

**NEW
MEXICO
REGISTER**

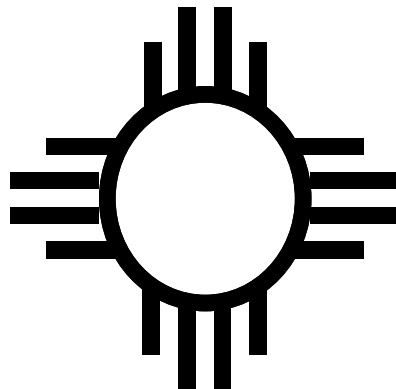


Volume XIX
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The official publication for all notices of rulemaking and filings of adopted, proposed and emergency rules in New Mexico

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New Mexico Register

Volume XIX, Number 9

May 15, 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.

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT

AMENDED NOTICE OF RULEMAKING

The New Mexico Aging and Long-Term Services Department, (ALTSD) Adult Protective Services Division, shall hold a formal public hearing on July 10, 2008 from 2:00 to 4:00 p.m. in the Rio Grande Conference Room on the 2nd floor of the Toney Anaya Building located at 2550 Cerrillos Road, Santa Fe, New Mexico to receive public comments regarding proposed promulgation of rule 8.11.5 NMAC governing Adult Protective Services Legal. The public hearing regarding 8.11.5 NMAC originally scheduled for the May 7, 2008 at 1:30 pm is cancelled. The new proposed rule 8.11.5 NMAC shall repeal and replace the previous 8.11.5 NMAC that was promulgated by the Children, Youth and Families Department on July 1, 1997 because Adult Protective Services transferred from the Children, Youth and Families Department to the Aging and Long-Term Services Department on July 1, 2005.

The proposed rule may be obtained by contacting Gerald F. McBride at 505-841-4543 or by downloading the proposed regulations on the ALTSD webpage at http://www.nmaging.state.nm.us/ALTSD_hearings.html. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on July 10, 2008. Written comments shall be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to Gerald F. McBride, Attorney, Aging and Long-Term Services Department, 625 Silver SW, Albuquerque, New Mexico 87102, Fax Number 505-841-4542, email: gerald.mcbride@state.nm.us.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Gerald F. McBride, at 505-841-4543. The Aging and Long-Term Services Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO GAME COMMISSION

STATE GAME COMMISSION PUBLIC MEETING AND RULEMAKING NOTICE

On Thursday, May 29, 2008, beginning at 9:00 a.m., at San Juan Community College, 4601 College Blvd. - Room 7103, Farmington, NM 87402, the State Game Commission will meet in Public Session to hear and consider action as appropriate on the following: Revocations; Proposed Establishment of a Black-footed Ferret Population on Vermejo Park Ranch, Colfax County; State Game Commission Final Approval Sought for 2009 Habitat Stamp Program Projects; Presentation of the FY 2008 3rd Quarter Depredation Report; Update on the Upland Game and Waterfowl Rule Development Process; Petroleum Development Review Procedures and Oil and Gas Subcommittee Report; Current Status of the Open Gate Hunting and Fishing Access Program; Briefing on Status of Bighorn Sheep Restoration in the Dry Cimarron River Drainage of NE New Mexico; General Public Comments (comments limited to 3 minutes); Overview of the Private Land Deer Conservation Incentive Program and Future Plans; Status of Aquatic Nuisance Species Management Planning in New Mexico; Review and Revision of the Department Strategic Plan; Preliminary Budget Planning Discussion; Legislative Initiatives Discussion for 2009 Session; Proposal for Developing Increased Shooting Opportunities; Closed Executive Session to discuss litigation, personnel, acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978, to discuss matters related to the determination of sending "Notice of Commission Contemplated Action" for outfitter and/or guide registration to any identified individual(s) that may have violated regulating procedures and conduct as per 19.30.8, and 19.31.2, NMAC; Notice of Commission Contemplated Action; and Naming Recently Acquired Conservation Areas.

The following rules will be opened for public comment and consideration for adoption by the Commission:

- * Hunting and Fishing License Revocation (19.31.2, NMAC);
- * Guide and Outfitter Registration (19.30.8, NMAC);
- * Proposed Change to 19.31.10, NMAC, to Limit the Number of Hooks that can be Used on a Portion of the San Juan

River System; and

* Draft Recovery Plan for 2 Riparian Rodents Listed as Endangered under the Wildlife Conservation Act (Section 17-2-40.1 NMSA, 1978).

A copy of the agenda or any of the affected rules can be obtained from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504 or on the Department's website. This agenda is subject to change up to 24 hours prior to the meeting. Please contact the Director's Office at (505) 476-8008, or the Department's website at www.wildlife.state.nm.us for updated information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Shirley Baker at (505) 476-8030. Please contact Ms. Baker at least 3 working days before the set meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms. Please contact Shirley Baker if a summary or other type of accessible form is needed.

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 9:00 a.m., on June 13, 2008, in the Rio Grande Room of the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico. The subject of the hearing will be Institutional Care Medicaid.

As authorized in the Deficit Reduction Act of 2005 (DRA 2005) and signed into law February 8, 2006, several changes to Institutional Care Medicaid were mandated. In addition to the changes to Institutional Care Medicaid, proof of citizenship and identity as a factor of eligibility for Medicaid was also mandated. Citizenship has always been an eligibility factor in New Mexico Medicaid rules and therefore no changes to citizenship are being proposed. A synopsis of each of the proposed changes is as follows:

Transfer of Assets

The HSD is proposing to change the period of examination for transfers of assets after February 8, 2006, by individuals or couples

applying for institutional care from 36 months to 60 months.

Penalty Period - Institutionalized

DRA 2005 mandates that the penalty period for a transfer of assets without fair return be calculated in whole and partial month increments. New Mexico is proposing to calculate the penalty period(s) in whole and partial months (days) to conform to the DRA 2005 provision. Prior to DRA 2005 the calculation of the penalty period was always rounded down to the nearest whole month.

Equity Value in a homestead

The DRA 2005 mandates that effective 2/08/06, an applicant with equity value in their homestead of \$500,000 or greater is not eligible for Long Term Care Services. The HSD is proposing to add language to that effect.

Life Estates

The HSD is proposing to count the value of a person's life estate interest in the home of another if residence has not continued for twelve (12) months or more. A person's life estate in their own home may also be a countable resource if they have not resided in their home for twelve (12) or more consecutive months.

Annuities

The proposed changes will add the State of New Mexico as a beneficiary on annuities issued after February 8, 2006.

Other

Infrequent and irregular income changes are being made to comport with SSI Methodology language. Other miscellaneous changes have been made to update terminology and clarify procedures and regulatory language.

Interested persons may submit written comments no later than 5:00 p.m., June 13, 2008 to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/register.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Program

Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO HUMAN SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION**

NOTICE

The New Mexico Human Services Department (HSD) will hold a public hearing at 1:00 p.m., on June 13, 2008, in the Rio Grande Room of the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico. The subject of the hearing will be Coordinated Long Term Services.

The Human Services Department Medical Assistance Division (HSD/MAD) proposes to implement a coordinated program of physical health and community-based supports and services, to be known as Coordinated Long-Term Services (CLTS). The program will be implemented under the authority of concurrent Section 1915(b) and Section 1915(c) waivers. HSD/MAD anticipates serving approximately 38,000 eligible individuals when CLTS program is implemented fully. Populations that will be included in the CLTS program are:

- * Individuals eligible for both Medicare and Medicaid, but not requiring nursing facility level of care; and
- * Individuals currently eligible for long-term care services based on assessed need for nursing facility level of care, including:
 - * Nursing facility residents;
 - * Participants in New Mexico's Disabled and Elderly (D&E) home and community-based services waiver program;
 - * Individuals 21 years of age and older who are receiving Medicaid state plan Personal Care Option (PCO) services; and
 - * Certain Medicaid-eligible persons with brain injuries.

Individuals who meet eligibility criteria set forth in New Mexico's 1915(c) Developmental Disabilities waiver and/or 1915(c) Medically Fragile waiver programs are not eligible for enrollment into the CLTS program.

The development and implementation of CLTS has been and will continue to be a collaborative effort among HSD/MAD, the Aging and Long-Term Services Department (ALTSD), and other key stakeholders. Working together, these agencies and stakeholders intend to:

- * Rebalance Medicaid long-term supports and services from a heavy reliance on nursing facility services to expanded uti-

lization of community-based supports and services;

- * Improve and expand coordination of acute care and community-based supports and services for all consumers and participants; and
- * Establish a consumer/participant-focused and directed "continuum of services" approach across each consumer's/participant's lifespan, with the goal of improving the consumer's/participant's health status and quality of life.

Interested persons may submit written comments no later than 5:00 p.m., June 13, 2008, to Pamela S. Hyde, J.D., Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in any HSD public hearing, program or services, please contact the NM Human Services Department toll-free at 1-888-997-2583, in Santa Fe at 827-3156, or through the department TDD system, 1-800-609-4833, in Santa Fe call 827-3184. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

Copies of the Human Services Register are available for review on our Website at www.state.nm.us/hsd/register.html or by sending a self-addressed stamped envelope to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

NEW MEXICO PHARMACY BOARD

NEW MEXICO BOARD OF PHARMACY

REGULAR BOARD MEETING

NOTICE TO THE PUBLIC

The New Mexico Board of Pharmacy will convene on **June 16th & 17th, 2008** at 9:00 a.m. in the **Board of Pharmacy Conference Room located at 5200 Oakland Ave., NE, Albuquerque, NM** for the purpose of conducting a regular Board meeting.

Interested persons may contact Debra Wilhite, Administrative Secretary, 5200 Oakland Ave., NE, Suite A, Albuquerque, NM 87113, (505) 222-9830 or fax (505) 222-9845, e-mail

debra.wilhite@state.nm.us to receive copies of the agenda, which will be available June 6, 2008. The Board may go into executive session at any time to discuss licensee and/or personnel matters. Anyone who needs special accommodations for the meeting should contact the Board office at (505) 222-9830 as soon as possible.

The agenda (tentative) will be available starting June 6, 2008, through the Board's website: www.rld.state.nm.us/pharmacy.

The Board will address:

Hearings, Board Orders and Surrenders:

Approval of Applications:

Other Board Matters:

Public Requests:

*Executive Director's Report:
Case presentations*

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS
STATE RECORDS CENTER AND
ARCHIVES**

Notice of Public Hearing

The State Records Administrator, New Mexico State Records Center and Archives will hold a public hearing at 11:00 a.m. on June 3, 2008 at the State Records Center and Archives building, Commission Room, 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507. The public hearing will be held to solicit comments on the following:

New

- 1.13.8 NMAC Office of the State Historian Service Learning Student Internship Program
1.14.4 NMAC Digital Imaging System Standards

Amendments

- 1.13.6 NMAC New Mexico Historical Records Scholarship Program Guidelines
1.13.10 NMAC Records Custody, Access, Storage and Disposition
1.13.4 NMAC Records Management Requirements for Electronic Messaging

Repeal and Replace

- 1.13.3 NMAC Management of Electronic Records

If you are an individual with a disability who is in need of a reader, amplifier, quali-

fied sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Antoinette Solano at 476-7902 by May 29, 2008. Proposed rules can be viewed at <http://www.nmcpr.state.nm.us> and can also be provided in various accessible formats. For additional assistance please contact Antoinette Solano at 476-7902 or by e-mail at antoinetteL.solano@state.nm.us

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS AND NEW
MEXICO DEPARTMENT OF
INFORMATION
TECHNOLOGY**

NOTICE OF RULE MAKING

**STATE COMMISSION OF PUBLIC
RECORDS
AND
DEPARTMENT OF INFORMATION
TECHNOLOGY
SANTA FE, NEW MEXICO**

The State Commission of Public Records and the Department of Information Technology, hereby give notice that a public hearing will be held at 9:00 AM on June 3, 2008 in the Commission Room of the State Records Center and Archives, 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507 concerning the adoption of a new rule 1.11.2 NMAC Real Property Electronic Recording. The proposed rule establishes requirements and methods for submitting real property records to county clerks for filing and recordation under the provisions of the Uniform Real Property Electronic Recording Act (14-9A-1 through 14-9A-7, NMSA 1978). The objective of the rule is to keep the standards and practices of county clerks in New Mexico in agreement with the standards of national standard-setting bodies, such as the Property Records Industry Association and with nationally accepted best practices. This rule will have statewide application. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter or any other form of auxiliary aid or service to attend or participate in the hearing, please contact John Martinez at 505-476-7941. Copies of the text of the proposed rule are available from John Martinez via email at john.martinez4@state.nm.us or through regular land mail, State Records Center and Archives, C/O John Martinez, 1205 Camino Carlos Rey, Santa Fe, NM. Written comments will be accepted until June 3, 2008.

Written comments will also be accepted at the public hearing on June 3, 2008. Oral comments will be taken at the public hearing on June 3, 2008.

**NEW MEXICO
DEPARTMENT OF
TRANSPORTATION**

**THE NEW MEXICO DEPARTMENT
OF TRANSPORTATION**

NOTICE OF PUBLIC HEARING

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on revisions to Rule Number 18.20.3, Driver Education Schools; Rule Number 18.20.8, Driving Safety Schools; and Rule Number 7.32.20, Driving While Impaired (DWI) Schools. The purpose of the proposed rule revisions is to update the license and certificate issuance, renewal and revocation procedures for the driver education, driving safety and driving while impaired schools.

The hearing is scheduled on June 12, 2008, from 9:00 a.m. to 4:00 p.m. at The Lodge at Santa Fe, 750 North St. Francis Dr., Board Room, in Santa Fe, New Mexico. Please contact Judith Duran, Traffic Safety Bureau, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-0486 to request a copy of the rules.

The hearing will be held before Michael Sandoval, NMDOT, Director, Traffic Safety Bureau. Interested persons may also present their views by written statements submitted on or before May 29, 2008, New Mexico Department of Transportation, 604 West San Mateo Road, Santa Fe, New Mexico 87504, Telephone (505) 827-0486.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Judith Duran at (505) 827-0486 at least ten days before the hearing.

**End of Notices and
Proposed Rules Section**

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Adopted Rules

NEW MEXICO BOARD OF NURSING

Explanatory Paragraph: This is an amendment to 16.12.1 NMAC, Sections 7, 8, & 9 effective 6-17-08. The amendments to Sections 7 & 8 are only to the phrases "and/or" being amended to "or" in accordance with the NMAC requirements.

16.12.1.9 DISCIPLINARY ACTION:

...

C. Grounds for action.

...

(2) For the purpose of Section 61-3-28 (A) (6) NMSA, 1978, supra, "unprofessional conduct" includes, but is not limited to, the following:

...

(r) inappropriate delegation of medication administration, evaluation and nursing judgment to non-licensed persons; [1-1-98, 2-26-99; 16.12.1.9 NMAC - Rn & A, 16 NMAC 12.1.9, 7-30-01; A, 11-16-01; A, 1-2-04; A, 2-17-06; A, 6-17-08]

NEW MEXICO BOARD OF NURSING

This is an amendment to 16.12.2 NMAC, Sections 7, 9, 10, 11, 12, 13, 14, 15 & 16 NMAC effective 6-17-08.

16.12.2.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1) "actually engaged in nursing", employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(2) "administration of medications", a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(3) "advanced practice nurse", a master's prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; subcategories include certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);

(3)(4) "affidavit", a sworn written statement made to affirm a statement of fact;

(4)(5) "approval", the review

and acceptance of a specific activity;

(5)(6) "approval agency", agency, institution or organization with the authorization to award CE credit;

(6)(7) "approved equivalent", a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;

(7)(8) "assessment", the review and interpretation by a licensed individual of specific data necessary to determine the patient/client's care and treatment needs; (also see data collection);

(8)(9) "assignment of nursing activity", assignment of nursing activity involves appointing or designating another licensed nurse ~~[the responsibility and accountability for the performance of nursing intervention;]~~ or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person).

(9) "assisting an individual to take a medication", implies that the individual is responsible for his own care or parent/legal guardian/surrogate can determine if the individual is receiving the expected response from the medication; the definition for administration of medications as defined above should not be confused with assisting an individual to take a medication;]

(10) "audit", an examination and verification of CE and practice documents.

B. Definitions beginning with the letter B:

(1) "basic nursing education", the scholastic route to initial licensure;

(2) "board", the New Mexico board of nursing.

C. Definitions beginning with the letter C:

(1) "certificate", a legal document granting permission to an unlicensed person to perform specific functions generally considered the practice of nursing under the direction of a licensed nurse;

(2) "collaboration", practice in conjunction with another health professional;

(3) "competency", competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

(4) "consultation", to communicate regularly to set goals and objectives and to review and document outcomes;

(5) "contact hours", a unit of measurement to describe an approved,

organized learning experience;

(6) "continuing education", planned learning experiences beyond a basic nursing education program; these experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

(7) "continuing education unit (CEU)", ten contact hours of participation in an organized CE experience under responsible sponsorship, capable direction, and qualified instruction.

D. Definitions beginning with the letter D:

(1) "data collection", the process of obtaining ~~[uninterrupted]~~ information, material, fact ~~[and/or]~~ or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

(2) "delegation", the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;

(3) "department of public safety", the New Mexico department of public safety or other state's department of public safety;

(4) "direct supervision for graduate permit holders", at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions beginning with the letter E:

(1) "educational institution", refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

(2) "eligible for graduation", individual who has met all the requirements of an educational program.

F. "Final transcript", an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. "Generally recognized organization", an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public.

H. Definitions H -

Reserved**I. Definitions beginning with the letter I:**

(1) **"inactive list"**, compilation of those licenses that are in good standing but not current;

(2) **"initial license"**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3) **"institution of higher education"**, college or university.

J. "Jurisdiction", the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions K - Reserved**L. Definitions beginning with the letter L:**

(1) **"lapsed status"**, a license which was not renewed by the expiration date on the license;

(2) **"legal guardian"**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **"letter of authorization"**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **"license"**, a legal document granting an individual the privilege and authority to engage in the practice of an occupation/profession;

(5) **"licensure by endorsement"**, the process of achieving the legal privilege to practice within a professional category, in New Mexico, by individuals licensed in other jurisdictions, upon fulfilling all requirements set by this state.

M. Definitions beginning with the letter M:

(1) **"medical emergency"**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses ~~and/or~~ or licensed practical nurses;

(2) **"monitoring system"**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **"must"**, a requirement.

N. Definitions beginning with the letter N:

(1) **"national licensing examination"**, examination for licensure as provid-

ed by the national council of state boards of nursing, inc.;

(2) **"nationwide criminal history record"**, information concerning a person's arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(3) **"nationwide criminal history screening"**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions O - Reserved**P. Definitions beginning with the letter P:**

(1) **"permit-to-practice for GCNSs"**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **"permit-to-practice for GNs and GPNs"**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **"permit-to-practice for GNPs"**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **"permit-to-practice for GRNAs"**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **"post-graduate program"**, any specialized knowledge ~~and/or~~ and skills sought after completion of a basic

nursing educational program which does not necessarily lead to an advanced degree;

(6) **"preceptor"**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **"prescriptive authority"**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

~~(6)~~(8) **"private practice"**, employment status of an individual nurse who is self-employed.

Q. Definitions Q - Reserved**R. Definitions beginning with the letter R:**

(1) **"reactivation"**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;

(2) **"recognized national or state institutions/organizations"**, institutions and organizations recognized as providers of CE for nurses;

(3) **"reinstatement"**, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(4) **"relicensure"**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license;

(5) **"refresher course"**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession or for a graduate nurse who has not successfully passed the national licensing examination.

S. Definitions beginning with the letter S:

(1) **"state approved program"**, a basic nursing education program approved or accredited by a state board of nursing ~~and/or~~ or a nationally recognized nursing education accreditation body;

(2) **"shall"**, mandatory; a requirement;

(3) **"should"**, a suggestion or recommendation; not a requirement;

(4) **"sponsor/provider"**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(5) **"supervision/direction"**, initial verification of a person's knowledge and skills in the performance of a specific function ~~and/or~~ or activity followed by periodic observation, direction and evaluation of that person's knowledge and skills as related to the specific functions ~~and/or~~ or

activity;

(6) “**surrogate**”, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. “**Temporary license**”, a nonrenewable, nontransferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. “**Uniform Licensing Act**”, New Mexico statute which provides procedures to be utilized in disciplinary proceedings. [1-1-98; 16.12.2.7 NMAC - Rn & A, 16 NMAC 12.2.7, 7-30-01; A, 12-31-01; A, 1-2-04; A, 02-17-06; A, 6-17-08]

16.12.2.9 FEES: Payment of fees will be accepted in the form specified by the board. Fees are not refundable.

A.	Licensure by examination.....	\$110
B.	Reexamination fee (RN).....	[\$55] \$60
C.	Reexamination fee (LPN).....	[\$30] \$60
D.	Licensure by endorsement (RN/LPN).....	\$110
E.	Renewal.....	\$93
F.	Reactivation from lapsed status, inactive or returning to state (includes renewal fee)...	\$110
G.	Reactivation from lapsed status (includes renewal fee).....	\$200
H.	Reinstatement of lapsed license following board action.....	\$150
I.	Reinstatement of current license following board action.....	\$100
J.	Initial advanced practice licensure (cnp, crna, cns).....	\$100
K.	Advanced practice renewal.....	[\$75] \$100
L.	Reactivation from lapsed status advanced practice, inactive, returning to state.....	\$110
M.	Reactivation from lapsed status advanced practice license	\$200
N.	Inactive Status.....	\$10
O. N.	Temporary license.....	[\$30] \$50
P.	Evaluation of non-US Graduate Transcript.....	\$50

[1-1-98; 16.12.2.9 NMAC - Rn & A, 16 NMAC 12.2.9, 7-30-01; A, 1-2-04; A, 02-17-06; A, 6-17-08]

16.12.2.10 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES: Licensure with the New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.

(1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States.

(2) RN and PN graduates from non-U.S. nursing programs:

(a) ~~may~~ shall have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency~~;~~

(i) the credentialing agency must be a member of a national credentialing organization and must be monitored by an external committee of credentialing experts and nursing educators;

(ii) the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis of nursing academic records;

(iii) the credentialing agency must manage the translation of original documents into English;

(iv) the credentialing agency will inform the board of nursing in the event of fraudulent documents;

(v) the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and

(vi) the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.

(b) ~~[may request an official transcript sent to the New Mexico board directly from the non-US nursing program; if the transcript is not in English, a copy of a translated transcript certified by a qualified translator must be sent directly to the New Mexico board;]~~ Puerto Rico applicant’s who are graduates of NLNAC accredited registered nurse program are eligible to sit NCLEX-RN exam.

(c) successful completion of any one of the approved English competency examinations with:

(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL), a minimum score of 725 on test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system (IELTS);

(ii) completion of a nursing program given in English in another country;

(iii) a passing score on a nursing licensure examination which is given in English; or

(iv) a certificate from the commission on graduates from foreign nursing schools or other agency which indicates successful completed of TOEFL, TOEIC or IELTS.

(3) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.

(4) Completion of NCLEX application for the testing service according to instructions.

(5) Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination, fingerprint cards and appropriate fees returned to them.

B. Nationwide criminal background check. Applicants for initial licensure in New Mexico are subject to a state and national criminal background check at their cost.

(1) Submit two (2) full sets of fingerprints, completed **finger print certificate form**, signed authorization for criminal background check and fee.

(2) Applications for exam or endorsement will not be processed without submission of fingerprints, **finger print certificate form, authorization for criminal background check form** and fee.

(3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board who will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

C. Complete application for licensure by examination, certification of eligibility for graduation or official transcript, fingerprints and fee must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded or to be awarded, must be received in the board office directly from the registrar's office.

D. Results of the examination shall be reported [~~by mail~~] to the individual applicant within four (4) weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program, and boards of nursing unless otherwise instructed, in writing, by applicant.

E. An initial license shall be valid for two (2) years.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void one (1) year after date of [~~last noted activity~~] the application being received at the board.

H. Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits can be faxed or mailed directly to the New Mexico employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) complete the application process to take the NCLEX within twelve (12) weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the date of application; permits to practice may not be issued by New Mexico for employment at specific institution(s) in compact states; permits to practice will not be issued for applicants who declare residency in other compact

states;

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit to practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.10 NMAC in this section;

(c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(d) submit fingerprint cards and documents and fee to initiate a state and national criminal background check.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a) Applicants who fails the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional examination.

(c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing examination.

(5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.

(6) Applicants who hold a graduate permit and do not become licensed prior to expiration date of the permit, may not continue to practice as a graduate nurse or graduate practical nurse.

I. Direct supervision for graduate permit holders:

(1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

(2) the RN is responsible for observing, directing and evaluating the performance of the graduate;

(3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. Applicants who fail the

examination may apply to retake the examination a maximum of [~~eight (8)~~] three times per year, but must wait [~~forty five (45)~~] 90 days to retest.

(1) A fee will be charged by the board for all reexaminations.

(2) Applicants for reexamination must meet all NCLEX requirements for retaking the examination.

(3) Applicants who fail the examination three times in one year from date received at the board must complete a recognized refresher course which includes both theory and clinical and then submit a new application for examination, documentation fingerprint cards and appropriate fees.

K. National council licensure examination.

(1) Applicants for licensure as RNs shall be required to pass the NCLEX for RNs.

(2) Applicants for licensure as PNs shall be required to pass the NCLEX for PNs.

(3) Applicants observed giving [~~and/or~~] or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Prerequisites for licensure of registered nurses and licensed practical nurses by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include:

(a) graduation from an approved nursing program or an acceptable level of education as determined by the board or a nursing program which is equivalent to an approved program of nursing in the United States; and

(b) initial licensure by passing a national licensure examination in English or a state constructed licensure examination prior to October 1986.

(2) Applicants from licensing authorities which do not verify graduation from a nursing education program, must assure that a final transcript is sent to the board of nursing DIRECTLY from the educational institution or custodian of records verifying graduation from an approved nursing program or equivalent, or

(3) [~~RN and PN graduates from non-U.S. nursing programs;~~

~~[(a) may have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency or;~~

~~[(b) may request an official transcript sent to the New Mexico board directly from the non-US nursing program; if the transcript is not in English, a copy of a translated transcript certified by a qualified translator must be sent directly to the New Mexico board.]~~ Puerto Rico applicants who

are graduates of NLNAC accredited registered nurse programs are eligible to sit the NCLEX-RN exam; Canadian applicants who have been endorsed by another state after passing the Canadian nursing exam in English or the NCLEX are eligible for endorsement into NM.

(4) Complete and submit the required application for licensure by endorsement in accordance with all instructions, including the required fee.

(5) Complete and submit two full sets of fingerprints, **finger print certificate form**, the authorization for criminal background check, and the fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC.

M. Qualifications for licensure as a RN or PN are pursuant to the Nursing Practice Act.

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements.

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN."

(3) Continuing education is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal.

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. A permit-to-practice may be issued to a New Mexico employer(s), for an endorsee who has not declared primary residence in a nurse licensure compact state awaiting results of the national licensing examination or the English equivalent from another country. The following must be submitted to the board:

(1) a completed endorsement application for licensure in accordance with all instructions and fee;

(2) two full sets of fingerprints, fingerprint certification form, the authorization for criminal background check and fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC;

(3) written verification must be received DIRECTLY from the licensing authority: (a) that the applicant applied for the licensing examination within twelve (12) weeks of graduation and is eligible for licensure, or (b) that the first licensing examination after completion of nursing education has been applied for or taken;

(4) assure prospective New Mexico employer(s) submits a letter of intent to employ, on agency letterhead, indicating the name of the specific New Mexico employing institution and name and nursing

license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(5) meeting all other endorsement requirements;

(6) a permit-to-practice shall be valid from date of issuance until the applicant's examination results and licensure status have been verified by the other state or country, but shall not exceed six (6) months from the date of graduation.

O. A temporary license may be issued to an endorsee upon submission of:

(1) a completed endorsement application and required fee in accordance with all instructions;

(2) two full sets of fingerprints, fingerprint certificate form, the authorization for criminal background check and fee in accordance with all instructions found in Subsection B of 16.12.1.10 NMAC;

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

P. An initial license shall be valid for two (2) years.

Q. If the licensure process is not completed, the application becomes null and void one (1) year after date ~~of last~~ noted activity received by the board.

R. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed thirty (30) days.

S. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act [Section 61-3-24 NMSA 1978].

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two (2) years.

(2) A renewal notice shall be mailed to the licensee at least six (6) weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than sixty (60) days prior to the expiration date of the license.

(b) Failure to receive notice renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(c) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(d) A reactivation fee will be charged when license has lapsed.

(e) **Exception:** if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) Thirty (30) hours of approved CE must be accrued within the 24 months immediately preceding expiration of license.

(a) Certified nurse practitioners must complete a total of 50 hours of approved CE each renewal.

(b) Certified RN anesthetists must submit a copy of the recertification card issued by AANA council on recertification for renewal of the CRNA license.

(c) Clinical nurse specialist must complete a total of 50 hours of approved continuing education each renewal.

(d) **Exception:** if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declare New Mexico as their primary residence.

(5) **Penalty:** failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified by phone verification or on the board website.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and

clinical component designed to prepare a nurse who has been out of practice to re enter into practice.

(a) Renewal application, fingerprint cards and appropriate fees must be sent in with reactivation of a lapsed license.

(b) A temporary permit will be issued not to exceed six months to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating a advanced practice license which has been lapsed for four or more years must also complete a refresher course that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary permit will be issued not to exceed six months.

T. Requirements for name-address change:

(1) Address change: Immediate notification of address change **must be made**, to the board office.

(2) Name change: Nurse must use name as it appears on current license, name may be changed when license is renewed.

(a) Submit a copy of the legal document required for name change (ONLY recorded marriage certificate, divorce decree or court order accepted).

(b) Remit the required fee.

U. Reactivation/reinstatement of a lapsed license must meet the requirements for relicensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid for two (2) years.

V. Inactive status. Licensee may request her/his license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

~~**(1) In order to place a license on inactive status, the licensee must, prior to the expiration date of the current license submit a completed renewal form and submit the inactive status fee.**~~

~~**(2) The license may remain in an inactive status indefinitely.**~~

~~**(3) The inactive fee is charged each time inactive status is requested following reactivation of the license.**~~

[1-1-98; 16.12.2.10 NMAC - Rn & A, 16 NMAC 12.2.10, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 6-01-04; A, 02-17-06; A, 6-17-08]

16.12.2.11 CONTINUING EDUCATION:

A. Introduction.

(1) Pursuant to the provision of the Nursing Practice Act, the board of nursing prescribes the following regulations establishing requirements for CE to be met by the licensee to protect the health and well being of the citizens of New Mexico and to promote current nursing knowledge and practice.

(2) Philosophy of CE: The members of the New Mexico board believe that CE is one of the most important responsibilities of the nurse and is a lifelong process. The primary responsibility for CE rests with the individual nurse. A diversity of nursing-related learning activities is recommended to enhance the scope of professional development.

B. Requirements and rules.

(1) Records.

(a) All licensees must indicate compliance with the CE required by these rules on the renewal application. All information must be completed as requested.

(b) Licensees are responsible for maintaining their own CE records and for keeping the certificates of verification of attendance of CE activities for at least one (1) year after the license is renewed. Photocopies of certificates must be submitted to the board office only if audited ~~[and/or]~~ and requested.

(2) CE Audit.

(a) Continuing education records are subject to audit by the board.

(b) Licensee may be subject to disciplinary action by the board if noncompliant within sixty (60) days of the first notification of audit.

C. Approved continuing education. To be acceptable in New Mexico, the CE activity must have been approved by a recognized approval body and must enhance the licensee's scope of professional development as related to his/her activities in nursing. The participant must receive a certificate of attendance which validates the number of approved CE hours awarded, name of the participant, sponsoring agency, approval body and date attended. Correspondence courses and home-study programs are acceptable, if approved.

(1) Recognized approval bodies for CE for nurses.

(a) National or state recognized nursing organizations.

(b) Other state boards of nursing.

(c) New Mexico board-approved local monitoring systems.

(2) Other CE which may be accepted as approved CE for nurses:

(a) academic credit, computation: one (1) academic credit equals 15 contact hours;

(b) CE units (CEUs) or contact

hours awarded by CE divisions within educational institutions of higher learning;

(c) educational offerings approved through other generally recognized health care or professional organizations as related to licensee's nursing practice.

D. Monitoring system. CE hours accrued through educational offerings approved by a local monitoring system shall be accepted as meeting the CE requirements for licensure in New Mexico but may not be accepted by other state boards of nursing as approved CE.

(1) Local monitoring systems must be approved initially and annually by the board of nursing. A guideline for the establishment and operation of a local monitoring system is available in the board office.

(2) The approval of educational offerings shall be determined on the approval criteria developed by the board.

E. Certification ~~[and/or]~~ or recertification in the nursing specialty. Certification ~~[and/or]~~ or recertification granted by a national professional organization which uses criteria designed to recognize competence in a specialized area of nursing practice may be used as approved CE. Verification of certification ~~[and/or]~~ or recertification within the current renewal period is accepted in lieu of the thirty (30) hours of CE required for licensure.

[1-1-98; 16.12.2.11 NMAC - Rn & A, 16 NMAC 12.2.11, 7-30-01; A, 12-31-01; A, 1-2-04; A, 6-17-08]

16.12.2.12 STANDARDS OF NURSING PRACTICE:

A. The nurse shall maintain individual competence in nursing practice, recognizing and accepting responsibility for individual actions and judgments.

(1) Competent nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and properly in accordance with his/her licensure status and to perform specific functions ~~[and/or]~~ or procedures required in his/her particular area of practice. Competent nursing practice also requires that the nurse have the knowledge to recognize and respond to any complication(s) which may result from the function ~~[and/or]~~ or procedure the nurse performs.

(2) To maintain the requisite knowledge and skills, the nurse shall engage in CE specific to his/her particular area of practice.

(3) The nurse shall use individual competence as a criterion in accepting assigned responsibilities.

(4) The nurse contributes to the formulation, interpretation, implementation and evaluation of the objectives and policies to nursing practice within his/her employ-

ing setting.

B. The nurse shall assign/delegate to licensed and unlicensed persons only those nursing actions which that person is prepared, qualified or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function [and/or] or activity, and for assessing the outcome of the delegated function [and/or] or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation and nursing judgment to non-licensed persons.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

(1) The nurse must report incompetent [and/or] and unprofessional conduct to the appropriate authorities.

(2) The nurse must report violations of the Nursing Practice Act [and/or] and administrative rules of the board of nursing to the board of nursing.

D. The nurse acts to safeguard the patient/client when his care and safety are affected by incompetent, unethical, or illegal conduct of any person by reporting the conduct to the appropriate authorities.

E. The nurse shall recognize the dignity and rights of others regardless of social or economic status and personal attributes, shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual [preference] orientation, national origin, disability or nature of the patient/client's health problems.

F. The nurse safeguards the individual's right to privacy by judiciously protecting information of a confidential nature, sharing only that information relevant to his care.

G. The nurse shall identify herself/himself by name and licensure category and shall permit inspection of their license when requested.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. [61-3-3, J. NMSA 1978].

(1) RNs may assume specific functions [and/or] and perform specific procedures which are beyond basic nursing preparation for professional registered nursing [61-3-3, J. NMSA 1978] provided the knowledge and skills required to perform

the function [and/or] and procedure emanates from a recognized body of knowledge [and/or] and practice of nursing, and the function or procedure is not prohibited by any law or statute.

(2) When assuming specific functions [and/or] and performing specific procedures, which are beyond the nurse's basic educational preparation, the RN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

I. Standards for licensed practical nursing practice. Licensed practical nurses practice in accordance with the definition of licensed practical nursing in the NPA [61-3-3, G. NMSA 1978].

(1) LPNs may assume specific functions [and/or] and perform specific procedures which are beyond basic preparation for licensed practical nursing [61-3-3, G. NMSA 1978] provided the knowledge and skills required to perform the function [and/or] and procedure emanates from the recognized body of knowledge [and/or] and practice of nursing, and the functions or procedure is not prohibited by any law or statute. LPNs who perform procedures which are beyond basic preparation for practical nursing must only perform these procedures under the supervision/direction of a RN.

(2) LPNs may perform intravenous therapy, including initiation of IV therapy, administration of intravenous fluids and medications, and may administer medications via the intraperitoneal route provided the LPN has the knowledge and skills to perform IV therapy safely and properly.

(3) When assuming specific functions [and/or] and performing specific procedures which are beyond the LPN's basic educational preparation, the LPN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

J. Educational program criteria. Educational programs preparing either RNs or LPNs to perform specific functions [and/or] and procedures that are beyond basic educational preparations should:

(1) prepare the nurse to safely and properly perform the function [and/or] and procedures;

(2) prepare the nurse to recognize and respond to any complication(s) which may result from the procedure, and;

(3) verify the nurse's knowledge and the ability to perform the specific functions [and/or] and procedures.

K. Nursing practice advisory committee. Board of nursing may

appoint a minimum of a 7-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.

[1-1-98; 16.12.2.12 NMAC - Rn & A, 16 NMAC 12.2.12, 7-30-01; A, 1-2-04; A, 02-17-06; A, 6-17-08]

16.12.2.13 CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for licensure of nurse practitioners.

(1) Hold a current, valid RN license.

(2) Successfully complete a formal program designed for the education and preparation of nurse practitioners as providers of primary, [and/or] or acute, [and/or] or chronic, [and/or] or long-term, [and/or] or end of life health care.

(a) The program must be offered through an accredited institution of higher education or through the armed services.

(b) The program must be one full academic year of full-time study with approximately 1/3 of the program devoted to didactic and 2/3 to [a preceptorship with] working with a preceptor who is a physician [and/or] or certified (licensed) nurse practitioner. Didactic hours must include twenty-four (24) contact hours of pharmacology. NOTE: One academic hour equals fifteen (15) contact hours.

(c) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(3) Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two (2) years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof

of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico CNP or CNS in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred, renewed or a duplicate issued.

(7) GNP permits expire on the date specified on the permit.

(a) Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of the results of the examination.

(b) The permits for new graduates

may be valid for a period not to exceed two (2) years.

D. A license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board prior to the expiration of the permit.

E. Exclusion: Nurse practitioners with lapsed national certification are not eligible for a permit to practice.

F. Prerequisites for licensure of CNP by endorsement.

(1) Verification DIRECTLY from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) documentation directly from that licensing authority that the state does not issue advanced practice licensure;

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began, and;

(c) if applicant was licensed by another board after January 1, 2001, submit a transcript from the program directly to the board documenting completion of a nurse practitioner program on the master's or higher level.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

G. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2) Continuing education is not required for initial CNP licensure by endorsement. CE requirements must be met at the time of the first renewal.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

H. A CNP permit-to-practice may be issued to a New Mexico employer(s) for an endorsee awaiting results on successful completion of national certification. Refer to Subsections B and C of 16.12.2.13 NMAC for procedure and requirements.

I. A temporary nurse practitioner license may be issued to an endorsee who:

(1) submits a completed endorsement application and fee in accordance with

all instructions;

(2) submits a copy of current national certification as a nurse practitioner; the following exceptions can be made;

(a) nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification; or

(b) when the state of former advanced practice licensure does not require national certification; proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued.

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

J. An initial nurse practitioner license shall be valid for two (2) years. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from other nurse licensure compact state.

K. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

L. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization shall be valid for 6 months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

M. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education.

(a) The CNP shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a NP may not be used to fulfill any portion of the CE requirement:

(i) thirty (30) contact hours shall meet the requirements for licensure as a RN, and

(ii) an additional twenty (20) contact hours, 15 of which must be pharmacology, shall meet the requirements for licensure as a nurse practitioner;

(iii) CNP's from compact states are only required to fulfill CE requirements listed under item (ii) of this subparagraph.

(b) The CE shall be in accordance with the requirements as set forth in these rules.

N. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements. NPs licensed by the board after December 2, 1985 must also provide evidences of current national certification.

O. Nurse practitioner practice.

(1) The CNP makes independent decisions regarding the health care needs of

the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP provides primary [and/or] or acute, [and/or] or chronic, [and/or] or long-term, [and/or] or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP may assume specific functions [and/or] or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function [and/or] or procedure emanates from a recognized body of knowledge [and/or] or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions [and/or] and performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the

CNP has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I 16.19.20.8 NMAC). CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non compliant with the audit.

(c) Prescription pads. The CNP's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNP is using a prescription pad printed with the names of more than one CNP, the name of the CNP for the individual prescription shall be indicated.

(d) Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate nurse practitioner (GNP) practice.

(a) GNPs may not distribute medications.

(b) GNPs may practice [and/or]

or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules ~~and/or~~ or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall annually appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel.

[1-1-98; 16.12.2.13 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 6-17-08]

16.12.2.14 CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA.

(1) Hold a current, valid RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The AANA *council on accreditation of nurse anesthetist educational programs/schools* must accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national qualifying examination as described by the AANA *council on certification of nurse anesthetists*.

(5) It is the responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse

anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except national AANA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the AANA *council on certification of nurse anesthetists*.

(2) GRNAs must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred, renewed or a duplicate be issued.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within 3 weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of AANA certification. Such proof must be submitted to the board prior to the expiration of the permit.

E. Exclusion: certified registered nurse anesthetists with lapsed AANA certification are not eligible for a permit-to-practice.

F. Prerequisites for licensure of CRNA by endorsement.

(1) Verification DIRECTLY from the licensing authority, which shall include graduation from an AANA *council on accreditation of nurse anesthetist educational program/school*.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of AANA certification/recertification.

(4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

G. Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A, 16.12.2.14 NMAC for licensure requirements.

(2) Continuing education is not required for initial CRNA licensure by

endorsement. CE requirements must be met at the time of first renewal. Recertification by AANA *council on recertification of nurse anesthetists* will meet the mandatory CE requirements for CRNA licensure, in NM and from other compact states.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

H. A GRNA permit-to-practice may be issued, to a New Mexico employer(s) for an endorsee awaiting results on successful completion of AANA national certification. Refer to Subsections B and C, 16.12.2.14 NMAC for procedure and requirements.

I. A temporary certified registered nurse anesthetist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with instructions and fee;

(2) submits a copy of current AANA council of recertification of nurse anesthetist;

(3) the board will mail the temporary license to the endorsee;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application;

(5) a temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(6) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(7) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

J. An initial certified registered nurse anesthetist license shall be valid for two (2) years. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states.

K. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

L. Maintaining licensure as a certified registered nurse anesthetist.

(1) National Certification: CRNAs must maintain AANA *council on recertification of nurse anesthetist*. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by AANA *council on recertification of nurse anesthetist* is accepted for meeting mandatory CE requirement for NM and

from other compact states.

M. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist, the nurse must provide evidence of current recertification by the AANA *council on recertification of nurse anesthetists*.

N. Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current *American association of nurse anesthetists'* guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions [~~and/or~~] or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function [~~and/or~~] or procedure emanates from a recognized body of knowledge [~~and/or~~] or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions [~~and/or~~] or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs

including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two (2) years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six (6) months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: the formulary will include agents related to the administration of anesthesia and ACLS protocol agents.

(i) All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

(c) Prescription pads: the CRNA's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CRNA is using a prescription pad printed with the names of more than one CRNA, the name of the CRNA for the individual prescription shall be indicated.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who

have fulfilled requirements for prescriptive authority as stated in these rules may NOT distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice ~~and/or~~ or prescribe/administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy.

(b) Violation of these rules ~~and/or~~ or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall annually appoint qualified CRNAs to serve on the board of pharmacy disciplinary panel.

[1-1-98; 16.12.2.14 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01; A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 06-17-08]

16.12.2.15 CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, valid RN license;

(2) successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) successfully complete a national certifying examination in the applicant's area of specialty;

(b) is certified by a national nursing organization;

(4) it is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure;

(5) any CNS requesting prescriptive authority must also comply with the

regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as an CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred, renewed or a duplicate issued.

(g) GCNS permits expire on the date specified on the permit.

(i) Permits shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to prac-

tice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(ii) The permit for new graduates may be valid for a period not to exceed two 2 years.

(2) Exclusion: CNS with lapsed national certification are not eligible for a permit to practice.

(3) A license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board prior to the expiration of the permit.

D. Prerequisites for licensure of CNS by endorsement.

(1) Verification DIRECTLY from the licensing authority which shall include graduation from a clinical nurse specialist program in a defined clinical nursing specialty.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept:

(a) documentation directly from the licensing authority that the state does not issue advanced practice licensure; and

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national certification in a clinical specialty area.

(4) Clinical nurse specialist must comply with requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.15 NMAC for licensure requirements.

(2) Continuing education is not required for initial CNS licensure by endorsement. CE requirements must be met at the time of the first renewal.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. A GCNS permit-to-practice may be issued to a New Mexico employer(s) for an endorsee awaiting results on successful completion of national certification. Refer to Subsections B and C of 16.12.2.15 NMAC for procedure and requirements.

G. A temporary clinical nurse specialist license may be issued to an endorsee who:

(1) submits a completed endorse-

ment application in accordance with all instructions and fee;

(2) submits a copy of current national certification in a nursing specialty; when the state of former advanced practice licensure does not require national certification; national certification in a nursing specialty must be submitted to the board before a license will be issued;

(3) the board will mail the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six (6) months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

H. An initial clinical nurse specialist license shall be valid for two (2) years. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from the nurse licensure compact states.

I. If the licensure process is not completed, the application becomes null and void one (1) year after date of last noted activity.

J. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will

expire on the date specified.

(a) A letter of authorization shall be valid not to exceed 6 months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two (2) years.

(b) A letter of authorization will be valid for 6 months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

K. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education.

(a) The CNS shall accrue a total of fifty (50) contact hours of approved CE each renewal period. National certification or recertification as a CNS may not be used to fulfill any portion of the CE requirement.

(b) Thirty (30) contact hours, shall meet the requirements for licensure as an RN, and

(c) An additional twenty (20) contact hours, 15 of which must be pharmacology, shall meet the requirements for licensure as a CNS.

(d) CNS's from compact states are only required to fulfill CE requirement listed under (C).

(e) The CE shall be in accordance with the requirements as set forth in these rules.

(3) Reactivation. To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements; evidence of current national certification must also be provided.

L. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing. (Taken from the ANA social policy statement).

(2) The CNS practices in accordance with the standards as established by the ANA.

(3) The CNS makes independent decisions in a specialized area of nursing

practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(4) The CNS may assume specific functions [~~and/or~~] or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function [~~and/or~~] or procedure emanates from a recognized body of knowledge [~~and/or~~] or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions [~~and/or~~] or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(5) Carries out therapeutic regimens in the area of the specialty.

(6) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two (2) years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program; forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education, or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology

course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; forty-five (45) contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease ~~and/or~~ or the promotion of health, and

(iii) provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire data, make diagnoses of health status and formulate effective clinical management plans, and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board, or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six (6) months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority require-

ments.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if noncompliant with the audit.

(c) Prescription pads. The CNS's name, address, and telephone number must be imprinted on the prescription pad. In the event that a CNS is using a prescription pad printed with the names of more than one CNS, the name of the CNS for the individual prescription shall be indicated.

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act [61-11-22] and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(7) Graduate clinical nurse specialist (GCNS) practice.

(a) GCNSs may not distribute medications.

(b) GCNSs may practice ~~and/or~~ or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(8) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNSs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules ~~and/or~~ or disciplinary action taken by the board of nursing with regard to controlled

substances shall be reported to the board of pharmacy;

(c) the board of nursing shall annually appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel.

M. Advanced practice committee.

(1) The board may appoint a minimum of a 6-member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of a least two representatives from each advanced practice area regulated by the board.

[1-1-98; 16.12.2.15 NMAC - Rn & A, 16 NMAC 12.2.13, 7-30-01: A, 12-31-01; A, 04-01-02; A, 1-2-04; A, 02-17-06; A, 6-17-08]

16.12.2.16 DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES:

A. Purpose. The diversion program is a voluntary alternative to traditional disciplinary action for a nurse whose competencies may be impaired because of the habitual use of drugs ~~and/or~~ or alcohol. Individuals may request admission into the program following the filing of a complaint against their nursing license or by self-referral.

(1) Admission into the diversion program.

(a) Nurses licensed in New Mexico who have had a complaint filed against their nursing license alleging the use ~~and/or~~ or abuse of drugs/alcohol, or who voluntarily submit a written request shall be given an opportunity to be admitted into the diversion program.

(i) Following a complaint, individuals who do not accept the opportunity for admission into the program shall be processed as a disciplinary case.

(ii) Individuals who voluntarily requested admission and do not complete the admission process within thirty (30) days of request may be subject to disciplinary action by the board.

(iii) It may be recommended that individuals obtain a professional evaluation for chemical dependency ~~and/or~~ or mental health diagnosis and submit a copy of the evaluation to the diversion program.

(iv) The initial contract is a "no use" contract to include prescription medications unless written notification is given by the physician prescribing the medication.

(v) Signatures on the initial contract and amendments constitute a

release of information for the diversion program to contact all supporting individuals.

(b) Request for admission shall be made, in writing, to the diversion program coordinator or executive director of the board of nursing.

(c) Each nurse requesting admission shall be scheduled for an admission interview and preparation of an initial contract.

(i) The initial contract shall include conditions which must be met by a participant.

(ii) The contract may be individualized but the form may not be substantially changed without the approval of the board.

(iii) The initial preparation of the contract will be done by the diversion program coordinator, executive director, or experienced regional advisory committee member.

(iv) Participants may be prohibited from access to narcotics, overtime, night shift work and agency/home health care work.

(2) Monitoring participants in the diversion program.

(a) Participants must assure that required written reports and drug screens are submitted in accordance with the provisions of the diversion program contract and contract amendments. Written reports and drug screens MUST be received regularly by the program.

(i) Written reports of the same type ~~and/or~~ and several drug screens received together are not acceptable and may result in the participant being non-compliant.

(ii) Drug screens shall be scheduled randomly and shall be observed in accordance with the guidelines and protocols approved by the board.

(iii) Drug screens must include participant's drugs of choice.

(b) Participants are required to meet with representatives of the program periodically for an evaluation of their progress in recovery and participation in the program.

(i) After one year of acceptable compliance, amendments may be made in the participant's contract based on the participant's progress in recovery and participation in the program.

(ii) Contracts and contract amendments must be submitted with all required signatures within two (2) weeks of the meeting date.

(iii) Failure to meet regularly as scheduled may result in being reported to the board for noncompliance.

(c) Participant shall notify the diversion program coordinator and the executive director of the board, immediate-

ly, of a pending relocation out-of-the state of New Mexico. The participant shall complete and submit the out of state relocation form. The executive director shall notify the board of nursing in the state in which participant intends to practice that the licensee is a participant in the New Mexico board of nursing's diversion program for chemically dependent nurses. Participants who relocate out-of-state must comply with the NM diversion program requirements until participants have been discharged from the program.

(d) The confidential provisions of Section 61-3-29.1 NMSA 1978 are not in effect if the participant leaves New Mexico prior to discharge from the program or has disciplinary action taken or pending by the board.

(3) Relapses and noncompliance with the diversion program contract.

(a) Participants who are noncompliant with their contract ~~and/or~~ and who do not cooperate with the program shall be reported to the board of nursing.

(i) Reports shall be made to the board using the participant's confidential file number.

(ii) The participant's name shall not be disclosed to the board until formal disciplinary proceedings occur.

(b) The diversion program coordinator or the executive director shall file a sworn complaint after a verbal or written report of a relapse, positive drug screen ~~and/or~~ or no verbal or written communication with the diversion program for three (3) months.

(i) A relapse is defined as the unauthorized use of any mind-altering drug ~~and/or~~ or alcohol.

(ii) The relapse shall be reported to the board of nursing at its next regularly scheduled meeting.

(c) The board shall move for a **notice of contemplated action** (NCA) and may summarily suspend the license of the participant for a period not to exceed ninety (90) days pending the completion of a formal disciplinary proceeding before the board of nursing for relapse or positive drug screen.

(d) An individual whose license is reinstated following a summary suspension shall remit the required reinstatement fee.

(e) Participants who appear before the board for a disciplinary hearing may be required to enter into a new diversion program contract.

(4) Discharge from the diversion program.

(a) Participants who remain drug ~~and/or~~ and alcohol free for three (3) full years and comply with all conditions of their diversion program contract for at least twenty-four (24) months may request dis-

charge from the diversion program.

(b) Participants must be evaluated for discharge by a quorum of advisory committee members or the diversion program coordinator and must submit letters of recommendation from supervisor, sponsor, counselor (if applicable), and self.

(c) The diversion program coordinator shall make a recommendation to the board of nursing at its next regularly scheduled meeting regarding the approval/disapproval of discharge for the participant.

(5) Regional advisory committees.

(a) The board shall establish regional advisory committees throughout the state in accordance with Section 61-3-29.1 NMSA 1978 for the purpose of assisting the program coordinator to conduct admission interviews, prepare initial contract and to periodically evaluate participant's progress in recovery and participation in the program.

(b) Members of advisory committees shall be appointed by the board and shall function under the direction of the board. No current member of the board shall be appointed to an advisory committee.

(6) Diversion program participant's records.

(a) All program participants' records are confidential and are maintained in accordance with Section 61-3-29.1 NMSA 1978.

(b) Upon discharge from the program, all files and records shall be destroyed.

(c) Records concerning licensees who violate the diversion program contract shall become a matter of public record upon disciplinary action by the board of nursing. This disciplinary record may contain complaint, investigation report, documentary evidence, contract, drug screen reports, documents relevant to the hearing, notice of contemplated action, notice of hearing.

[1-1-98; 16.12.2.16 NMAC - Rn & A, 16 NMAC 12.2.14, 7-30-01; A, 02-17-06; A, 6-17-08]

NEW MEXICO BOARD OF NURSING

This is an amendment to 16.12.4 NMAC, Sections 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, & 16 effective 6-17-08. This is also an amendment to the part name.

PART 4 [CERTIFICATION OF HEMODIALYSIS TECHNICIANS AND TRAINING PROGRAMS] HEMODIALYSIS TECHNICIANS

16.12.4.2 SCOPE: All New Mexico board of nursing approved hemodialysis [training] programs and hemodialysis technicians certified by the New Mexico board of nursing. [16.12.4.2 NMAC - Rp, 16.12.4.2 NMAC, 02-17-06; A, 6-17-08]

16.12.4.6 OBJECTIVE: To provide a means [by which] to evaluate hemodialysis [training] programs and measure competency of hemodialysis technicians completing the program and the authority to take action against any approved program or certified hemodialysis technician not meeting the set minimum standards for approval or certification as promulgated by the board. [16.12.4.6 NMAC - Rp, 16.12.4.6 NMAC, 02-17-06; A, 6-17-08]

16.12.4.7 DEFINITIONS:

A. "Agency": a board approved facility that utilizes hemodialysis technicians who serve consumers in [various] multiple health care and community settings.

B. "Approval": the review and acceptance of specific activity.

C. "Audit": a verification of continuing education documents and work requirements.

D. "Board": New Mexico board of nursing. (BON)

E. "Certificate": a document issued by the board identifying the legal privilege and authorization to perform specific nursing functions and procedures in the state of New Mexico.

F. "Certification examination": a board-approved tool designed to evaluate an applicant's knowledge of a specific subject.

G. "Certified hemodialysis technician (CHT)": a person who is initially certified by the board to assist with the direct care of a patient undergoing hemodialysis, certification is mandatory in New Mexico according to the standards outlined in these rules.

H. "Certified hemodialysis technician II (CHT II)": a person who meets the requirements of a CHT [to

receive] and receives additional training with an expanded scope of practice; additional certification is mandatory.

I. "Clinical experience": refers to the supervised teaching-learning component of the [training] program which takes place in the hemodialysis agency.

J. "Clinical preceptor": a licensed nurse who supervises and observes students providing patient care in a hemodialysis agency.

K. "Competency": the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

L. "Consumer": means any person domiciled, residing or receiving care or treatment from a certified hemodialysis technician in an agency. [~~This includes but is not limited to patients or clients.~~]

M. "Continuing education": (CE) planned learning experiences beyond a basic nursing or technician educational program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of care to the consumer.

N. "Contact hour": a sixty (60) minute clock hour.

O. "Curriculum": a detailed course outline, description or syllabus, which, includes objectives, content, teaching-learning activities and evaluation strategies, and includes the minimum required program hours.

P. "Delegation": means transferring to a competent individual the authority to perform a delegated nursing tasking in a selected situation. The licensed nurse retains accountability for the delegation.

Q. "Duplicate certificate" means requesting a new certificate of a current and active certificate.

[Q]-R. "Faculty": any professional [and/or] or paraprofessional persons who [teach] teaches for the hemodialysis technician [training] program including clinical preceptors.

[R]-S. "Hemodialysis technician advisory committee (HTAC)": a board-appointed committee.

[S. "~~Hemodialysis technician participant program":~~ any agency that utilizes certified hemodialysis technician and does not have a board approved hemodialysis technician training program that prepare individuals for initial certification. A board approved nurse educator is required for supervision and observation of the hemodialysis technician.]

T. "Hemodialysis technician [training] program": an educational program approved by the board for persons seeking initial certification as hemodialysis technicians.

U. "License": a document identifying the legal privilege and authorization to practice within a professional category.

V. "[Multiple] Additional certification": certified hemodialysis technicians who have a current CHT certificate in good standing and successfully complete the [required training] board requirements to work as a CHT II.

W. "NPA": Nursing Practice Act.

X. "Nurse educator": the registered nurse who is responsible for the development, implementation and evaluation of a hemodialysis technician [training] program. Retains ultimate responsibility for determining hemodialysis technician's competency.

Y. "Reactivation": the process of making a certificate current which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this action does not involve board action.

Z. "Reinstatement": the process whereby a certificate which has been subject to revocation or suspension is returned to its former status by individual board action; this process always involves board action.

AA. "Site visit": visit made directly to the [training and participant] program by board staff.

BB. "Supervision": means initial verification of a person's knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person's knowledge and skills as related to the specific function or activity.

CC. "Standards of function": a range of tasks or activities performed by certified hemodialysis technicians for consumers who are stable and predictable, supervised by a licensed nurse who may need to limit the range of tasks based on the consumer's need or add via delegation.

DD. "ULA": means the Uniform Licensing Act.

[16.12.4.7 NMAC - Rp, 16.12.4.7 NMAC, 02-17-06; A, 6-17-08]

16.12.4.8 FEES:

A. Payment of fees will be accepted in the form as specified by the board. Fees are not refundable.

(1) Initial certification by examination <u>CHT I</u>	\$ 45.00
(2) Re-examination.....	\$ 30.00
(3) Renewal of certificate.....	\$ 45.00
(4) Reactivation/ reinstatement of certificate from lapsed or inactive status	\$ 60.00
<u>(5) Reinstatement of certificate following board action</u>	\$ 60.00
(5) <u>(6)</u> Duplicate license (written request required).....	\$ 20.00
(6) <u>(7)</u> Initial program review for approval.....	\$250.00
(7) <u>(8)</u> Biennial program evaluation and visit.....	\$200.00
(8) Initial participant program evaluation	\$200.00
(9) Biennial participant program evaluation	\$175.00
(10) Additional certificate for CHTH	\$20.00
(9) Certification by exam CHT II.....	\$ 60.00

B. Annual agency participation fees are determined by a three-step process.

- (1) Each agency plus its satellites is assigned a unit value based on the total number of sites where CHTs are utilized.
 - (2) The total board of nursing administrative cost is divided by the total number of units assigned to all agencies to determine the cost per unit. (Cost per unit = total board administrative costs (by total number of units).
 - (3) The cost per agency is then determined by multiplying the cost per unit by the unit value assigned to that agency. (Cost per agency = number of assigned unit per one agency x cost per unit).
- [16.12.4.8 NMAC - Rp, 16.12.4.8 NMAC, 02-17-06; A, 6-17-08]

16.12.4.9 CERTIFICATION REQUIREMENTS FOR HEMODIALYSIS TECHNICIANS: New Mexico certification of hemodialysis technicians is mandatory.

A. Prerequisites.

- (1) Be a high school graduate or complete the general education development course.
- (2) Successfully complete a board-approved hemodialysis technician ~~[training]~~ program.
- (3) Complete the required application form in the specified deadline and remit the required fee.

B. Applications and fees for the hemodialysis technician certification examination must be submitted to the board office at least thirty (30) days prior to the date of the examination.

- (1) Applications containing fraudulent or misrepresented information could be the basis for denial of certification.
- (2) Incomplete applications for certification become null and void one (1) year after date of last noted activity.
- (3) Written verification of successful completion according to the minimum standards for approval of hemodialysis technician programs indicating the date of completion ~~[of the hemodialysis technician program]~~ must be received, directly from the hemodialysis technician ~~[training]~~ program, and signed by the nurse educator in the board office at least thirty (30) days prior to the examination date.
- (4) An admission letter, which includes the time, date and place of examination, shall be issued to all eligible applicants.
- (5) A reexamination fee will be charged for all reexaminations and non-excused absences.
- (6) Results of the examination shall be reported, by mail ~~[only]~~ or on the board website to the applicants no later than four (4) weeks following the examination date. ~~[Applicants who successfully complete the examination shall be issued a certificate.]~~
- ~~(7) Successful completion of the examination can be verified on the board's website.]~~

C. Hemodialysis technician initial certification examination.

- (1) The board shall develop and maintain the board-approved certification examination for hemodialysis technicians.
- (2) Board approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.
- (3) The examination shall be administered six (6) times each year and as needed.
- (4) The hemodialysis technician advisory committee shall set the examination dates.
- (5) Applicants for certification as a hemodialysis technician shall be required to pass the hemodialysis technician certification examination with a minimum score of ~~[75]~~ 80 %.
- (6) Applicants who fail the examination may repeat the examination one (1) time within a six (6) month period without repeating an approved training program.
 - (a) Applicants who fail the examination may not function as hemodialysis technicians.
 - (b) Applicants must remain under the direct supervision of a board-approved clinical preceptor until such time as they successfully pass the hemodialysis technician certification examination.
- (7) Applicants observed giving ~~[and/or]~~ or receiving unauthorized assistance during the writing of the examination shall be physically removed from the examination center and the individual(s) shall be referred to the board by a sworn complaint filed by the examiner.

D. Certification by examination for CHT II.

- (1) CHT II shall be required to pass a certification examination with a minimum score of 80% that is specific to their expanded scope of practice as defined in the core curriculum ~~[(16.12.5.16 NMAC)]~~ (16.12.4.16 NMAC).
- (2) CHT II applicants who fail the exam may repeat the examination one (1) time within a six month period without repeating an approved training program. If the CHT II does not pass the second examination they must take a refresher course specific to the expanded scope of practice and wait one year from first test date to retake the examination.
- (3) Written verification of successful completion according to the minimum standards for approval of the CHTII programs indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator in the board office at least thirty (30) days prior to the examination date.
- (4) Complete the required application form in the specified deadline and remit the required fee.
- (5) An admission letter, which includes the time, date and place of examination, shall be issued to all eligible applicants.

(6) A reexamination fee will be charged for all reexaminations and non-excused absences.

(7) Results of the examination shall be reported, by mail or on the board website to the applicants no later than four (4) weeks following the examination date.

E. Requirements for hemodialysis technicians' recertification.

(1) Applicants for recertification shall be required to complete the process by the end of their renewal month, every two years and must meet the continuing education and work requirements as stated in these rules.

(2) Renewal applications and continuing education verification forms shall be mailed to CHTs at least six (6) weeks prior to the end of the renewal month.

(a) Failure to receive the application for renewal shall not relieve the CHT of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the CHT does not hold a valid certificate and shall not function as a CHT in New Mexico until the lapsed certificate has been reactivated.

(3) Continuing education requirements.

(a) Sixteen (16) contact hours of continuing education must be accrued within the 24 months immediately preceding recertification.

(b) Acceptable courses shall be those with topics related to care and safety of the patient undergoing dialysis treatment.

(c) Continuing education records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non compliant within sixty (60) days of the first notification of the audit.

(d) CHT II shall accrue four (4) additional contact hours of continuing education within the 24 months preceding recertification. These additional contact hours must be specific to their expanded scope of function.

(4) Work requirement. Applicant must provide evidence of a minimum of 1,000 hours work as a CHT during the 24 month period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board.

(b) Certificate holders may be subject to disciplinary action by the board if noncompliant within sixty (60) days of the first notification of the audit.

(5) Remit the required [~~recertification~~] fee.

(6) Failure to meet the continuing education or employment requirements for recertification shall result in denial of recer-

tification until completion of a refresher course with the appropriate application and fee have been submitted to the board.

F. Refresher course requirements.

(1) Completion of a minimum of eighty (80) hours of supervised clinical practice in a board approved hemodialysis technician [~~training~~] program under the supervision of an approved clinical preceptor.

(2) Completion of the hemodialysis technician [~~training~~] program's skills list identified in the core curriculum (16.12.5.16 NMAC).

(3) Completion of the hemodialysis technician [~~training~~] program final examination with a minimum score of 75%.

(4) Written verification, on agency letterhead, of successful completion of supervised clinical practice, skills list, and the final examination results shall be provided to the board by the [~~training~~] program's board-approved nurse educator.

(5) Completion of a refresher course shall meet both the employment and continuing education requirements for the two (2) year renewal period.

(6) Remit the required application and fee.

G. Individuals who have practiced as uncertified hemodialysis technicians in other states or who have been certified in another state may apply for certification in the state of New Mexico.

(1) Provide written verification of the completion of a hemodialysis technician [~~training~~] program in another state.

(2) Submit written verification of 1000 hours working as a hemodialysis technician during the 24 month period immediately preceding their request to become certified in New Mexico.

(3) Complete a minimum of eighty (80) hours of supervised clinical practice in a board approved hemodialysis technician [~~training~~] program under the supervision of a board approved nurse educator.

(4) Complete the hemodialysis technician [~~training~~] program's skills list identified in the core curriculum (16.12.5.16 NMAC).

(5) Successfully pass the [~~training~~] program's final examination with a minimum score of [~~75%~~] 80% or better.

(6) Provide written verification, on agency letterhead by the nurse educator, of successful completion of supervised clinical practice, skills list, the final examination and that the candidate has met the work requirement.

(7) Pass the board's hemodialysis certification examination with a minimum score of [~~75%~~] 80% or better.

(8) Certificates are issued by mail [~~only~~] or verification can be obtained on the

board website.

(9) Submit the required application and fee.

H. Individuals who have practiced as hemodialysis technicians and have a current national hemodialysis technician certification may apply for certification as a hemodialysis technician in New Mexico.

(1) Provide written verification of the completion of a hemodialysis technician [~~training~~] program in another state.

(2) Submit written verification of 1000 hours working as a hemodialysis technician during the 24 month period immediately preceding their request to become certified in New Mexico.

(3) Complete a minimum of eighty (80) hours of supervised clinical practice in a board approved hemodialysis technician [~~training~~] program under the supervision of an approved nurse educator.

(4) Complete the hemodialysis technician [~~training~~] program's skills list identified in the core curriculum (16.12.5.16 NMAC).

(5) Successfully pass the [~~training~~] program's final examination with a score of [~~75%~~] 80% or better.

(6) Provide written verification, on agency letterhead by the nurse educator, of successful completion of supervised clinical practice, skills list, the final examination and that the candidate has met the work requirement.

(7) Submit the required application and fee.

(8) Certificates are issued by mail [~~only~~] or verification can be obtained on the board website.

[16.12.4.9 NMAC - Rp, 16.12.4.9 NMAC, 02-17-06; A, 6-17-08]

16.12.4.10 STANDARDS OF FUNCTION FOR THE CERTIFIED HEMODIALYSIS TECHNICIAN:

A. Purpose.

(1) To establish standards for supervision and direction of the CHT.

(2) To identify basic functions for the CHT.

(3) To identify prohibited functions for the CHT.

(4) To identify the expanded role of the CHT II.

B. Authorized functions of the certified hemodialysis technician with supervision of a registered nurse:

(1) perform arteriovenous punctures for dialysis access;

(2) inject intradermal lidocaine in preparation for dialysis access;

(3) administer a heparin bolus;

(4) administer a fluid bolus of isotonic saline;

(5) connect a dialysis access to isotonic saline or heparinized isotonic

saline;

(6) administer oxygen, metered dose inhalants;

(7) collect data for the nursing assessment;

(8) initiate and discontinue treatment via arterio-venous access.

C. Prohibited functions of the certified hemodialysis technician:

(1) shall not administer medications by oral, intramuscular, intravenous or subcutaneous routes except those agents addressed in authorized functions of these rules;

(2) shall not take orders for dialysis treatments;

(3) shall not alter dialysis orders as prescribed by a health care provider;

(4) shall not perform any function or service for consumer for which a nursing license is required under the Nursing Practice Act, 61-3-1 et seq NMSA, 1978;

(5) shall not initiate or discontinue via central lines.

D. Supervision or direction of the hemodialysis technician.

(1) A nurse educator shall periodically provide supervision or direction to the certified hemodialysis technician.

(2) The nurse educator may delegate to the licensed nurse the supervision or direction of the hemodialysis technician.

E. Certified hemodialysis technician II - expanded scope of function.

(1) The expanded role is a privilege and not a requirement for all CHT's to meet.

(2) The nurse educator shall approve the CHT assuring the CHT meets specific criteria.

(a) CHT must be employed [~~full-time~~] for 3 consecutive years in dialysis.

(b) CHT must be working at least one year at the current board approved [~~training~~] agency.

(c) Must fulfill all CHT requirements and be in good standing with the board.

(3) Authorized functions shall include performing hemodialysis treatment via central catheter lines.

(4) Prohibited functions shall not perform catheter dressing changes.

(5) Must complete board approved curriculum and pass the board examination with 80% or better.

[16.12.4.10 NMAC - Rp, 16.12.4.10 NMAC, 02-17-06; A, 6-17-08]

16.12.4.11 DISCIPLINARY ACTION: The board shall conduct hearings upon charges relating to discipline of a CHT, and may deny, place on probation, suspend or revoke a hemodialysis technician certificate in accordance with the Uniform Licensing Act 61-1-1 et seq

NMSA, 1978.

A. Grounds for disciplinary action.

(1) Incapable of functioning as a CHT which is defined to include, but not limited to, the following:

(a) inability to function with reasonable skill and safety as a CHT for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of consumers receiving dialysis treatments or failure to conform to the essential and prevailing standards of CHTs;

(c) omitting in a negligent fashion to record information regarding procedures performed and care provided which could be relevant to the consumer's care;

(d) failure to report information regarding the consumer's treatment [~~and/or~~] or health status to appropriate person which could be relevant to the consumer's care and status;

(e) demonstrating a lack of competence in providing care to consumer's receiving a dialysis treatment.

(2) Incapable of functioning as responsible member of the health care team which is defined to include, but not limited to, the following:

(a) falsifying or altering consumer records or personnel record for the purpose of reflecting incorrect or incomplete information;

(b) misappropriation of money, drugs, or property;

(c) obtaining or attempting to obtain any fee for consumer services for one's self or for another through fraud, misrepresentation or deceit;

(d) obtaining, possessing, administering or furnishing prescription drugs to any person, including, but not limited to one's self, except as directed by a person authorized by law to prescribe;

(e) obtaining or attempting to obtain a certificate to function as a CHT for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the certification by examination or recertification process;

(f) functioning as a CHT in NM without a valid, current NM certificate, or aiding, abetting or assisting another to function as a CHT without a valid, current NM certificate;

(g) failure to report a CHT who is suspected of violating the NPA [~~and/or~~] or rules for certification of hemodialysis technicians;

(h) exceeding the scope of function of a CHT;

(i) intentionally abusing, neglecting or exploiting a consumer;

(j) intentionally engaging in sexual contact toward or with a consumer in a manner that is commonly recognized as outside of the CHT's scope of tasks;

(k) felony conviction;

(l) dissemination of a consumer's health information or treatment plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law or hospital/agency policy from disclosure;

(m) failure to maintain appropriate professional boundaries which may cause harm to the consumer.

B. Disciplinary proceedings are conducted in accordance with 16.12.2 NMAC Nurse Licensure.

[16.12.4.11 NMAC - 16.12.4.11 NMAC, 02-17-06; A, 6-17-08]

16.12.4.12 APPROVAL FOR HEMODIALYSIS [~~TRAINING~~] PROGRAMS:

A. Statement of purpose: The purpose of this article is to establish minimum standards for the approval of hemodialysis technician [~~training programs and hemodialysis participant~~] programs that protect the health and well-being of the consumers that receive services from hemodialysis technicians in board approved programs. The objectives include promoting safe and effective care of consumers receiving care from hemodialysis technicians; establishing minimal standards for the evaluation and approval of hemodialysis programs; granting recognition and approval that a hemodialysis program is meeting minimum standards; and establishing the eligibility of graduates of the [~~training~~] program to apply for certification. [NPA 61-3-10.1 NMSA, 1978].

~~[B. Hemodialysis participant programs shall meet all criteria for approval except those that are specific to the education/training components of the hemodialysis training programs that prepare individuals for initial certification as hemodialysis technicians. Participant programs are subject to denial or withdrawal of program approval, program visits, and shall notify the board of nursing regarding changes in internal administrative or organization plan of the agency, and change in the nursing supervisor educator responsible for the supervision of the hemodialysis technician program.]~~

~~[C.]~~ B. Objectives.

(1) To promote safe and effective care of consumers receiving hemodialysis.

(2) To establish minimum standards for the evaluation and approval of hemodialysis technician [~~training~~] programs.

(3) To facilitate continued

approval of hemodialysis technician [training] programs.

(4) To grant recognition and verification that a hemodialysis technician [training] program meets the minimum standards and rules as determined by the board.

[D]-[C]. Initial program approval. A dialysis unit who is licensed by the New Mexico department of health, in order to obtain approval of its hemodialysis technician [training] program ~~[or participant program]~~ shall submit an application for approval to the board's hemodialysis technician advisory committee. The HTAC shall evaluate the application, provide for a site visit to the dialysis unit and make a recommendation to the board regarding the approval of the [training] program. The board shall approve hemodialysis technician [training] programs at a regularly scheduled board meeting.

(1) The initial application shall be consistent with the minimum standards for approval of hemodialysis technician [training] programs (16.12.4.14 NMAC), and shall contain the following:

- (a) objectives of the [training] program;
- (b) organizational chart;
- (c) [name] names of the medical director, administrator, and nursing director;
- (d) names and resumes of the nurse educator(s) and other faculty to include clinical preceptor(s);
- (e) verification of state licensure;
- (f) program curriculum; and
- (g) hemodialysis technician job description.

(2) Representatives of the [training] program may be scheduled to meet with the HTAC to present the proposed program.

(a) Following the HTAC review of the application, a recommendation for approval shall be made to the board of nursing.

(b) Programs not recommended for approval must provide evidence that the identified deficiencies have been corrected.

(3) After receipt of the HTAC report and recommendation(s), the board may:

- (a) grant approval of the program;
- (b) defer a decision regarding approval;
- (c) deny approval;
- (d) direct staff to make a pre-approval visit.

[E]-[D]. Criteria for approval, probationary approval, and denial or withdrawal of approval.

(1) Criteria for approval.

(a) Approval shall be granted for no more than two (2) years to a [training] program when, in the opinion of the board, the program demonstrates compliance with

the minimum standards for approval of hemodialysis technician [training] programs.

(b) To ensure continued compliance with the minimum standards for approval, the [training] program shall be evaluated at least every two (2) years with a site visit or as directed by the board.

(c) During the period of approval and prior to the expiration of approval, a self-evaluation report shall be submitted to the hemodialysis technician advisory committee and a site visit shall be made to the program. Whenever possible the site visit should be made to the program when a training session is in progress.

(d) After the review of the self-evaluation and report of the site visit by the HTAC a report shall be made to the board regarding continuation of the [training] program's approval.

(e) The board is the final authority regarding continued approval or probation.

(f) The board may authorize unannounced site visits be made to the approved hemodialysis technician [training] programs.

(2) Criteria for probationary approval.

(a) A [training] program may be given probationary approval when there is evidence of:

(i) substantial noncompliance with the minimum standards for approval of hemodialysis technician [training] programs;

(ii) continuous disruptions in retaining qualified faculty resulting in disorganization of the program and a breakdown of supervision and teaching of the program;

(iii) noncompliance with the [training] program's stated philosophy, objectives, policies and curriculum resulting in unsatisfactory student achievement;

(iv) failure to provide clinical experiences or supervision necessary to meet the objectives of the [training] program;

(v) failure of 75% of first time writers of the examination to correctly answer at least 75% of the items over a one year period.

(b) The [training] program shall be advised, in writing, of the reason(s) for the probationary approval.

(c) The board shall designate a reasonable time period, not to exceed one year, in which the [training] program must correct deficiencies and meet the minimum standards for approval.

(d) At least sixty (60) days prior to the end of the probationary approval, the [training] program shall submit a self-evaluation which includes a description of

changes made to correct the deficiencies, and a site visit shall be made by representatives of the board.

(e) The HTAC shall review the site visit evaluation, and shall submit a report to the board.

(f) The board may grant approval to the [training] program, extend the probationary approval or it may withdraw approval of the program.

(3) Criteria for denial or withdrawal of approval.

(a) The board may deny approval of a [training] program when a program fails to provide evidence of compliance or fails to correct deficiencies resulting in non-compliance with the minimum standards for approval of hemodialysis technician [training] programs.

(b) A written notice detailing the reasons for denial or withdrawal of approval shall be provided to the agency.

(c) The [training] program shall be removed from the list of board approved hemodialysis technician [training] programs.

[16.12.4.12 NMAC - Rp, 16.12.4.12 NMAC, 02-17-06; A, 6-17-08]

16.12.4.13 CHANGES REQUIRING NOTIFICATION ~~[TO THE ADVISORY COMMITTEE OR BOARD OF NURSING FOR APPROVAL]:~~

A. [Program] Changes requiring [approval] notification of the board ~~[of nursing]~~ or the advisory committee:

- (1) major curriculum changes or reorganization of the curriculum;
- (2) major changes in the program's objectives or goals;
- (3) changes in required didactic ~~[and/or]~~ or clinical practice hours;
- (4) changes in the nurse educator;
- (5) changes in the hemodialysis technician job description.

B. Procedure for requesting board approval for program changes.

(1) The advisory committee shall be notified in writing of changes in the program requiring board approval. The notification shall include:

- (a) the proposed change(s);
- (b) rationale for the proposed change(s);
- (c) anticipated affect on the current [training] program; and
- (d) timetable for implementation of the proposed change(s);
- (e) presentation of the differences between the current system and proposed change(s);
- (f) method of evaluation which will be used to determine the effect of the change;
- (g) a description of the study ~~[and/or]~~ or method used to determine need

for a change;

(h) plans for continuing to meet the minimum standards for approval of the hemodialysis technician [training] program.

(2) The advisory committee shall present the changes and recommendations to the board of nursing at a regularly scheduled board meeting.

C. Changes requiring notification to the advisory committee [and] or board of nursing.

(1) Changes in the internal administration or organizational plan of the hemodialysis clinic or unit which affects the [training] program.

(2) Changes in the state of New Mexico, department of health licensure status. [16.12.4.13 NMAC - Rp, 16.12.4.13 NMAC, 02-17-06; A, 6-17-08]

16.12.4.14 MINIMUM STANDARDS FOR APPROVAL OF HEMODIALYSIS TECHNICIAN [TRAINING] PROGRAMS:

A. Objectives. There shall be written objectives for the [training] program which serve as the basis for planning, implementing and evaluating the program.

(1) The objectives shall be developed by the nurse educator.

(2) The [training] program objectives shall describe the knowledge and skills expected of the CHT, and shall be consistent with the authorized functions of the CHT and the board approved core curriculum.

(3) The [training] program objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum.

(1) The curriculum shall be developed, implemented and evaluated by the nurse educator within the framework of the rules and the core knowledge statements.

(2) The curriculum shall extend over a period of time sufficient to provide essential, learning experiences which enable a student to develop competence in hemodialysis practice.

(3) There shall be a minimum of eighty (80) hours of classroom study, and a minimum of one-hundred sixty (160) hours of supervised clinical experience.

(4) Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a health care setting and shall include clinical learning experiences to develop the skills required by technicians to provide safe care. The nurse educator or clinical preceptor must be physically present and accessible to the student when the student is in the patient care area.

(5) The nurse educator shall develop a written systematic plan for curriculum and program evaluation.

(6) The CHT II curriculum shall include a minimum of sixteen (16) additional hours of classroom study and a minimum of eighty (80) hours of supervised clinical experience. There shall be as a minimum twenty (20) times the technician initiates, monitors and disconnects the central catheter line for one patient or treatment. The nurse educator must verify the successful completion of training with a written letter to the board with the application to test and receive certification as a CHT II.

C. Administration and organization.

(1) The hemodialysis technician [training] program shall be an integral part of a hemodialysis agency.

(2) Each program shall have a board approved nurse educator to administer the [training] program who shall be responsible for the development, implementation, teaching and evaluation of the [training] program, arrangements for and supervision of student's clinical experiences and communication with the board and the hemodialysis technician advisory committee.

D. Qualifications and competencies of faculty.

(1) The nurse educator shall be a registered nurse and shall hold a current license to practice nursing in New Mexico or hold a current compact state license.

(2) The nurse educator shall have at least two (2) years of recent nursing practice experience including at least one (1) year of nursing experience in dialysis. Previous nursing experience in critical care and nursing education is desirable.

(3) The nurse educator shall have a minimum of nine (9) contact hours of continuing education annually in nephrology, or have current national certification in nephrology or dialysis.

(4) All new approved nurse educators shall participate in an orientation that is presented by the board staff.

(5) Clinical preceptor(s) shall be a registered nurse or licensed practical nurse, and shall hold a current New Mexico nursing license or hold a current compact state license.

(a) Clinical preceptors shall have a least one (1) year of nursing practice experience including at least six (6) months of nursing experience in dialysis.

(b) Clinical preceptors shall demonstrate knowledge and skills in dialysis nursing.

(6) A certified hemodialysis technician under supervision of the nurse educator or approved clinical preceptor may be assigned to assist with the clinical experience/orientation of hemodialysis technician trainees.

(7) The nurse educator or the clin-

ical preceptor must be physically present in the agency while students are engaged in the clinical experience.

[16.12.4.14 NMAC - Rp, 16.12.4.14 NMAC, 02-17-06; A, 6-17-08]

16.12.4.15 HEMODIALYSIS TECHNICIAN ADVISORY COMMITTEE:

A. Composition and appointment of committee members. The board of nursing shall appoint a minimum of a five (5) member, three of which should be registered nurses, voluntary advisory committee which shall be composed of licensed nurses with expertise in dialysis nursing and certified hemodialysis technicians in New Mexico.

(1) Hemodialysis agencies shall submit nominations for committee appointments.

(2) There shall be no more than one licensed nurse and one certified hemodialysis technician representative from any one unit serving on the advisory committee at any one time.

(3) Members of the committee shall serve for staggered terms of two (2) years, and may be reappointed to the advisory committee.

B. Responsibility of advisory committee.

(1) The advisory committee shall review applications for initial approval, program evaluations, and changes in approved hemodialysis technician program, and shall submit reports and recommendations to the board.

(2) The advisory committee shall provide consultation to [training] programs as requested [and/or] or as directed by the board.

(3) Members of the advisory committee shall serve as site visitors to hemodialysis technician [training] programs for approval, consultation and evaluation visits.

[16.12.4.15 NMAC - Rp, 16.12.4.15 NMAC, 02-17-06; A, 6-17-08]

16.12.4.16 HEMODIALYSIS TECHNICIAN CURRICULUM SUBJECT AREAS:

A. Initial certification overview of the hemodialysis technician role and responsibilities.

(1) Philosophy and objectives of the hemodialysis technician [training] programs to include:

(a) federal, state and local regulations;

(b) nurse's role and hemodialysis technician role including the meaning of delegation;

(c) standards of function for hemodialysis technician;

(d) certification expectations and requirements.

(2) Orientation to the hemodialysis technician position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the hemodialysis technician:

(i) roles and contributions of other health team members;

(ii) observation and reporting.

B. Legal roles and responsibilities of hemodialysis technicians including:

(1) consumer's rights;

(2) negligence and malpractice;

(3) ethical issues relating to consumers including but not limited to:

(a) confidentiality;

(b) OSHA;

(4) documentation;

(5) identification of errors and required reporting or errors to the nurse.

C. Orientation to the client population.

(1) Identifies major anatomical components of the renal system and the role of the normal kidney in maintaining homeostasis.

(2) Recognizes the physiological changes that occur in the body as a result of end stage renal disease.

(3) Verbalizes the principles of hemodialysis.

(4) Recognizes the psychosocial considerations that affect the hemodialysis patient/family and lifestyle.

(5) Identifies changes in the patient's diet.

D. Introduction to dialysis therapy.

(1) Demonstrates efficient, accurate and safe preparation of the dialysis machine including but not limited to the discontinuation of dialysis.

(2) Demonstrates accurate and safe technique when performing arteriovenous punctures for dialysis access.

(3) Identifies problem patient situations and communications with licensed nurse.

(4) Identifies and responds appropriately to machine alarms and other potential emergency situations to include but are not limited to:

(a) air leaks;

(b) power failures;

(c) temperature changes;

(d) unconscious patient;

(e) needle dislodgement;

(f) air embolism.

(5) Identifies infection control principles and practices. Including but not limited to the use of personal protective equipment.

(6) Demonstrates the method of medication administration and identifies potential adverse reactions for medications used in hemodialysis therapy.

E. Hemodialysis technician procedures/skills check list for certification in New Mexico.

(1) Identification of machine parts and functions.

(2) Preparation of machine and extracorporeal circuit including disinfection of machine post dialysis.

(3) Patient assessment and equipment monitoring and testing prior to initiation of treatment.

(4) Vascular access and specimen collection.

(5) Initiation, monitoring and termination of treatment.

(6) Respond appropriately to real and potential emergency care situations that can impact the patient, staff and the physical building.

(7) Administration of routine treatment medications required for dialysis therapy.

(8) Correct practice of infection control principles.

F. Advanced certification for hemodialysis technician (CHT II) including their role and responsibilities.

(1) Philosophy and objectives of the advanced hemodialysis technician [training] programs to include:

(a) federal, state and local regulations;

(b) nurse's role and advanced hemodialysis technician role;

(c) standards of function for advanced hemodialysis technician;

(d) certification expectations and requirements.

(2) Orientation to the advanced hemodialysis technician (CHT II) position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the hemodialysis technician:

(i) roles and contributions of other health team members;

(ii) observation and reporting.

(3) Expanded roles and responsibilities of the advanced hemodialysis technicians (CHT II) including:

(a) consumer's rights;

(b) negligence and malpractice;

(c) ethical issues relating to consumers including but not limited to confidentiality and OSHA;

(d) documentation;

(e) identification of errors and required reporting or errors to the nurse.

(4) Review the concepts and practices of infection control.

(5) Understand the principles and rationale for the clamping and care of central venous line catheters.

(a) Positive thoracic pressure.

(b) Risk of complications with clamping/unclamping catheters.

(c) Antiseptic solutions and catheter material.

(6) Understanding and administering anticoagulants to central venous lines.

(a) Pre-dialysis blood work.

(b) Identification of arterial and venous lines.

(c) Connection to dialysis blood lines.

(7) Preparation, initiation, monitoring and termination of dialysis with the central venous line.

(a) Arterial pressure monitoring.

(b) Documentation.

(c) Verification with registered nurse correct placement of new central venous catheter line.

(8) Maintaining central venous line catheter patency including injection of anticoagulants into catheter ports.

(9) Identification of complications including but not limited to:

(a) emergency life threatening care;

(b) access recirculation;

(c) indefinite flow;

(d) clotting;

(e) catheter dislodgement.

G. Advanced hemodialysis technician procedures/skills check list for certification in New Mexico.

(1) Identify difference between permanent and temporary central venous catheters.

(2) Demonstrate ability to maintain a clean/sterile field of care.

(3) Demonstrate correct infection control practices throughout all procedures including the selection of correct antiseptic solutions.

(4) Demonstrate aspiration of anticoagulants with the correctly sized syringes.

(5) Demonstrate ability to maintain positive pressure in the catheter lumen.

(6) Identify and respond appropriately to complications with the central venous catheter.

(7) Determine correct lumen volume and instill anticoagulants aseptically post treatment.

(8) Correctly demonstrate that catheter lines are capped, changed, and secured before discontinuing patient from hemodialysis therapy.

[16.12.4.16 NMAC - N, 02-17-06; A, 6-17-08]

NEW MEXICO BOARD OF NURSING

This is an amendment to 16.12.5 NMAC, Sections 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, & 19 effective 6-17-08.

16.12.5.7 DEFINITIONS:

A. "Administrator" means the operating officer of an agency. This includes, but is not limited to a licensed nursing facility or a school superintendent.

B. "Agency" means a board approved facility that utilized medication aides who serves consumers in various health care and community settings.

C. "Approval" means the review and acceptance of specific activity.

D. "Audit" means a verification of continuing education documents and work requirements.

E. "Board" means the NM board of nursing.

F. "Certificate" means a document issued by the board identifying the legal privilege and authorization to perform specific nursing functions and procedures in the state of New Mexico.

G. "Certification examination" means a board-approved tool designed to evaluate an applicant's knowledge of a specific subject.

H. "Certified medication aide (CMA)" means a person who receives specialized training preparing for a role of medication administration under the supervision/direction of a registered nurse, is permitted to administer medications as outlined in these rules.

I. "Certified medication aide II (CMA II)" means a person who meets the requirements of a CMA as defined in these rules. The CMA II candidate is selected by the nurse educator, and receives additional training with an expanded scope of function upon successful completion of a board approved examination; additional certification is mandatory.

J. "Clinical experience" means the supervised teaching-learning component of the certified medication aide program which takes place in the facility.

K. "Clinical preceptor" means a licensed nurse at each participating nursing facility that is physically present and providing one (1) clinical preceptor to two (2) students with direct supervision.

L. "Competency" means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

M. "Consumer" means any person domiciled, residing or receiving care or treatment from a certified medication aide in an agency. This includes but is

not limited to residents, clients or students.

N. "Contact hour" means a sixty (60) minute clock hour.

O. "Continuing education (CE)" means a planned learning experience beyond a basic nursing or technician educational program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of care to the consumer.

P. "Curriculum" means a detailed course outline, description, or syllabus, which includes objectives, content, teaching-learning activities and evaluation strategies.

Q. "Delegation" means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation.

R. "Medication aide advisory committee (MAAC)" means a board appointed advisory committee.

S. "Medications" means substances intended for use in diagnosis, care, mitigation, treatment or prevention of a disease.

T. "Medication aide program" means the formal program of study, certification, continuing education, standards of functions, disciplinary action, and minimum standards. A board approved nurse is required for the supervision and observation of the medication aide.

U. "Medication aide participant program" means any agency that utilizes certified medication aides and does not have a board approved medication aide training program that prepare individuals for initial certification. A board approved nurse educator is required for supervision and observation of the medication aide.]

V. "Multiple certification" means certified medication aides who have a current certificate in good standing and take the additional required training to work with different population specific care groups.

W. "NPA" means the Nursing Practice Act.

X. "Nurse educator" means a registered nurse who is the program administrator for a specific agency that develops, coordinates [and/or] or teaches the medication aide program or participant program. Retains ultimate responsibility for determining competency of medication aides.

Y. "OTC medications" means medications can be purchased over-the-counter without a prescription. OTC medications must be stored in original manufacturer's packaging and affixed with the original manufacturer's labeling. Provider's orders with adequate instructions must be

obtained prior to the administration of OTC medications by the certified medication aide.

Z. "Population specific care" means the standards of care regarding medication administration requirements for specific consumer care groups [~~These groups include, but are not limited to intermediate care facilities for the mentally or developmentally disabled, long term care or schools~~].

AA. "Prn" means instruction to give medication as needed and requires judgment.

AB. "Program review" means the process whereby the program at the facility is evaluated to assure compliance with the rules and regulations governing the CMA program. This may include a site visit with or without official notification to an agency.

AC. "Properly labeled container" means a medication container which includes the name, address and telephone number of the pharmacy, the name of the prescriber, the full name of the resident, the date the order was filled, the brand and generic name of the drug, the dosage of the drug, strength of the drug, lot number, expiration date, adequate instructions for use and cautionary label as necessary.

AD. "Reactivation" means the process of making a certificate current which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this action does not involve board action.

AE. "Reinstatement" means the process whereby a certificate, which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action.

AF. "Routine medication" means a medication for which the frequency of administration, amount, strength, and method of administration are specifically fixed as determined by the health care provider. Routine does not include medications for which the time of administration, the amount, the strength of dosage, the method of administration or the reason for administration is left to judgment or discretion.

AG. "Standards of function" means a range of tasks/activities performed by certified medication aides for consumers who are stable and predictable, supervised by a licensed nurse who may need to limit the range of tasks based on the consumer's need or add via delegation.

AH. "Supervision/direction" means initial verification of a person's knowledge and skills in the performance of a specific function [and/or] or activity followed by DD. periodic observation, direction

and evaluation of that person's knowledge and skills as related to the specific function ~~and/or~~ or activity.

[~~X~~]HH. "ULA" means the Uniform Licensing Act.
[16.12.5.7 NMAC - Rp, 16.12.5.7 NMAC, 8-16-05; A, 6-17-08]

16.12.5.8 FEES: Payment of fees will be accepted in the form specified by the board. Fees are not refundable.

A.	Initial certification by examination.....	\$ 45.00
B.	Certification by exam for CMA II.....	\$60.00
B C.	Re-examination.....	\$ 30.00
C D.	Renewal of medication aide certificate.....	\$ 45.00
D E.	Reactivation of a lapsed certificate.....	\$ 50.00
E F.	Each additional population specific certificate.....	\$ 15.00
F G.	Reactivation of a lapsed certificate following board action.....	\$ 60.00
G H.	Initial training program review and approval.....	\$ 250.00
H I.	Biennial training program evaluation.....	\$ 200.00
I	Initial participant program review and approval.....	\$ 200.00
J	Biennial participant program evaluation.....	\$ 175.00

[16.12.5.8 NMAC - Rp, 16.12.5.8 NMAC, 8-16-05; A, 6-17-08]

16.12.5.9 CERTIFICATION BY EXAMINATION REQUIREMENTS FOR MEDICATION AIDES:

A. Prerequisites:
(1) Be a minimum of eighteen (18) years of age.
(2) Be a high school graduate or complete the general education development course.

(3) Provide documentation of a minimum of 6 months health care experience working at the board approved agency within the last year.

(4) Successfully complete a board-approved program for the preparation of medication aides.

(5) Complete the required application form within the specified deadline and according to all policies.

(6) Provide proof of current CPR certification.
(7) Remit the required fee.

B. Application and fee for the medication aide examination must be submitted to the board office at least thirty (30) days prior to the date of the examination.

(1) Any application containing fraudulent or misrepresented information could be the basis for denial of certification.

(2) Incomplete applications for certification become null and void one (1) year after date of last noted activity.

(3) Verification of successful completion of the medication aide program including date of completion must be received in the board office directly from the agency which provided the program, at least thirty (30) days prior to the exam date.

(4) An admission letter which includes the time, date and place of the examination will be issued to all eligible candidates.

(5) The reexamination fee will be charged for all failed examinations and non-excused applicants.

(6) If an applicant is scheduled to write the medication aide examination and is unable to attend, the applicant must notify the board no later than seven (7) days after the examination date. Lack of notification will result in a reexamination fee.

(7) Results of the examination shall be reported by mail only to the individual applicant no later than four (4) weeks following the examination date. Successful candidates shall be issued a certificate.

(8) Successful completion of the examination can be verified through the board's website.

C. Medication aide certification examination.

(1) The board shall develop and maintain the board-approved examination for medication aides.

(2) Board-approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.

(3) The MAAC shall set the examination dates.

(4) Applicants for certification as a medication aide shall be required to pass the medication aide examination with a minimum of 80% of the items answered correctly.

(5) Failed examinations must be repeated in their entirety on all subsequent attempts.

(6) Unsuccessful candidates may not repeat the examination for two (2) months.

(7) The examination may be taken a maximum of three times. After the third failure, the applicant must provide verification of repeating and completing the training portion of a board-approved medication aide program to be eligible to sit for the exam.

(8) Applicants observed giving ~~and/or~~ or receiving unauthorized assistance during the writing of the examination shall be physically removed from the examination center and the individual(s) shall be referred to the board by a sworn complaint(s) filed by the examiner.

D. Certification by examination for CMA-II.

(1) CMA-II shall be required to pass a certification examination with a minimum score of 80% that is specific to their expanded scope of function as defined in the core curriculum (16.12.5.16 NMAC).

(2) CMA-II applicants who fail the exam may repeat the examination one time within a six month period without repeating an approved training program. If the CMA-II does not pass the second examination they must take a refresher course specific to the expanded scope of function and wait one year from the first test date to retake the examination.

~~D~~**E.** Requirements for medication aide recertification.

(1) Applicants for recertification as a medication aide must meet the continuing education and work requirements as stated in these rules.

(2) In order to meet the CE requirement for recertification as a medication aide, the applicant must provide evidence of having accrued sixteen (16) clock hours of CE within the two (2) years renewal period immediately preceding recertification.

(a) The agency shall grant opportunities for CE.

(b) Acceptable courses shall be those with topics related to medications and medication administration.

(c) CMAs with multiple certificates must accrue an additional two (2) hours of CE for each additional population specific consumer group certificate that they hold in order to recertify within the two (2) year renewal period.

(d) CE requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non compliant within sixty (60) days of the first notification of the audit.

(e) Failure to meet the CE requirements for recertification shall result in denial of recertification. Individuals who do not meet the continuing education

requirement may not function as a medication aide until such time as the CE requirement has been met.

(f) CMA-II shall accrue four additional contact hours of continuing education within the 24 months preceding recertification. These additional contact hours must be specific to their expanded scope of function.

(3) In order to meet the work requirement for recertification as a medication aide, the applicant must administer medications a minimum of 100 hours during the two year period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non compliant within sixty (60) days of the first notification of the audit.

(b) Failure to meet the employment requirement shall result in denial of recertification.

(c) Individuals who have not met the employment requirement may not function as a medication aide, until a twenty-four (24) hour refresher course has been completed and a recertification application and fee have been submitted, processed, and accepted by the board. Completion of a refresher course shall meet both the employment and CE requirement for the renewal period.

(4) Refresher course.

(a) Completion of a minimum of twelve (12) hours of classroom studies and twelve (12) hours of supervised clinical practice in a board-approved medication aide program under the direction of the nurse educator to include authorized and prohibited functions of a medication aide.

(b) A passing score of 80% on the agency's final examination.

(c) Refresher course requirements are found in 16.12.5.20 NMAC.

(d) The nurse educator shall provide verification on agency letterhead to the board of nursing about the medication aide's completion of the refresher course before a new certificate is issued.

(e) Failure to meet any of the requirements for the refresher course shall require the individual to complete a board-approved training program curriculum in its entirety.

(5) Renewal applications may be mailed to the medication aide at least six (6) weeks prior to the end of the renewal month. Renewal applications are available on the board's website.

(a) Failure to receive the notification for renewal shall not relieve the medication aide of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not

renewed by the end of the renewal month, the medication aide does not hold a valid certificate and shall not function as a medication aide in NM until the lapsed certificate has been reactivated.

(c) Renewal application and fee must be submitted, processed, and accepted by the board.

(6) Medication aides shall be required to complete the renewal process by the end of their renewal month every two years.

(7) Certificates are issued by mail only.

(8) Medication aides with expired certificates of over two (2) years duration shall complete the refresher course in order to be recertified.

(9) Remit the required fee.

[E]E. Requirement for multiple certifications (see 16.12.5.21 NMAC).

(1) A CMA may request additional certification upon completion of twenty (20) hours of population specific care training. Population specific care requirements are found in Subsections F, G and H of 16.12.5.19 NMAC.

(2) Each additional certificate will require the completion of twenty (20) hours population specific care training.

(3) A certificate indicating the new certifications shall be issued upon written verification from the nurse educator according to 16.12.5.21 NMAC and will expire on the date of the initial certification as a medication aide.

(4) Renewal of multiple certifications shall thereafter fall on the same date.

(5) Remit the required fee.

[F]G. Individuals who have practiced as medication aides in other states or who have been certified in another state may apply for certification in the state of New Mexico if they:

(1) submit written verification of completion of medication aide training program in another state directly to the board by the training program;

(2) submit written verification of 100 hours as a medication aide during the 24 month period immediately preceding request to become certified in New Mexico directly to the board by their employer;

(3) complete the medication aide training program's medication administration procedures/skills list;

(4) pass the training program's final examination with a score of 80% or better;

(5) provide written verification by the board approved agency, on agency letterhead, of successful completion of 20 hours of supervised clinical practice, skills list, and the final examination results;

(6) successfully complete the board's medication aide certification exam-

ination with a score of 80% or better;

(a) medication aides who have practiced in another state or are certified in another state may practice as medication aides with a temporary certificate once they have completed the requirements listed in Paragraphs 1 through 6 of Subsection F of 16.12.5.9 NMAC;

(b) upon completion of requirements identified in Paragraphs (1) through (6) of Subsection F of 16.12.5.9 NMAC the medication aide must apply to take the next immediately available board approved medication aide certification examination; an initial certification by examination application with fee must be submitted, processed and accepted by the board according to examination required deadline;

(c) upon successful completion of the examination with a score of 80% or higher a certificate will be mailed to the medication aide;

(d) failure to successfully pass the medication aide certification examination shall require the medication aide to complete a board approved training program curriculum in its entirety.

H. Nursing students currently enrolled in a school of nursing may be certified as medication aides if they meet the following criteria.

(1) Students nurses who have successfully completed a nursing pharmacology course and two of the following may apply for medication aide certification:

(a) nursing courses to include: pathophysiology (I), anatomy (II) and physiology (III);

(b) completed a nursing fundamentals course; or

(c) certified nursing assistant course.

(2) Complete the required application form and remit the required fee.

(3) Written verification of successful completion of courses with a "C" or higher must be submitted by the nursing school on letterhead.

(4) If completed certified nursing assistant course, must provide verification of a current certificate in good standing with the state department of health.

(5) Provide proof of a current CPR card.

[16.12.5.9 NMAC - Rp, 16.12.5.9 NMAC, 8-16-05; A, 6-17-08]

16.12.5.10 STANDARDS OF FUNCTIONS FOR THE MEDICATION AIDE:

A. The purpose of this section is to establish standards for the supervision/direction of medication aides; to identify basic authorized functions for the medication aide and; to identify prohibited functions for the medication aide.

B. Authorized functions of the medication aide - medication aides who have been certified by the NM board of nursing may under the supervision/direction of a registered nurse administer routine medications. ~~[EXCEPTION: Medication aides can not administer intramuscular, intravenous, subcutaneous and nasogastric medications.]~~

(1) The medications must have been ordered by a person authorized in the state to prescribe medications.

(2) The medication must be prepared by the person who will administer it.

(a) **EXCEPTION:** School medication aides may administer auto injector epinephrine to school staff and students during school hours in an emergency life threatening situation.

(b) School medication aides must receive training in the administration of auto injector epinephrine by the nurse educator. The nurse educator must document the training.

(3) Medication administration errors must immediately be reported to the registered nurse by the medication aide.

(4) Adverse reactions must immediately be reported to the registered nurse by the medication aide.

(5) Administer PRN medications only after contacting and receiving authorization from licensed nurse to administer the PRN medication. Authorization is required for each individual instance of PRN administration of a medication.

C. Prohibited functions of the medication aide:

(1) shall not administer medication by intramuscular, intravenous, subcutaneous or nasogastric routes; **exception:** certified medication aides may administer insulin if they have successfully completed a current CHT II board approved certification program;

(2) shall not take medication orders;

(3) shall not alter medication dosage as ordered by the prescriber;

(4) shall not perform any function or service for consumers for which a nursing license is required under the Nurse Practice Act;

(5) shall not administer medication without the supervision/direction of a registered nurse;

(6) shall not administer medications in any agency other than a board approved agency.

D. Supervision/direction.

(1) A nurse educator shall periodically provide supervision/direction to the certified medication aide administering medication(s) ~~[as follows]:~~

~~[(a) instruction regarding medication, dose, time, route, method of administration, documentation, and consumer~~

~~observations;]~~

~~[(b)](a)~~ a registered nurse shall be available 24 hours a day (on call) to supervise medication aides as determined by the agency work hours;

~~[(e)](b)~~ develop and institute a yearly performance evaluation of each CMA; the performance evaluation shall be based upon the standards listed in these rules; the performance evaluation shall also include a review of the number of medication errors committed by the CMA.

(2) A nurse educator shall monitor an agency's medication aides as directed by the board to include the following:

(a) review all medication administration errors and incident reports filed since the nurse educator's last review;

(b) meet with each medication aide to review and discuss problems, difficulties, or irregularities in administering medications and to provide appropriate instruction;

(c) prepare and submit to the board of nursing a written, signed report of findings, observations, problems, irregularities, safety violations and recommendations in medication administration.

(3) The registered nurse may delegate to the licensed practical nurse the supervision/direction of the medication aide.

E. Certified medication aide II - expanded scope of function.

(1) The expanded role is a privilege and not a requirement for all CMA's to meet.

(2) The nurse educator shall approve the CMA assuring the CMA meets specific criteria.

(3) CMA must be employed full-time for one year in a board approved facility.

(4) Must have been a CMA for one year and have fulfilled all CMA requirements and be in good standing with the board.

(5) Authorized functions shall include subcutaneous injection of insulin.

(6) Must complete board approved curriculum and pass the board examination with 80% or better.

[16.12.5.10 NMAC - Rp, 16.12.5.10 NMAC, 8-16-05; A, 6-17-08]

16.12.5.11 DISCIPLINARY ACTION:

A. The board shall conduct hearings upon charges relating to discipline of a CMA or the denial, suspension or revocation of a medication aide certificate in accordance with the ULA (61-3-10, NMSA, 1978) for the purpose of protecting the public.

B. Grounds for action.

(1) Incapable of functioning as a medication aide which is defined to include,

but not limited to, the following:

(a) inability to function with reasonable skill and safety as a medication aide for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of consumers in the administration of medications or failure to conform to the essential standards and prevailing standards of medication aides, in which actual injury need not be established;

(c) omitting deliberately and failing to record information regarding medications and medication administration which could be relevant to the consumer's care;

(d) demonstrating a lack of competence through repeated medication errors.

(2) Incapable of functioning as a responsible member of the health care team which is defined to include, but not limited to, the following:

(a) falsifying or altering consumer records or personnel records for the purpose of reflecting incorrect or incomplete information;

(b) misappropriation of money, drugs or property;

(c) obtaining or attempting to obtain any fee for consumer services for one's self or for another through fraud, misrepresentation or deceit;

(d) obtaining, possessing, administering or furnishing prescription drugs to any person, including, but not limited to one's self, except as directed by a person authorized by law to prescribe;

(e) failure to follow established procedures and documentation regarding controlled substances;

(f) obtaining or attempting to obtain a certificate to function as a medication aide for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the certification by examination or recertification process;

(g) failure to report a medication aide, who is suspected of violating the NPA, administrative rules ~~[and/or]~~ or 16.12.5 NMAC;

(h) exceeding the scope of functions of a medication aide;

(i) intentionally abusing, neglecting or exploiting a consumer;

(j) intentionally engaging in sexual contact toward or with a consumer in a manner that is commonly recognized as outside of the medication aide's scope of tasks;

(k) administering medications without the supervision/direction of a registered nurse;

(l) conviction of a felony;

(m) dissemination of a patient/client's health information or treatment plan acquired during the course of employment to individuals not entitled to

such information and where such information is protected by law or hospital/agency policy from disclosure.

C. Disciplinary proceedings - disciplinary proceedings are conducted in accordance with the administrative rules of the New Mexico board of nursing and pursuant to the Uniform Licensing Act. [16.12.5.11 NMAC - Rp, 16.12.5.11 NMAC, 8-16-05; A, 6-17-08]

16.12.5.12 APPROVAL OF MEDICATION AIDE PROGRAMS:

A. The purpose of the rules [related to medication aide programs,] is to set reasonable requirements that protect the health and well-being of the consumers that receive services from medication aides in board approved programs. NPA (Section 61-3-10.2). The objectives include promoting safe and effective care of consumers receiving medications from CMAs; establishing minimum standards for the evaluation and approval of medication aide programs; facilitating continued approval and improvement of the medication aide programs; granting recognition and approval that a medication aide program is meeting the required minimum standards; and establishing eligibility of graduates of the training portion of a medication aide program to apply for certification by examination.

~~[B. Medication aide participant programs shall meet all criteria for approval except those that are specific to the education/training components of the medication aide training programs that prepare individuals for initial certification as medication aides. Participant programs are subject to denial or withdrawal of program approval, program visits, and shall notify the board of nursing regarding changes in internal administrative or organization plan of the agency, and change in the nurse educator responsible for the supervision of medication aide program.]~~

~~[C.]~~ B. All new medication aide training and medication aide participant program approved nurse educators shall participate in an orientation that will be presented by board staff.

~~[D. Medication aide participant programs who wish to utilize certified medication aides may contract with a board approved medication aide training program to provide the classroom portion of the education program.]~~

~~[(1) Upon completion of classroom study, the nurse educator of the training program will verify to the nurse educator of the participant program that the individual has successfully completed and passed this course of study.]~~

~~[(2) The participant program shall have a board approved registered nurse~~

~~educator to supervise and observe the clinical practice experience in the participating agency.]~~

~~[(3) The participant program nurse educator will verify that the individual has successfully completed and passed this part of the program.]~~

~~[(4) The board approved nurse educator at the participant program shall submit the required documentation to the board of nursing verifying completion of the training and an application to take the certification examination will be submitted by the candidate.]~~

~~[(5) The participant program is responsible for the continued direction and supervision of the medication aide program as provided in these rules.]~~

[16.12.5.12 NMAC - Rp, 16.12.5.12 NMAC, 8-16-05; A, 6-17-08]

16.12.5.13 TYPES OF APPROVAL:

A. Initial program approval - any agency wishing to obtain approval of a medication aide program shall submit, in writing, an application for approval to the board's MAAC. Incomplete applications will not be reviewed. The MAAC shall evaluate the application and make a recommendation to the board regarding the approval of the medication aide program. The board of nursing shall approve medication aide programs at regularly scheduled board meetings.

(1) The initial application for approval shall be consistent with the minimum standards for medication aide programs and shall contain the following:

(a) objectives of the medication aide program;

(b) organizational chart;

(c) name of the administrator and the director of nursing;

(d) name and resume of the nurse educator(s) and other faculty;

(e) program curriculum;

(f) number of hours to be spent on each topic;

(g) evaluation tools that demonstrate written and clinical proficiency to include a quality assurance program;

(h) policies and procedures that outline the scope of function of medication aide in the board approved agency;

(i) job description of medication aide and;

(j) required fee.

(2) Representatives of the medication aide program may be scheduled to meet with the MAAC to present the proposed program.

(a) Upon the MAAC's approval of the application, a recommendation for approval shall be made to the board.

(b) Applications not approved

will be returned and may be resubmitted for approval when complete and deficiencies have been corrected.

(3) After receipt of the MAAC's report and recommendation(s), the board may:

(a) grant approval of a program;

(b) defer a decision regarding approval;

(c) deny approval;

(d) direct staff to make a pre-approval evaluation visit.

B. Full approval, for a period not to exceed two (2) years, shall be granted to medication aide programs if, in the opinion of the board, the program demonstrates compliance with 16.12.5.17 NMAC, minimum standards for medication aide programs.

(1) To ensure continued compliance with 16.12.5.17 NMAC, minimum standards for medication aide programs, medication aide programs shall be evaluated through a written report [monthly] or as determined by the board or the advisory committee.

(a) During the period of full approval, the MAAC will determine annual medication aide program site visits to evaluate compliance with these rules.

(b) A representative of the medication aide program may request or be requested to meet with the MAAC to clarify and respond to questions regarding the evaluation.

(c) After the MAAC's review of the evaluation, a report shall be made to the board regarding continuation of the medication aide program's approval.

(d) The board is the final authority regarding continued approval or probation.

(2) Prior to the expiration of full approval, ~~[an approval visit shall be made by at least two (2) representatives appointed by the board.]~~ a program review shall be conducted by a representative from the board of nursing to evaluate programmatic compliance. The report of the visit shall be submitted to the MAAC for review and recommendation to the board regarding approval.

C. Probationary approval.

(1) A medication aide program may be given probationary approval when there is evidence of:

(a) substantial non-compliance with the minimum standards for medication aide programs;

(b) continuous disruptions in retaining qualified nurse educators;

(c) noncompliance with the medication aide program's stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory student achievement;

~~[(d) failure of 80% of first time~~

~~writers of the examination to correctly answer at least 80% of the items on the examination over a one-year period;~~

~~(e)(d)~~ failure to provide clinical experience ~~and/or~~ or supervision necessary to meet the objectives of the medication aide program;

~~(f)(e)~~ substantial non-compliance with any portion of these rules.

(2) The medication aide program shall be advised, in writing, of the reason(s) for probationary approval.

(3) The board shall designate a reasonable time period, not to exceed one year, in which the medication aide program must correct deficiencies and meet the minimum standards for approval.

(4) The official of the medication aide program may request, in writing, a hearing before the board.

(a) The hearing may be requested at any time prior to the end of the probationary period.

(b) Hearings shall be scheduled in conjunction with a regularly scheduled meeting of the board.

(c) The information and data presented at the hearing shall be evaluated by the board. Resulting from the evaluation, the board may determine changes in the stipulations required during the period of probation.

(d) Prior to the end of the period of probationary approval, ~~[an approval visit shall be made.]~~ a program review shall be conducted.

(e) Progress reports shall be submitted to the MAAC as directed by the board.

(f) After review of any progress report, the board may request representatives of the medication aide program to meet with the MAAC for consultation and assistance in correcting the deficiencies.

(5) All decisions of the board ~~and/or~~ and recommendations of the MAAC shall be communicated, in writing, to the medication aide program officials.

(6) Probationary approval is not renewable. Failure to correct deficiencies will result in withdrawal of approval. [16.12.5.13 NMAC - Rp, 16.12.5.13 NMAC, 8-16-05; A, 6-17-08]

16.12.5.15 PROGRAM VISITS: REVIEWS:

A. Types:

(1) Approval ~~[visit]~~ assessment: ~~[visit]~~ made to a medication aide program by representatives of the board for the purpose of determining board approval.

(2) Evaluation ~~[visit]~~ review: ~~[visit]~~ made to medication aide program by board representatives at the request of the board for the purpose of evaluating a program's progress and approval status.

(3) Consultation ~~[visit]~~ assess-

ment: ~~[visit]~~ made to the medication aide program by the board representatives at the request of the program officials.

(4) Course visit: visit which may be done at anytime to a participating medication aide program.

(5) Program review: conducted to assess compliance with programmatic requirements and to assess the status of the program at the facility.

B. The board reserves the right to make unannounced visits.

C. A report of the visit made by representative(s) of the board shall be provided to the medication aide program, MAAC, and the board for final disposition regarding approval status.

D. The survey team for visits shall be ~~[comprised of at least]~~ conducted by one professional board staff member ~~[and one member of the MAAC].~~

~~[E. The agency shall remit the required fee prior to the visit.]~~

[16.12.5.15 NMAC - Rp, 16.12.5.15 NMAC, 8-16-05; A, 6-17-08]

16.12.5.16 CHANGES REQUIRING NOTIFICATION TO THE ADVISORY COMMITTEE OR THE BOARD FOR APPROVAL:

A. Once a medication aide program has been granted approval by the board, reapproval shall not be required each time a course is offered so long as the course is not changed.

B. Program changes requiring notification to the advisory committee ~~and/or~~ or board for approval.

(1) Major curriculum changes ~~and/or~~ or reorganization of the curriculum.

(2) Major changes in the program's objectives or goals.

(3) Changes in the required didactic ~~and/or~~ or clinical hours.

(4) Changes in the internal, administrative or organizational plan of the agency which affects the medication aide program.

(5) Changes in the licensure status of the agency.

(6) Changes in the medication aide program nurse educator.

C. Procedure for requesting board approval for program changes.

(1) The MAAC shall be notified, in writing, of changes in the program requiring board approval. The MAAC shall present the changes and recommendations to the board of nursing at a regularly scheduled meeting.

(2) The notification shall include:

(a) a proposed change(s);

(b) rationale for the proposed change(s);

(c) anticipated effect to the current program;

(d) timetable for implementation of the proposed change(s);

(e) presentation of the differences between the current system and proposed change(s);

(f) method of evaluation which will be used to determine the effect of the changes and;

(g) the required fee.

[16.12.5.16 NMAC - Rp, 16.12.5.16 NMAC, 8-16-05; A, 6-17-08]

16.12.5.17 MINIMUM STANDARDS FOR MEDICATION AIDE PROGRAMS:

A. Objectives - there shall be written objectives for the medication aide program which serve as the basis for the planning, implementation, and evaluation of the program.

(1) The objectives shall be developed by the medication aide program nurse educator and shall describe the competencies of the medication aide and shall include:

(a) principles of safety in the administration of medication;

(b) six (6) rights in preparing and administering drugs;

(c) methods commonly used to safeguard drugs;

(d) process of infection control;

(e) terms related to administration of medications;

(f) abbreviations commonly used when prescribing and administering drugs;

(g) uses, dosages, and necessary precautions in administering drugs;

(h) ability to correctly calculate dosages;

(i) appropriately reporting changes in a consumer's condition;

(j) importance of remaining with consumer while he/she ingest medication;

(k) accurate documentation of medication administration;

(l) legal parameters of the medication aide role;

(m) authorized and prohibited functions;

(n) responsibility for own actions;

(o) maintenance of confidential information;

(p) appropriate skills in medication administration ~~and~~;

(q) understanding of the consumer population and;

(r) confidentiality issues.

(2) The objectives shall be written clearly, and shall identify expected competencies of the beginning medication aide.

(3) The objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum.

(1) The curriculum shall be developed, implemented, evaluated by the med-

ication aide program nurse educator within the framework of the objectives.

(2) The curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop competence consistent with principles of learning and sound educational practice.

(a) There shall be a minimum of sixty (60) hours of classroom study of which forty (40) hours is the medication administration curriculum and twenty (20) hours of population specific care curriculum.

(b) There shall be a minimum of twenty (20) hours of supervised clinical experience. The nurse educator retains accountability and determines the need for additional clinical experience hours.

(c) Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a population specific care setting and shall include clinical learning experiences to develop the skills required by the individual to function safely as a medication aide. A nurse educator or clinical preceptor must be physically present and accessible to the student in the population specific care area.

(d) The CMA-II curriculum shall include a minimum of 16 additional hours of classroom study and a minimum of eighty (80) hours of supervised clinical experience. The CMA II student shall successfully administer insulin to one or more consumers a minimum of 20 times. The nurse educator must verify the successful completion of training with a written letter to the board with the application to test and receive certification as a CMA-II.

(3) The curriculum shall provide, at a minimum, instruction in the subject areas listed in 16.12.5.19 NMAC.

(4) The nurse educator shall develop a written systematic plan for curriculum and program evaluation.

C. Administration and organization.

(1) There shall be a current organizational chart showing the position of the medication aide program within the overall structure of the agency, clearly indicating the lines of authority and responsibility and channels of communication.

(2) The ~~administration of the~~ agency administration shall provide support for the medication aide program to obtain the resources needed for the program to achieve its purpose.

(3) There shall be a nurse educator to administer the program that shall be responsible for:

(a) the development, implementation and evaluation of the medication aide program;

(b) creation and maintenance of an environment conducive to teaching and learning;

(c) liaison with other personnel;

(d) arrangement for direct supervision of the student's clinical experience by a licensed nurse;

(e) provision for a system of permanent records, and records and reports essential to the operation of the medication aide program;

(f) communication with the board of nursing.

D. Faculty.

(1) Each program shall have a nurse educator that is a registered nurse and holds a current license to practice nursing in NM or a current compact state license.

(2) The nurse educator shall have at least two (2) years of recent, within the last five (5) years, nursing practice experience.

(3) The nurse educator shall select the clinical experience for students.

(4) The nurse educator or clinical preceptor must be physically present in the agency while students are engaged in clinical experience.

(5) The ratio of faculty to students, during supervised clinical experience shall not be more than one (1) faculty to two (2) students.

(6) The nurse educator shall be responsible for instruction and evaluation of student performance, termination, grading and progression.

(7) Other health care providers, in addition to the nurse educator, may be appropriate faculty for classroom instruction such as physicians, nurse practitioners and pharmacists.

(8) The nurse educator will have accountability/responsibility in the final selection/determination of any CMA candidate chosen for advancement to CMA II.

E. Records.

(1) The nurse educator's record shall include:

(a) verification of current licensure as a registered nurse in New Mexico or compact state;

(b) continuing education record;

(c) resume;

(d) teaching experience;

(e) verification of board of nursing orientation for nurse educators;

(f) board of nursing appointment letter to position of nurse educator.

(2) The student's record shall include:

(a) admission date;

(b) testing and evaluation records;

(c) classroom and clinical attendance;

(d) final course grade;

(e) copy of application for certification examination;

(f) continuing education attendance records;

(g) current CPR certification.

(3) The clinical preceptor's record shall include:

(a) verification of current licensure as a registered or licensed practical nurse in NM or compact state;

(b) clinical teaching experience;

(c) verification of orientation for clinical preceptors conducted by nurse educator.

[16.12.5.17 NMAC - Rp, 16.12.5.17 NMAC, 8-16-05; A, 6-17-08]

16.12.5.18 MEDICATION AIDE PROGRAM ADVISORY COMMITTEE:

A. Composition and appointment of committee members - The board shall appoint a minimum of a five (5) member voluntary advisory committee which shall be composed of at least three (3) registered nurses and other representatives. The committee shall include one member not employed by a participating agency.

(1) Agencies shall be requested to submit nominations for committee appointments.

(2) There shall be no more than one representative from any one agency serving on the advisory committee at any one time.

(3) Members of the committee shall serve for staggered terms of two (2) years, and may be reappointed to the advisory committee.

B. Responsibility of advisory committee.

(1) The advisory committee shall review applications for initial approval, program evaluations, and changes in medication aide programs, and shall submit reports and recommendations to the board.

(2) The advisory committee shall provide consultation to medication aide programs as requested ~~and/or~~ or directed by the board.

(3) Members of the advisory committee shall serve as survey visitors to medication aide programs for approval, consultation and evaluation visits.

[16.12.5.18 NMAC - Rp, 16.12.5.18 NMAC, 8-16-05; A, 6-17-08]

16.12.5.19 MEDICATION ADMINISTRATION CURRICULUM SUBJECT AREAS:

A. Overview of the medication aide role and responsibilities.

(1) Philosophy and objectives of the medication aide training programs to include:

(a) federal, state and local regulations;

(b) nurse's role and medication aide role including the meaning of delegation;

(c) standards of function for medication aides;

(d) certification expectations and requirements.

(2) Orientation to the medication aide position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the CMA:

(i) roles and contributions of other health team members;

(ii) observation and reporting;

(iii) health team meetings.

B. Legal roles and responsibilities of medication administration including:

(1) consumer's rights;

(2) negligence and malpractice;

(3) ethical issues relating to consumers including but not limited to:

(a) confidentiality;

(b) OSHA;

(4) documentation;

(5) identification of medication errors and required reporting or errors to the nurse.

C. Fundamentals of medication administration.

(1) Terminology.

(2) Definitions/abbreviations.

(3) Six (6) rights of medication administration including:

(a) observations while administering medications;

(b) follow-up after administering medications;

(c) consumer refusal of medication;

(d) OTC and prn medications;

(e) controlled substances.

(4) Drug classifications/identification.

(5) Desired drug effects.

(6) Drug side effects and contraindications.

(7) Drug interactions shall include but not limited to:

(a) food and herb;

(b) synergistic;

(c) antagonistic;

(d) additive.

(8) Allergic reactions/adverse reactions.

(9) Utilization of available resources of medication information shall include but not limited to:

(a) supervising nurse;

(b) written materials;

(c) internet;

(d) pharmacist;

(e) poison control.

(10) Drug nomenclature including:

(a) trade;

(b) generic;

(c) over-the-counter.

(11) Methods of distribution and storage shall include but not limited to:

(a) unit dose;

(b) medication carts;

(c) bubble packs;

(d) prescription bottles;

(e) others.

D. Basic introduction to anatomy and physiology including:

(1) structure;

(2) function;

(3) common health care problems/concerns;

(4) disease processes.

E. First aid and emergency procedures including review of:

(1) cardiac and respiratory emergencies;

(2) choking victims;

(3) first aid.

F. Medication administration procedures/skills check list.

(1) Review the six (6) rights for each skill.

(2) Hand washing for each skill.

(3) Administering:

(a) oral tablets/capsules;

(b) liquids;

(c) powdered medications;

(d) ophthalmic ointments;

(e) ear medications;

(f) instilling liquid eye medications;

(g) nasal medications/dropper and atomizer;

(h) vaginal and rectal creams and suppositories;

(i) topical agents;

(j) metered dose inhalers;

(k) gastrostomy and jejunostomy medications;

(l) nebulizer medications.

(4) Crushing tablets.

(5) Applying:

(a) lotion;

(b) liniment;

(c) ointment/cream;

(d) transdermal patches.

(6) Taking and recording vital signs as needed.

(7) Documentation.

(8) Medication administration situations requiring notification of the nurse:

(a) consumer medical/mental health condition change;

(b) discontinued medication;

(c) medications appear to be contaminated;

(d) OTC or p.r.n. medication is

requested;

(e) disposing of medication.

G. Orientation to population specific care including but not limited to:

(1) specific health care concerns for the population being served;

(2) life developmental stages;

(3) types of consumers specific to the agency.

H. Population specific drug classifications and its relationship to body systems.

(1) Content shall include but is not limited to:

(a) basic review of anatomy and physiology;

(b) common medical disorders as related to the specific population;

(c) common medications given to the specific population including:

(i) drugs including generic and trade names;

(ii) dosage range;

(iii) action;

(iv) major side effects;

(v) contraindications.

(2) Body systems.

(3) Nutrition/hydration/herbal supplements.

~~**I.** CMA's who work in long term care facilities, completed a training program prior to January 1, 2005, and were not trained in medication administration via gastrostomy tubes, jejunostomy tubes and nebulizers must complete an additional two hours of instruction regarding these specific medication administration skills.~~

~~[(1) Required documentation on agency letterhead shall include verification of training completed in the above areas.]~~

~~[(2) Training must be completed with required documentation to the board of nursing by December 31, 2005.]~~

~~[(3) CMA's without documentation to the board of nursing by December 31, 2005 shall have their certificate removed and will not be allowed to remain as certified medication aides. After January 1, 2006, CMA's who have not completed the additional training will be required to complete the refresher course and provide verification to the board of nursing (see Subparagraphs (a) through (c) of Paragraph 4 of Subsection C of 16.12.5.9 NMAC)]~~

~~**J.** Caring for consumers with special needs—If a consumer population requires the care of a certified nursing assistant, individuals enrolling in the course provide documentation of completion of a state approved nursing assistant course.~~

L. Advanced certification for certified medication aide (CMA-II) including their role and responsibilities.

(1) Philosophy and objectives of the advanced certified medication aide

training program to include:

(a) federal, state, and local regulations;

(b) nurse's role and advanced certified medication aide role;

(c) standards of function for advanced certified medication aide;

(d) certification expectations and requirements.

(2) Orientation to the advanced certified medication aide (CMA-II) position including:

(a) review of job specifications;
(b) expectations and responsibilities;

(c) role of the health care team and the advanced certified medication aide;

(i) roles and contributions of other health team member;

(ii) observation and reporting.

(3) Expanded roles and responsibilities of the advanced certified medication aide (CMA-II) including:

(a) consumer's rights;
(b) negligence and malpractice;
(c) ethical issues relating to consumers including but not limited to confidentiality and OSHA;

(d) documentation;
(e) identification of errors and required reporting or errors to the nurse.

(4) Review the concepts and practices of infection control.

(5) Understand the principles and rationale for administration of insulin.

(6) Identification of complications including but not limited to:

(a) emergency life threatening care;
(b) needle dislodgement.

J. Advanced certified medication aide procedures/skills check list for certification in New Mexico.

(1) Identify differences between administration of insulin by pen or by drawing up insulin in a syringe.

(2) Demonstrate ability to maintain a clean/sterile field of care.

(3) Demonstrate correct infection control practices throughout all procedures including the selection of correct antiseptic solutions.

(4) Demonstrate appropriate site selection for administration of insulin.

(5) Demonstrate correct administration of insulin.

(6) Identify and respond appropriately to complications of insulin administration.

[16.12.5.19 NMAC - Rp, 16.12.5.20 NMAC, 8-16-05; A, 6-17-08]

NEW MEXICO PUBLIC REGULATION COMMISSION

TITLE 18 TRANSPORTATION AND HIGHWAYS

CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS

PART 15 FUEL SURCHARGE FOR COMMISSION RATE-REGULATED MOTOR CARRIERS

18.3.15.1 ISSUING AGENCY:
New Mexico Public Regulation
Commission.
[18.3.15.1 NMAC - N, 5-15-08]

18.3.15.2 SCOPE: This rule
applies to all certificated motor carriers of
persons and wrecker services performing
non-consensual tows.
[18.3.15.2 NMAC - N, 5-15-08]

**18.3.15.3 STATUTORY
AUTHORITY:** NMSA 1978 Sections 8-8-
4, 65-2A-4 and 65-2A-21.
[18.3.15.3 NMAC - N, 5-15-08]

18.3.15.4 DURATION :
Permanent.
[18.3.15.4 NMAC - N, 5-15-08]

18.3.15.5 EFFECTIVE DATE:
May 15, 2008, unless a later date is cited at
the end of a section.
[18.3.15.5 NMAC - N, 5-15-08]

18.3.15.6 OBJECTIVE: The
purpose of this rule is to establish a procedure
providing fair and reasonable voluntary
fuel surcharges to certificated motor
carriers of persons and wrecker services
non-consensual tows.
[18.3.15.6 NMAC - N, 5-15-08]

18.3.15.7 DEFINITIONS: In
addition to the definitions in 1NMSA 1978
Sections 24-10B, 65-2A-3, 65-6-2, and
18.3.1.7 NMAC, as used in this rule:

A. base year means the
reference calendar year used as a base for
determining the fuel price increase percentage
in comparison to a current reference price;

B. EIA reference price
refers to the weekly gasoline or diesel fuel
price for the Rocky mountain region, as
published at the United States department of
energy's official energy information administration
website at
<http://tonto.eia.doe.gov/oog/infogdu/gas-diesel.asp>, or such other address on which
that same information may be displayed by
the energy information administration in the
future;

C. fuel price increase

percentage is the percentage by which the
current EIA weekly reference price of fuel
has risen in comparison to the base year;

D. fuel surcharge program
means the procedures and requirements set forth
in this rule, by which certificated motor carriers
of persons and wrecker services performing non-
consensual tows may implement limited increases
and decreases in their rates, reflecting the
changing price of fuel, without a formal
proceeding before the commission;

E. maximum chargeable rates
are highest rates that may be charged by a
motor carrier under the fuel surcharge program,
pursuant to a current reference price;

F. motor carrier fuel expense percentage
means the percentage derived by dividing a
motor carrier's fuel expense attributable to a
certificated service by the motor carrier's gross
revenues derived that same certificated;

G. participating motor carrier
means a motor carrier of persons which has
elected to participate in the fuel surcharge
program;

H. rate increase percentage
is the potential percentage increase in rates
available to a particular motor carrier.
[18.3.15.7 NMAC - N, 5-15-08]

**18.3.15.8 TOWING SERVICES
PERFORMING NON-CONSENSUAL
TOWS:** Motor carriers performing non-
consensual towing services which choose to
participate in the fuel surcharge program shall
comply with the following adjustment formula:

A. fuel adjustment per
mile = (the current EIA reference price for
diesel or gasoline fuel minus \$1.45) divided
by 5, where 5 is a constant for the miles per
gallon and \$1.45 is the base cost per gallon
for fuel conclusively assumed and used in
this formula for wrecker vehicles;

B. fuel surcharge = fuel
adjustment per mile multiplied by total
distance traveled, included both loaded and
unloaded miles;

C. the result of the "fuel
adjustment": formula defined in this section
shall be applied by participating motor carriers
as an addition to, or as a subtraction from,
the overall customer bill for fuel costs, as
may be applicable for EIA reference diesel or
gasoline prices above and below \$1.45 per
gallon;

D. the fuel adjustment shall be
stated as a separate charge on the charge
ticket or invoice, and shall include the
surcharge amount per mile and total miles
charged for fuel.

[18.3.15.8 NMAC - N, 5-15-08]

HISTORY of 18.3.15 NMAC:
[RESERVED]

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

**TITLE 3: TAXATION
CHAPTER 2: GROSS RECEIPTS
TAXES
PART 248: DEDUCTION -
GROSS RECEIPTS TAX - MEDICAL
TREATMENT OF CATTLE**

3.2.248.1 **ISSUING AGENCY:**
Taxation and Revenue Department, Joseph
M. Montoya Building, 1100 South St.
Francis Drive, P.O. Box 630, Santa Fe NM
87504-0630

[3.2.248.1 NMAC - N, 5/15/08]

3.2.248.2 **SCOPE:** This part
applies to each person engaging in business
in New Mexico.

[3.2.248.2 NMAC - N, 5/15/08]

3.2.248.3 **STATUTORY
AUTHORITY:** Section 9-11-6.2 NMSA
1978.

[3.2.248.3 NMAC - N, 5/15/08]

3.2.248.4 **DURATION:**
Permanent.

[3.2.248.4 NMAC - N, 5/15/08]

3.2.248.5 **EFFECTIVE DATE:**
5/15/08, unless a later date is cited at the
end of a section, in which case the later date
is the effective date.

[3.2.248.5 NMAC - N, 5/15/08]

3.2.248.6 **OBJECTIVE:** The
objective of this part is to interpret, exem-
plify, implement and enforce the provisions
of the Gross Receipts and Compensating
Tax Act.

[3.2.248.6 NMAC - N, 5/15/08]

3.2.248.7 **DEFINITIONS:**
[Reserved.]

3.2.248.8 **WRITTEN STATE-
MENT OF FARMING OR RANCHING**

A. Receipts from provid-
ing veterinary medical services or from sell-
ing medicine or medical supplies used in the
medical treatment of cattle to a person who
states in writing that they are regularly
engaged in the business of ranching or
farming may be deducted from the seller's
gross receipts pursuant to Section 7-9-109
NMSA 1978. The written statement must be
accepted in good faith by the seller in order
for the seller to take the deduction author-
ized by Section 7-9-109 NMSA 1978. The
good faith acceptance requirement applies
to each transaction intended to be covered
by the written statement.

B. The following is an

example of a statement that will be accept-
ed by the department as conclusive evi-
dence that receipts from selling enumerated
items to persons signing the statement may
be deducted from the seller's gross receipts
pursuant to Section 7-9-109 NMSA 1978 if
the seller accepted such a statement in good
faith. "I swear or affirm that I am regularly
engaged in the business of farming or
ranching. This declaration is made for the
purpose of allowing receipts from selling
veterinary medical services, medicine and
medical supplies used in the medical treat-
ment of cattle to be deducted from the gross
receipts of the seller pursuant to Section 7-
9-109 NMSA 1978."

C. Receipts from selling
any of the items mentioned in Section 7-9-
109 NMSA 1978 to a person engaged in the
farming or ranching business may not be
deducted from gross receipts unless the sale
is made to a person who makes a written
statement which is in compliance with
3.2.248.8 NMAC.

D. For the purposes of
Section 7-9-109 NMSA 1978 it is sufficient
if the seller receives one written statement
from each purchaser, provided the seller
maintains that statement on file.

E. When the seller accepts
in good faith a person's written statement
that the person is regularly engaged in the
business of farming or ranching, the written
statement shall be conclusive evidence that
the receipts from the transaction with the
person having made the statement are
deductible from the seller's gross receipts
under Section 7-9-109 NMSA 1978.

[3.2.248.8 NMAC - N, 5/15/08]

History of 3.2.248 NMAC: [RESERVED]

**NEW MEXICO TAXATION
AND REVENUE
DEPARTMENT**

This is an amendment to 3.2.234 NMAC,
Sections 8 and 10, effective 5/15/08.

3.2.234.8 **[~~"INJECTIBLES";~~]
PACKAGING AND STORAGE CON-
TAINERS**

A. **"INJECTIBLES":**
Injectibles are a combination of tangible
personal property sold as a unit for a single
price in which a prescription drug is pre-
loaded by the manufacturer into a device,
such as a syringe, to administer the pre-
scription drug. Receipts from selling the
device, such as a syringe, by itself are not
deductible under Section 7-9-73.2 NMSA
1978. When sold as part of an injectible,
however, the device will be considered sim-
ply an elaborate form of packaging inci-
dental to the sale of the prescription drug.
Receipts from selling injectibles may be

deducted from gross receipts under Section
7-9-73.2 NMSA 1978.

B. The receipts of an oxy-
gen service provider from the lease of oxy-
gen canisters, cylinders or similar storage
containers to recipients of oxygen services
are deductible pursuant to Section 7-9-73.2
NMSA 1978 if the oxygen service provider
sells the entire package, including the lease
of the containers, as part of the oxygen ser-
vice they provide.

C. Receipts from the sale
or lease of machines or equipment that pro-
duce oxygen or filter the air are not receipts
from the sale of oxygen or from providing
oxygen services and therefore not
deductible under Section 7-9-73.2 NMSA
1978.

[10/29/99; 3.2.234.8 NMAC - Rn, 3 NMAC
2.73.3.8 & A, 6/14/01; A, 5/15/08]

3.2.234.10 **ITEMS THAT ARE
NOT PRESCRIPTION DRUGS:**

Tangible personal property that may be sold
or dispensed for human consumption or
administered to a human without a prescrip-
tion of a person, such as a medical doctor,
licensed to prescribe the property's use or to
administer it are not "prescription drugs".
Items that do not require a prescription,
such as medical equipment, ~~[oxygen,]~~ vita-
mins and aspirin are not "prescription
drugs" even if prescribed by a licensed
medical doctor. Tangible personal property
sold or dispensed for non-human consump-
tion or administered to a non-human are not
"prescription drugs" unless a veterinarian is
required to prescribe the use of or to admin-
ister the property.

[3.2.234.10 NMAC - N, 10/31/2000; A,
5/15/08]

End of Adopted Rules Section

SUBMITTAL DEADLINES AND PUBLICATION DATES

2008

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