructor certification in the high risk or technical areas. This list is by no means all inclusive and the academy will determine whether the request qualifies in either the high risk or technical areas if not included below:

(1) high risk: baton, bombs, crowd control, firearms, officer survival, PR-24, SWAT and unarmed self-defense;

(2) technical: accident investigation, accident reconstruction, auto theft, child abuse, civil-vicarious liability, crime prevention, electronic surveillance, executive development, evidence, family crisis intervention, field training officer, fingerprinting, hazardous materials, homicide investigation, intoximeter, jail administration, legal/criminal laws, mobat sober meter, motorcycle operations, photography, police officer as prosecutor, polygraph, radio dispatching, search and seizure, stress, traffic enforcement and vehicle operations. [9/14/85; 9/2/93; 10/1/97; 4/1/99; 10.29.4.10 NMAC - 10 NMAC 29.4.10, 7/1/01; A, 4/30/08]

10.29.4.11 MASTER INSTRUCTOR: To qualify for a master instructor certification, an applicant shall be required to demonstrate to the director of the training center proof of skills, successful experience, and training in the related field for which they will be training new instructors, and must meet the following requirements:

A. must be sponsored by a law enforcement agency in the state of New Mexico; this requirement may be waived by the director of the training center based on a showing of previous training/experience in the subject area for which certification is requested;

B. must have a current certification as a specialized, technical or professional lecturer instructor in the same subject area as the request for master instructor certification;

C. must produce documentation of successful completion of an

instructor-trainer course, train-the-trainer course or master instructor course (or what other term is used to describe a course that qualifies a person to train instructors) in the same subject area for which certification is requested or:

(1) must have completed at least one (1) four-year certification as a specialized or technical instructor in the same subject area; and

(2) must show documentation of additional training hours of expertise development of at least the same amount of hours as the original instructor-level certification; and

(3) must show rosters and student evaluations from at least ten (10) training classes as the lead instructor in the same subject area;

D. qualified applicants for a master instructor designation will be issued a certification for a period of ~~four (4) years~~ two or more years; an evaluation will be completed by the students subsequent to the completion of each class taught by the master instructor; the director of the training center or designee shall review the evaluations to ensure the quality of the instruction.

[10.29.4.11 NMAC - N, 6/14/02; A, 4/30/08]

10.29.4.12 REVOCATION OF INSTRUCTOR CERTIFICATION:

A. The director may revoke or suspend an instructor certification based on a preponderance of evidence that the instructor:

(1) failed to meet minimum standards;

(2) displayed a lack of good moral character or behavior that adversely affects his credibility as an instructor;

(3) lacked the ability to effectively communicate or instruct in the academy setting; or

(4) had his professional certification suspended or revoked.

B. The employing agency may request action on an instructor certification by submitting the request to the director in writing and including all supporting documentation.

C. The director may take all necessary steps to review the matter. These steps may include, but are not limited to, issuing written notice to the instructor of the specific allegations no later than thirty (30) days after receiving the request for action, conducting an informal meeting with the instructor no later than sixty (60) days after receiving all relevant supporting documentation, and issuing a final decision no later than one hundred-twenty (120) days after receiving all relevant supporting documentation. The director shall inform the

instructor in writing whether the instructor certificate has been revoked or suspended, and the reasons for the revocation or suspension.

[10.29.4.12 NMAC - N, 4/30/08]

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2008

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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
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Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 14
Issue Number 22	November 17	December 1
Issue Number 23	December 2	December 15
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