

**NEW  
MEXICO  
REGISTER**



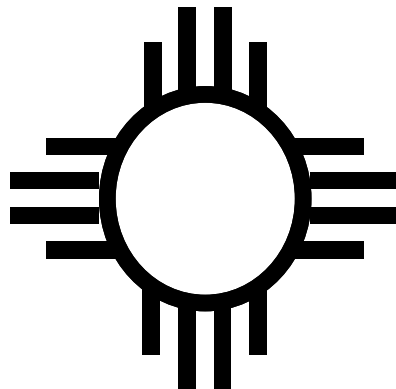
Volume XVII  
Issue Number 2  
January 31, 2006



# **New Mexico Register**

**Volume XVII, Issue Number 2**

**January 31, 2006**



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

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Administrative Law Division  
Santa Fe, New Mexico  
2006

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# New Mexico Register

Volume XVII, Number 2

January 31, 2006

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### Adopted Rules

#### Effective Date and Validity of Rule Filings

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

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## Notices of Rulemaking and Proposed Rules

### NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS LIBRARY DIVISION

#### NOTICE OF PUBLIC HEARING

The New Mexico State Library of the Department of Cultural Affairs, will hold a formal public hearing on Thursday, March 16, 2006, at 11:00 am in the Executive Room of the Library's Administration Area, Garrey Carruthers building 1209 Camino Carlos Rey, Santa Fe, New Mexico to receive public comments regarding the amendment of 4.5.7 NMAC "Governing Conduct and Use by Patrons at the New Mexico State Library."

The proposed regulation changes may be obtained by contacting Joy Poole at 505-476-9712. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on March 16, 2006. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Joy Poole, Public Services Director, New Mexico State Library, 1209 Camino Carlos Rey, Santa Fe, NM 87507, Fax Number: 505-476-9703, Electronic Mail: joy.poole@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 Joy Poole at 505-476-9712. The New Mexico State Library requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

### NEW MEXICO HOISTING OPERATORS LICENSURE EXAMINING COUNCIL

#### LEGAL NOTICE

#### Public Rule Hearing

The New Mexico Hoisting Operators Licensure Examining Council will hold Rule Hearings on the following dates and locations: Monday, March 20, 2006 - 3:00 pm to 7:00 pm - Farmington Civic Center-Exhibit Hall #3 at 200 West Arrington in Farmington, New Mexico; Tuesday, March 21, 2006 - 3:00 pm to 7:00 pm at the Construction Industries Division -5200 Oakland Avenue NE in Albuquerque, New Mexico; and Thursday, March 23, 2006 - 3:00pm to 7:00pm at the Hobbs Library -

509 North Shipp in Hobbs, New Mexico.

The purpose of the rule hearings is to consider adoption of proposed amendments to the 16.43.2 NMAC, in accordance with Chapter 60, Article 15 NMSA 1978 - Hoisting Operators Safety Act. This action will also renumber and reformat the rule and as required by the current NMAC requirements.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Hoisting Program located at 5200 Oakland Avenue NE in Albuquerque, New Mexico 87113 after March 1, 2006. Persons wishing to present their comments at the hearing will need (12) copies of any comments or proposed changes for distribution to the Board and staff.

If you have any questions, or if you are an individual with a disability who wishes to attend the hearings, but you need a reader, amplifier, qualified sign language interpreter, any form of auxiliary aid or service to participate, please call the Executive Director's office at (505) 222-9809 at least two weeks prior to the meetings or as soon as possible.

### NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS

#### NEW MEXICO BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS & PROFESSIONAL SURVEYORS

#### Notice of Public Rule-making Hearings

The Board of Licensure for Professional Engineers and Professional Surveyors will hold a public rules hearing on March 2, 2006 at 9:00 a.m. in the auditorium at the UNM Conference Center, 1634 University Blvd., NE, Albuquerque, NM [on University just north of Indian School]. The Board will be considering proposed changes to Title 16.39.1.1, 16.39.1.3; 16.39.1.8; 16.39.1.12; 16.39.1.13; 16.39.1.16; 16.39.1.17; 16.39.2.1; 16.39.2.3; 16.39.2.8; 16.39.3.1; 16.39.3.3; 16.39.3.8 [including a new rule which would establish specialty sub-disciplines of engineering]; 16.39.3.9; 16.39.3.10; 16.39.3.11; 16.39.3.12; 16.39.3.13; 16.39.4; 16.39.5.1; 16.39.5.3; 16.39.5.8; 16.39.5.9;

16.39.5.10; 16.39.5.11; 16.39.7.1; 16.39.7.2; 16.39.7.3; 16.39.7.9; 16.39.8.1; 16.39.8.2; 16.39.8.3; and 16.39.8.6 NMAC [including a new rule that would establish professional responsibilities for professional engineers practicing fire protection engineering].

The Professional Surveying Committee of the Board of Licensure for Professional Engineers and Surveyors will hold a public rules hearing on March 2, 2006 at 1:00 p.m. in the auditorium at the UNM Conference Center, 1634 University Blvd., NE, Albuquerque to consider proposed changes to the Minimum Standards for Surveying, Title 12.8.212.8.2.1; 12.8.2.2; 12.8.2.3; 12.8.2.5; 12.8.2.7; 12.8.2.8 Requirements; 12.8.2.9 Boundary Surveying; 12.8.2.10; 12.8.2.12; 12.8.2.13; including a new rule which would establish standards for Control Surveying Reporting; 12.8.2.15 Accuracy; and 12.8.2.16 Monuments; and 12.8.2.17 General

Both public rules hearings will be conducted in accordance with the Uniform Licensing Act [section 61-1-1 et. seq. NMSA 1978].

Copies of the proposed changes may be obtained by calling 827-7561, visiting the Board's website [www.state.nm.us/peps-board](http://www.state.nm.us/peps-board), or by writing to the Board at 4001 Office Court Drive, Ste. 903, Santa Fe, NM 87507. Comments on the rules may be provided by statement in person at the hearing, submitted in writing at the hearing, or submitted to the Board in writing by February 24, 2006.

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 the Board at 827-7561 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats.

### NEW MEXICO PUBLIC EDUCATION DEPARTMENT

#### NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca

Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on April 3, 2006, from 10:00 a.m. to noon. The purpose of the public hearing will be to obtain input on the following rules:

Rule Number	Rule Name	Proposed Action
6.75.2 NMAC	RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BYREAU	Amend section 9 to clarify timelines for ordering materials
6.75.4 NMAC (Proposed NMAC Number)	IMPLEMENTATION OF THE BRAILLE ACCESS ACT (Proposed Part Name)	Adopt new rule to implement the Braille Access Act (Sections 22-15-26 to 22-15-31 NMSA 1978)
6.75.5 NMAC (Proposed NMAC Number)	IMPLEMENTATION OF THE SCHOOL LIBRARY MATERIAL ACT (Proposed Part Name)	Adopt new rule to implement the School Library Material Act (Sections 22-15C 1 to 22-15C-10 NMSA 1978)

Interested individuals may testify at the public hearing or submit written comments to Betty Kee, Bureau Chief, Instructional Material Bureau, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 ([betty.kee@state.nm.us](mailto:betty.kee@state.nm.us)) (telefax (505) 827-8411). In addition, the Instructional Material Bureau will hold an auxiliary hearing in conjunction with the Spring Budget Workshop, March 28-31, 2006, at the Hotel Albuquerque, formerly known as the Sheraton Old Town, in Albuquerque. Information regarding the exact time and location of the auxiliary hearing will be posted on the Public Education Department's website (<http://ped.state.nm.us/>) at least thirty days prior to the hearing.

Written comments must be received no later than 5 p.m. on April 3, 2006. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rules may be accessed on the Department's website (<http://ped.state.nm.us/>) or obtained from Sharyn Perea, Administrative Assistant, Instructional Material Bureau, Public Education Department, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico 87501-2786 at (505) 827-8415. The proposed rules will be made available at least thirty days prior to the hearings.

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

**NEW MEXICO  
REGULATION AND LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES DIVISION**

**STATE OF NEW MEXICO  
REGULATION AND LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES DIVISION  
NOTICE OF PUBLIC HEARING**

Public meetings will be held on the dates and at the locations listed below to receive com-

ments regarding the amendments to the following rules: 2003 New Mexico Commercial Building Code, 14.7.2 NMAC; New Mexico Boiler Rules and Regulations, 14.9.4.20 NMAC. In addition, they will make technical corrections respecting grammar, formatting and internal consistency.

\* **Santa Fe, NM** - March 3, 2006, 9:00 a.m. - 12:00 Noon  
CID Conference Room, 2550 Cerrillos Rd., Third Floor, Santa Fe

\* **Albuquerque, NM** - March 3, 2006, 9:00 a.m. - 12:00 Noon  
CID Conference Room, 5200 Oakland Ave., Albuquerque

\* **Las Cruces, NM** - March 3, 2006, 9:00 a.m. - 12:00 Noon  
CID Conference Room, 505 S. Main, Suite 150, Las Cruces

\* **Farmington, NM** - March 3, 2006, 9:00 a.m. - 12:00 Noon  
Civic Center, Room E, 200 W. Arrington, Farmington

You are invited to attend and express your opinion on the adoption of the above referenced draft regulations. If you cannot attend the meeting, you may send your written comments to the General Construction Bureau, Construction Industries Division, 2550 Cerrillos Road, P.O. Box 25101, Santa Fe, New Mexico 87504. Telephone (505) 476-4700. FAX (505) 476-4685. All comments must be received no later than 5:00 p.m., March 3, 2006.

Copies of the draft rules will be available at the Construction Industries Division Offices beginning, February 1, 2006.

**If you require special accommodations, please notify the Division of such needs no later than February 17, 2006.**

**NEW MEXICO YOUTH  
CONSERVATION CORPS  
COMMISSION**

A meeting of the Rules Committee of the New Mexico Youth Conservation Corps (YCC) Commission will be held at 9:00 am on March 20, 2006 at the YCC Conference Room, 141 East DeVargas Street, Santa Fe, NM 87501 for the purpose of discussing a revision made to the YCC rules and regulations to be submitted to the State Records and Archives Center. This is an amendment to 11.2.171 NMAC, Sections 7, 11, and 18. The revision made to the YCC Rules changes the words "not-for-profit" to "non-



profit” and other language to reflect an increase to the tuition voucher from \$1,000.00 to \$1,500.00.

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 Wendy Kent at least one week prior to the hearing or as soon as possible. Public documents can be provided in various accessible formats. Please contact Wendy Kent at 827-1437, through Relay New Mexico at 1-800-659-1779 Voice or 1-800-659-8331 TTY, if a summary or other type of accessible format is needed.

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**End of Notices and  
Proposed Rules Section**

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## Adopted Rules

### NEW MEXICO AGING AND LONG-TERM SERVICES DEPARTMENT

#### TITLE 9            HUMAN RIGHTS CHAPTER 2        AGE PART 24           RATE AND FEE INCREASES BY CONTINUING CARE COMMUNITIES

**9.2.24.1            ISSUING AGENCY:**  
Aging and Long-Term Services  
Department.  
[9.2.24.1 NMAC - N, 1/31/06]

**9.2.24.2            SCOPE:** This rule  
applies to the general public.  
[9.2.24.2 NMAC - N, 1/31/06]

**9.2.24.3            S T A T U T O R Y  
AUTHORITY:** This rule is adopted pur-  
suant to the terms of Sections 9-23-6(E),  
24-17-5(B)(11), 24-17-17 and 28-4-6(B)  
NMSA 1978.  
[9.2.24.3 NMAC - N, 1/31/06]

**9.2.24.4            D U R A T I O N :**  
Permanent.  
[9.2.24.4 NMAC - N, 1/31/06]

**9.2.24.5            EFFECTIVE DATE:**  
January 31, 2006, unless a later date is cited  
in the history note at the end of a section.  
[9.2.24.5 NMAC - N, 1/31/06]

**9.2.24.6            OBJECTIVE:** This  
rule establishes the terms and conditions  
under which continuing care communities  
may increase the rates and fees they charge  
residents under the terms of the Continuing  
Care Act, Sections 24-17-1 through 24-17-  
18 NMSA 1978.  
[9.2.24.6 NMAC - N, 1/31/06]

**9.2.24.7            DEFINITIONS:** The  
following terms are used in this rule:

**A.            "continuing care com-  
munity"** means a community as defined by  
Section 24-17-3(B) NMSA 1978;

**B.            "cost of care"** means  
the direct cost of providing care to resi-  
dents;

**C.            "cost of operating the  
continuing care community"** means the  
indirect cost of providing care to residents;  
it includes administrative costs, deprecia-  
tion expenses, recurring and nonrecurring  
costs, ordinary and extraordinary costs, and  
all other costs associated with running a  
continuing care community, other than cost  
of care;

**D.            "economic necessity"**  
means insolvency or circumstances where

funds are lacking to maintain a reasonable  
level of service and care for residents;

**E.            "GAAP"** means gener-  
ally accepted accounting principles; it refers  
to a set of widely accepted accounting stan-  
dards, set by the financial accounting stan-  
dards board, and used to standardize finan-  
cial accounting of public companies;

**F.            "GAAS"** means gener-  
ally accepted auditing standards; it is a set  
of systematic guidelines used by auditors  
when conducting audits on companies' <sup>7</sup>  
finances, ensuring the accuracy, consistency  
and verifiability of auditor's actions and  
reports;

**G.            "gift income"** means  
income from any gift or grant, or portion  
thereof, that is used to pay for or offset an  
expense;

**H.            "expenses"** mean cost  
of care plus cost of operating the continuing  
care community;

**I.            "income"** means all  
income received by a continuing care com-  
munity during a reporting period; income  
includes operating income, investment  
income, gift income, and all other forms of  
income;

**J.            "investment income"**  
means income received by a continuing care  
community on investments made with  
funds received from residents unless the  
funds and income are held in reserve  
accounts as described in this rule. Invest-  
ment income does not include income on  
resident trust accounts;

**K.            "net income"** means  
income minus expenses;

**L.            "return on invest-  
ment"** for a for-profit corporation means  
net income divided by the sum of common  
stock equity, preferred stock equity and  
long-term debt; for any other form of busi-  
ness enterprise, it means a ratio that is sta-  
tistically equivalent to the return on invest-  
ment for a for-profit corporation; and

**M.            "resident"** means an  
actual or prospective purchaser of, nominee  
of or subscriber to a continuing care con-  
tract.

[9.2.24.7 NMAC - N, 1/31/06]

#### **9.2.24.8            RATE AND FEE INCREASES:**

**A.            A** continuing care con-  
tract shall state, in clear and understandable  
language, when rates and fees will be sub-  
ject to periodic increases and what the pol-  
icy for increases will be.

**B.            A** continuing care com-  
munity shall give residents at least thirty  
days advance written notice of any rate or  
fee increase.

**C.            A** continuing care com-

munity shall base rate and fee increases on  
one or more of the following four factors,  
and no others:

(1) economic necessity;

(2) the reasonable cost of operat-  
ing the continuing care community;

(3) the cost of care; and

(4) a reasonable return on invest-  
ment.

**D.            Any** documentation  
used by a continuing care community to  
support a rate or fee increase shall comply  
with applicable GAAP and GAAS stan-  
dards.

**E.            A** continuing care com-  
munity may contractually base rate and fee  
increases on published federal economic  
data used for the purpose of cost of living  
and inflation adjustments provided that  
such increases do not exceed what would  
otherwise be allowable under this rule.

[9.2.24.8 NMAC - N, 1/31/06]

#### **9.2.24.9            COST OF OPERAT- ING THE CONTINUING CARE COM- MUNITY:**

**A.            A** continuing care com-  
munity shall identify with reasonable speci-  
ficity all costs of operating the continuing  
care community, including any fees paid to  
affiliated persons or entities.

**B.            Any** unreasonable cost  
of operating the continuing care community  
shall be charged against the common stock  
equity of a for-profit corporation, or against  
a comparable measure of the owners' <sup>7</sup>  
investment for any other type of business  
enterprise.

[9.2.24.9 NMAC - N, 1/31/06]

#### **9.2.24.10          COST OF CARE INCREASES:**

**A.            Rate** and fee increases  
based on cost of care increases for provid-  
ing care to an individual resident shall be  
governed by any applicable terms of the  
continuing care contract. If there are no  
applicable terms, such rate and fee increas-  
es shall be considered general cost of care  
increases.

**B.            General** cost of care  
increases shall be treated as an expense item  
by a continuing care community.

[9.2.24.10 NMAC - N, 1/31/06]

#### **9.2.24.11          RESERVES:**

**A.            A** continuing care com-  
munity may establish and maintain reserve  
accounts in accordance with applicable  
GAAP and GAAS standards.

**B.            Any** reserve accounts  
that are used to refund entrance fees shall be  
administered in accordance with applicable  
statutory and contractual provisions.

C. Except as provided in the preceding subsection, any reserve accounts that are funded with funds received from residents shall be used for the benefit of residents. If they are not used for the benefit of residents, the funds plus any income earned on the funds shall be returned to the residents or their representatives on an equitable basis.

[9.2.24.11 NMAC - N, 1/31/06]

**9.2.24.12 HISTORICAL AND CURRENT DATA:**

A. A continuing care community shall base rate or fee increases on four years of historical data plus current fiscal year projections.

B. A continuing care community that has been in operation for less than four years shall base rate or fee increases on historical data for the entire period it has been in operation plus current fiscal year projections.

C. A continuing care community shall make available to residents copies of any data used to support a rate or fee increase. The data shall be made available at the time the continuing care community gives notice of a rate or fee increase, and it shall be made available at no cost to the residents.

[9.2.24.12 NMAC - N, 1/31/06]

**9.2.24.13 REASONABLE RETURN ON INVESTMENT:**

A. A reasonable return on investment shall be determined by comparing the continuing care community's historical and current return on investment data to secondary market interest rate data published by the federal reserve board for ninety-day United States treasury bills.

B. A return on investment consistently greater than six percentage points higher than the annual average secondary market interest rate on ninety-day United States treasury bills shall be presumed to be unreasonable. The presumption is rebuttable.

[9.2.24.13 NMAC - N, 1/31/06]

**9.2.24.14 ACCOUNTING DATA SHALL BE SPECIFIC TO THE CONTINUING CARE COMMUNITY:**

A continuing care community shall base rate or fee increases on accounting data that is specific to the community. A continuing care community shall not base rate or fee increases on companywide data, statewide data, nationwide data, or any other accounting data that is not community specific.

[9.2.24.14 NMAC - N, 1/31/06]

**9.2.24.15 EXISTING CONTRACTUAL PROVISIONS NOT ABROGATED:** This rule shall not abrogate any provision relating to rate and fee

increases in a continuing care contract that is entered into prior to the effective date of this rule.

[9.2.24.15 NMAC - N, 1/31/06]

**History of 9.2.24 NMAC:** [RESERVED]

**NEW MEXICO  
COUNSELING AND  
THERAPY PRACTICE  
BOARD**

16.27.10 NMAC, Requirements For Licensure With Examination As An Alcohol And Drug Abuse Counselor Effective July 2005, is repealed, effective 02-10-06.

16.27.12 NMAC, Requirements For Licensure As A Substance Abuse Trainee Effective July 1, 2003, is repealed, effective 02-10-06.

**NEW MEXICO  
COUNSELING AND  
THERAPY PRACTICE  
BOARD**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL LICENSING  
CHAPTER 27 COUNSELORS AND  
THERAPISTS  
PART 21 EMERGENCY  
LICENSURE**

**16.27.21.1 ISSUING AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board  
[16.27.21.1 NMAC - N, 2-10-06]

**16.27.21.2 SCOPE:** An individual wishing to practice as a professional mental health counselor (LPC), professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), alcohol and drug abuse counselor (LADAC) and licensed art therapist (LPAT) following a federally declared disaster.  
[16.27.21.2 NMAC - N, 2-10-06]

**16.27.21.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-3 through 61-9A-7 NMSA 1978.  
[16.27.21.3 NMAC - N, 2-10-06]

**16.27.21.4 DURATION:** Permanent  
[16.27.21.4 NMAC - N, 2-10-06]

**16.27.21.5 EFFECTIVE DATE:** February 10, 2006, unless a later date is

cited at the end of a section.

[16.27.21.5 NMAC - N, 2-10-06]

**16.27.21.6 OBJECTIVE:** The objective of Part 21 is to outline requirements, procedures, and criteria for issuance of an emergency license.

[16.27.21.6 NMAC - N, 2-10-06]

**16.27.21.7 DEFINITIONS:** [RESERVED]

**16.27.21.8 PROVISIONS FOR EMERGENCY LICENSURE:**

A. An applicant affected in a federal disaster currently licensed as a counselor or therapist in another jurisdiction and is in good standing and otherwise meets the requirements for New Mexico licensure may be licensed in New Mexico during the four months following the declared federal disaster at no cost upon satisfying the following requirements:

(1) be at least 21 years of age; and  
(2) applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics;

(3) a completed application, signed, dated, and notarized;

(4) proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;

(5) sworn affidavit statement that because of circumstance arising out of a declared area the applicant is unable to obtain proof documentation otherwise required by rules by the board;

(6) refer to 16.27.4 NMAC, requirements for licensure as a professional clinical mental health counselor (LPCC);

(7) refer to 16.27.6 NMAC, requirements for licensure as a marriage and family therapist (LMFT);

(8) refer to 16.27.7 NMAC, requirements for licensure as a professional art therapist (LPAT);

(9) refer to 16.27.8 NMAC, requirements for licensure as a professional mental health counselor (LPC);

(10) refer to 16.27.10 NMAC, requirements for licensure as an alcohol and drug abuse counselor (LADAC); and

(11) verification of current licensure or certification (no access to national database, board staff will verify).

B. The board may waive submission of the specific forms only if the applicant is unable to obtain the required document from an affected federally declared disaster area:

(1) verification of supervised hours (attachment B);

(2) official university transcripts;

(3) attachment E (mental health

clinical core curriculum), attachment D (marriage and family core curriculum), attachment F (art therapy core curriculum), attachment D (alcohol and drug education and training hours), and letters of reference for alcohol and drug abuse counselors.

C. Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.27.4 NMAC, 16.27.6 NMAC, 16.27.7 NMAC, 16.27.8 NMAC, and 16.27.10 NMAC.

D. Emergency licensure shall expire on September 30, unless renewed by the board. Application for renewal shall consist of the following:

(1) completed application, signed by the applicant and notarized;

(2) a 2"x 2" photograph of the applicant;

(3) an application fee of \$75.00;

(4) other documentation required in all parts of these rules, also to include but not limited to, documents regarding supervision, any additional training or coursework, work experience, and client contact hours;

(5) official transcripts in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application;

(6) a statement from each supervisor in a sealed envelope on form attachment B, verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application;

(7) completion of a core curriculum worksheet;

(8) completion of training and education hours for alcohol and drug abuse counselors; and

(9) letters of reference.

E. Examination: an applicant who has completed the educational and supervision requirements for licensure as a professional clinical mental health counselor (LPCC), professional marriage and family therapist (LMFT), professional art therapist (LPAT), professional mental health counselor (LPC), and alcohol and drug abuse counselor (LADAC), shall be required to pass the board approved examination(s).

[16.27.21.8 NMAC - N, 2-10-06]

**16.27.21.9 EMERGENCY LICENSE TERMINATION:** In accordance with the procedures established by the Uniform Licensing Act, 61-1-1 to 61-11-31 NMSA 1978, the board may deny, suspend or revoke a license held or applied for under the Counseling and Therapy Practice Act, and may fine or reprimand a licensee or take any other action provided for in the Uniform Licensing Act, upon

grounds that the licensee:

A. is guilty of fraud, deceit, or misrepresentation in procuring or attempting to procure any license provided for the counseling and therapy practice board;

B. failure to apply or renew for permanent licensure;

C. termination of an emergency license shall not preclude applicant from permanent licensure.

[16.27.21.9 NMAC - N, 2-10-06]

**HISTORY OF 16.27.21 NMAC:**  
[RESERVED]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 27 COUNSELORS AND THERAPISTS PART 22 REQUIREMENTS FOR LICENSURE AS AN ASSOCIATE MARRIAGE AND FAMILY THERAPIST (LAMFT)

**16.27.22.1 ISSUING AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board  
[16.27.22.1 NMAC - N, 2-10-06]

**16.27.22.2 SCOPE:** All individuals applying for licensure as an associate marriage and family therapist.  
[16.27.22.2 NMAC - N, 2-10-06]

**16.27.22.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-3 through 61-9A-7 NMSA 1978.  
[16.27.22.3 NMAC - N, 2-10-06]

**16.27.22.4 DURATION:** Permanent  
[16.27.22.4 NMAC - N, 2-10-06]

**16.27.22.5 EFFECTIVE DATE:** February 10, 2006, unless a later date is cited at the end of a section.  
[16.27.22.5 NMAC - N, 2-10-06]

**16.27.22.6 OBJECTIVE:** The objective of Part 10 is to state the minimum requirements for licensure as an associate marriage and family therapist and list the documentation required for application.  
[16.27.22.6 NMAC - N, 2-10-06]

**16.27.22.7 DEFINITIONS:**  
[Reserved]

**16.27.22.8 SUPERVISION:**

A. Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist or licensed independent social worker (LISW).

B. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

C. Client contact and supervision hours prior to being licensed will not be accepted for licensure.  
[16.27.22.8 NMAC - N, 2-10-06]

**16.27.22.9 LICENSED ASSOCIATE MARRIAGE AND FAMILY THERAPIST (LAMFT):**

A. LAMFT is intended as a transition between the required degree and the completion of supervised training required for licensure as a marriage and family therapist. Work must be under appropriate clinical supervision. Applicants must assure that their education and experience are appropriate for the level of licensure. There is no time limit as a licensed associate marriage and family therapist, but all work at this level must be done under clinical supervision.

B. Qualifications for entry-level licensure. An applicant for licensure as an entry-level licensed associate marriage and family therapist (LAMFT) must possess the following qualifications:

(1) be at least 21 years of age; and

(2) applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics; and

(3) hold a masters or doctoral degree in a counseling related field from an accredited institution; and

(4) have arranged for appropriate clinical supervision, including a postgraduate experience plan, which includes one hour of face-to-face supervision for every ten hours of client contact; and

(5) meet the marriage and family clinical core curriculum.

[16.27.22.9 NMAC - N, 2-10-06]

**16.27.22.10 DOCUMENTATION REQUIRED:**

A. a completed application as specified in 16.27.3.8 NMAC; and

B. the applicant is required to submit an official transcript in a sealed

envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application; and

C. a statement from each supervisor in a sealed envelope on a form provided by the board (attachment C) verifying the applicant has arranged for appropriate clinical supervision, supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; and

D. applicant must complete and meet the marriage and family core curriculum (form D); and

E. application fee of \$75.00.

[16.27.22.10 NMAC - N, 2-10-06]

#### 16.27.22.11 EXAMINATION:

Applicants must demonstrate professional competency by passing national marriage and family therapy professional examination (PES).

[16.27.22.11 NMAC - N, 2-10-06]

**HISTORY OF 16.27.22 NMAC:**  
[RESERVED]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.1 NMAC, Sections 2, 7 and 17, effective 02-10-06.

**16.27.1.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, and ~~registered and~~ licensed mental health counselors, licensed associate marriage and family therapists, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~trainees~~ associates.

[16.27.1.2 NMAC - Rp 16 NMAC 27.1.2, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.1.7 DEFINITIONS:

A. AATA means the American art therapy association.

B. AAMFT means the American association for marriage and family therapy.

C. Accredited institution means a university or college accredited by a regional accrediting agency of institutions of higher education.

D. ~~[Regionally accredited]~~ Accredited means a college or university that was accredited at the time of the applicant's graduation by one of the following:

(1) the New England association of schools and colleges;

(2) the middle states association of colleges and schools;

(3) the north central association of colleges and schools;

(4) the northwest association of schools and colleges;

(5) the southern association of schools and colleges; or

(6) the western association of schools and colleges.

E. Counseling related field means counseling guidance and counseling, mental health/community counseling or agency counseling; psychology, clinical psychology, counseling psychology; family studies; art therapy, or art education whose curriculum for training counselors provides a course of study equivalent to ~~[a minimum equivalent to a minimum of 33 semester hours or 44 quarter hours required]~~ no less than 48 graduate hours and required to meet in the mental health clinical core curriculum and 9 semester hours or 12 quarter hours of practicum, and additional hours required for the professional clinical mental health counselor (LPCC) license.

F. Education and training for substance abuse counselors means formal classroom education, workshops, seminars, institutes, in-service training programs, professional continuing education and coursework from accredited and non-accredited institutions. Practicum as it relates to the substance abuse counselor includes 300 hours in the twelve core functions listed below.

- (1) screening
- (2) intake
- (3) orientation
- (4) assessment
- (5) treatment planning
- (6) counseling
- (7) case management
- (8) crisis intervention
- (9) client education
- (10) referral
- (11) reports and record keeping
- (12) consultation with profession-

als

G. Substance abuse-related field means a degree in guidance counseling, mental health-community counseling, agency counseling, psychology, clinical psychology, counseling, agency counseling, psychology, human and family studies, social work, art therapy and art education with appropriate clinical background.

[G.] H. Clinical client contact hours means the time spent with a client to appraise, diagnose and treat psychopathology as determined by the scope of practice.

[H.] I. Contact hour for professional training or client contact means sixty minutes equals an hour of training or contact.

[I.] J. DSM means diagnostic and statistical manual of mental disorders.

[J.] K. Face-to-face supervision means either group or individual supervision where the supervisor is in the same physical location as the supervisee, and is responsible for the direction and oversight of the development of counseling skills.

[K.] L. ~~[Group supervision means face to face supervision.]~~ Group supervision means face to face supervision, which includes no more than 10 individuals in the group;

~~[(1) prior to July 1, 1994, no more than 20 individuals may have been included in the group;~~

~~(2) effective July 1, 1994, group supervision may be rendered to not more than six individuals for a one and one-half hour session or not more than four individuals for a one-hour session.]~~

[L.] M. ICD means international classification of diseases.

[M.] N. Individual supervision means face-to-face case consultation between the supervisor and no more than two supervisees related only to the supervisee's cases for a continuous 50 to 60 minutes, or for one supervisee for a continuous 25 to 30 minutes.

~~[N.] LAAC means a New Mexico licensed alcohol abuse counselor.~~

~~O. LADAC means a New Mexico licensed alcohol and drug abuse counselor.~~

~~P. LDAC means a New Mexico licensed drug abuse counselor.~~

~~Q. LMFT means a New Mexico licensed marriage and family therapist.~~

~~R. LPAT means a New Mexico licensed professional art therapist.~~

~~S. LPC means a New Mexico licensed professional mental health counselor.~~

~~T. LPCC means a New Mexico licensed professional clinical mental health counselor.~~

~~U. LSAT means a New Mexico licensed substance abuse trainee.~~

~~V. LMHC means a New Mexico licensed mental health counselor]~~

[W.] O. Postgraduate means after all master's or doctorate requirements have been completed.

[X.] P. Psychopathology means mental disorders that meet the diagnostic criteria contained in the DSM of the American psychological association or the world health organization's international classification of diseases and the problems in living associated with these conditions that are created over time or etiology and life effects.

[Y.] Q. Practice of alcohol and drug abuse counseling as independent practice is only at the level of approved supervi-

sors as determined by Part 10, Section 16.27.10.7. The counselor has the ability to demonstrate specialized knowledge and skills as pertains to substance use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice theory and research findings in all aspects of the licensee's practice. The counselor may supervise alcohol and/or drug counselors if approved under. Part 10, Section 16.27.10.7.

~~[Z-]~~ R. Practice of alcohol abuse/drug abuse counseling is practice under appropriate supervision and the ability to demonstrate specialized knowledge skills as pertains to alcohol use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice theory and research findings in all aspects of the licensee's practice. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping as pertains specifically to alcohol and drug abuse counseling.

~~[A.A.]~~ Practice of drug abuse counseling is practice under appropriate supervision and the ability to demonstrate specialized knowledge skills as pertains to substance use disorders according to current DSM or ICD. The counselor shall be able to demonstrate skill and interventions directly related to individuals, couples, families, and groups. The counselor shall be able to employ practice theory and research findings in all aspects of the licensee's practice. The services may include screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping as pertains specifically to drug abuse counseling.

~~[B.B.]~~ S. Practice as a substance abuse ~~[trainee]~~ associate appropriate supervision. Practice is limited as an employee in a public or private institution. The ~~[trainee]~~ associate provides generalist services in the role of educator, assistant, and mediator. The ~~[trainee]~~ associate may be involved in taking social histories and/or conducting home studies. The ~~[trainee]~~ associate utilizes the basic problem-solving process of gathering information, assessing that information at a beginning professional level, and developing an intervention plan. The ~~[trainee]~~ associate in the role of educator, assistant and mediator, shall implement the plan and conduct follow-ups as it per-

tains specifically to alcohol and/or drug abuse counseling.

~~[C.C.]~~ T. Registered independent mental health counselor means an individual who is certified to practice without supervision.

~~[D.D.]~~ U. Semester hour for the purpose of continuing education means one semester credit hour is equal to fifteen (15) contact hours. Ninety (90) graduate quarter hours are equal to ~~[60]~~ sixty (60) graduate semester hours.

~~[E.E.]~~ V. Supervision means face-to-face contact between the individual and the appropriate supervisor during which the supervisor monitors, guides and evaluates the ability to interact, diagnose and treat each client.

W. Co-occurring disorders: Concurrent substance-related and mental disorder; having co-existing mental health and substance use disorders; Co-occurring disorders may include any combination of two or more substance abuse disorders and mental disorders identified in the diagnostic and statistical manual of mental disorders - IV (DSM-IV).

[16.27.1.7 NMAC - Rp 16 NMAC 27.1.7, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.1.17 L I C E N S E E CHANGE INFORMATION:** All name changes and address changes must be submitted to the board in writing or by e-mail. [16.27.1.17 NMAC - N, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.3 NMAC, Sections 2, 8, 9 and 11, effective 02-10-06. The part name is also amended.

### PART 3 APPLICATION PROCEDURES, INITIAL LICENSES, AND LICENSE PERIOD

**16.27.3.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, ~~[registered and]~~ licensed associate marriage and family therapist, licensed mental health counselors, alcohol and drug abuse counselors, ~~[alcohol abuse counselor, drug abuse counselor,]~~ and substance abuse [trainee] associate.

[16.27.3.2 NMAC - Rp 16 NMAC 27.3.2, 6-15-01; A, 7-1-04; A, 2-10-06]

### 16.27.3.8 APPLICATIONS FOR LICENSURE

A. All applicants must submit the following documentation to the board:

(1) a completed application, signed by the applicant, and notarized (applied date, is the date the application is received and stamped in board office);

(2) a 2" inch by 2" inch photograph of the applicant taken within the preceding six months, affixed to the application;

(3) an application fee of \$75 as provided in Part 10;

(4) other documentation required in Parts 4 through 8 and Parts 18 through 23 to document supervision, any additional training or coursework, work experience and client contact hours.

B. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree, or associate, baccalaureate, masters degree for substance abuse licensure. The transcript must be submitted with the application ~~[(unopened)]~~. Also required is a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application (unopened).

C. Applications will be valid for a period not to exceed six months after the first initial review. An applicant wishing to re-apply after six months must submit a new application, including the application fee and all documentation.

D. Applicants who are found ineligible because of experience or education deficiencies may request licensure at another level. This request shall be ~~[on a form approved by the board and made within six months of the]~~ from the applicant in writing from the date the applicant was notified they are ineligible for which the original level applied. ~~[There will be a \$25 fee for re-review of the application.]~~ A \$25 application re-review fee is required. [16.27.3.8 NMAC - Rp 16 NMAC 27.3.8, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.3.9 INITIAL LICENSE:** The board shall inform an applicant who has been approved for licensure ~~[or registration]~~ of the required fees. If the applicant fails to pay all required fees within 60 days of notification of approval, the application shall be deemed withdrawn. The applicant shall then be required to reapply and pay the application fee.

[16.27.3.9 NMAC - Rp 16 NMAC 27.3.9, 6-15-01; A, 2-10-06]

### 16.27.3.11 RETIREMENT STA-

**TUS:**

A. A licensed [~~or registered~~] person may request retirement status by notifying the board in writing before the expiration of the current New Mexico license.

~~[B. A retired license or registered status may be restored within five years of being placed on retirement status by notifying the board in writing, prior to the expiration of five retirement years. Upon receiving the request for reinstatement, board staff shall send an application for reinstatement of license.~~

~~(1) Along with the completed application, the request for reinstatement must include renewal fee, reinstatement fee, and proof of 20 hours per year of continuing education courses.~~

~~(2) Continuing education must be acquired after the license has been placed on retirement status.]~~

B. A retired license may be restored within five (5) years after being placed on retirement status by notifying the board in writing.

(1) Along with the completed reinstatement application, the licensee must include the renewal fees, reinstatement fee, and proof of 40 hours of continuing education courses to include 6 hours of ethics.

(2) Reinstatement of a retired license that has been less than one year shall submit 20 hours of continuing education, to include 6 hours of ethics.

(3) Continuing education must be acquired after the license has been placed on retirement status and must comply with the continuing education requirements. [16.27.3.11 NMAC - Rp 16 NMAC 27.3.11, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.4 NMAC, Sections 8, 9, 10 and 11, effective 02-10-06. The part name is also amended.

### PART 4 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR (LPCC)

#### 16.27.4.8 APPROPRIATE SUPERVISION:

A. [~~Supervision received after July 1, 1994, must be provided by a licensed individual as defined. For licensure as a professional clinical mental health counselor (LPCC), the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage~~

~~and family therapist, licensed professional art therapist, licensed psychiatrist, licensed independent social worker or licensed psychologist with education and experience in clinical mental health counseling.] Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, or licensed independent social worker (LISW). Appropriate supervisors must have education and experience in clinical mental health counseling;~~

~~[B. Supervision received after July 1, 2003, for licensure as a clinical mental health counselor (LPCC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.]~~

~~[C.] B.~~ It is the responsibility of the individual seeking supervision to ensure that the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

~~[D.] C.~~ Client contact and supervision hours prior to being licensed will not be [~~applicable~~] acceptable for licensure.

[16.27.4.8 NMAC - Rp 16 NMAC 16.27.1.7.5, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.4.9 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR (LPCC) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION:

A. Age requirement. Be at least 21 years of age.

B. [~~Code of ethics statement~~] Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics [~~and~~].

C. Education [~~requirements~~] requirement. Hold a master's or doctoral degree in counseling or a counseling-related field from [~~a regionally~~] an accredited institution. [~~Effective July 1, 2003, applicants must have a master's or~~

~~doctoral degree in counseling or a counseling field and a total of no less than forty-eight (48) graduate semester hours or seventy-two (72) quarter graduate hours in the mental health clinical core curriculum as defined in Part 2. The hours must be acquired as a part of a master's or doctoral degree, or acquired as additional graduate education to complete the required 48 clinical core curriculum hours.]~~

D. Applicants must have a masters or doctoral degree in counseling or a counseling-related field and a total of no less than forty-eight (48) graduate semester hours or seventy-two (72) quarter graduate hours in the mental health clinical core curriculum as defined in 16.27.2 NMAC. The hours must be acquired as a part of a master's or doctoral degree, or acquired as additional graduate education to complete the required 48 clinical core curriculum hours.

~~[D.] E.~~ Experience requirements.

(1) A minimum of two years' postgraduate professional clinical counseling experience. [~~A year is defined as 12 months during which the applicant can show evidence of having no less than 500 hours of clinical client contact hours.]~~

(2) Evidence of having participated in a total of [~~at least 3,000~~] three thousand (3,000) hours of postgraduate clinical client contact and 100 hours of appropriate face to face postgraduate supervision. One thousand (1,000) clinical client contact hours may be from the applicant's internship or practicum. [~~Postgraduate experience of at least 100 hours of face to face supervision.]~~

E. Application fee of \$75.00.

[16.27.4.9 NMAC - Rp 16 NMAC 16.27.4.8, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.4.10 EXAMINATION:

Applicants must demonstrate professional competency by [~~satisfactorily~~] passing the national counselor examination (NCE) and the national clinical mental health counseling examination (NCMHCE).

[16.27.4.10 NMAC - Rp 16 NMAC 16.27.4.9, 6-15-01; A, 2-10-06]

#### 16.27.4.11 DOCUMENTATION REQUIRED FOR LICENSURE:

A. A completed application as specified in [~~Part 3~~] 16.27.3.8 NMAC.

B. Proof of education and experience requirements:

(1) The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree, a total of no less than forty-eight (48) graduate semester hours or seventy-two (72) quarter graduate hours which includes the



required 48 clinical core curriculum. ~~[The transcript must be submitted in a sealed envelope with the application; and]~~

(2) A statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application. The statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice. If a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3) Documentation of 3,000 hours of postgraduate clinical client contact and 100 hours of appropriate face to face postgraduate supervision. ~~[Additional documentation of client contact hours must be provided to the board upon request.]~~

(4) Attachment E, listing only specific graduate coursework. A course syllabus and actual course catalogue descriptions for all courses must be included ~~(applies only to applicants who hold a counseling related-field degree).~~

(5) Documentation of the applicant's licensure, registration or certification status must be submitted on attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered. [16.27.4.11 NMAC - Rp 16 NMAC 27.4.11, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.4.12 LICENSURE BY CREDENTIALS:

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC;

B. ~~[Documentation]~~ Verification (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation ~~[and]~~;

C. ~~[Documentation: —]~~ Verification directly from the national board of certified counselors (NBCC) that the applicant ~~[is a current nationally certified clinical mental health counselors as determined by the national board of certified counselors (NBCC)]~~ has taken and passed the national clinical mental health counselor examination (NCMHCE).

D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctor-

al degree.

E. Application fee of \$75.00.

[16.27.4.12 NMAC - Rp 16 NMAC 16.27.9, 8 & 9, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.5 NMAC, Sections 4, 6, 8, 9, 10, 11 and 12, effective 02-10-06. The part name is also amended.

### PART 5 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR ~~[FOR LPC'S WHO WERE GRANDFATHERED] FOR CURRENT LICENSED LPC'S~~

16.27.5.4 D U R A T I O N :  
~~[Permanent]~~ Effective July 1, 2005 through July 1, 2007.

[16.27.5.4 NMAC - Rp 16 NMAC 27.25.4, 6-15-01; A, 2-10-06]

16.27.5.6 OBJECTIVE: The objective of Part 5 is to state the minimum requirements for licensure as a professional clinical mental health counselor for ~~[grandfathered]~~ current licensed professional mental health counselors, and list the documentation required for application.

[16.27.5.6 NMAC - Rp 16 NMAC 27.25.6, 6-15-01; A, 2-10-06]

16.27.5.8 APPLICANTS FOR LICENSURE: As a professional clinical mental health counselor (LPCC) must possess the following qualifications and provide the required documentation with the application.

A. application must be received between July 1, 2005 through July 1, 2007;

~~[A:]~~ B. ~~[Age]~~ age requirement. Be at least 21 years of age.

~~[B:]~~ C. ~~[Code of ethics statement:]~~ Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics~~[and]~~.

~~[C:]~~ D. ~~[Licensure requirements. Hold a grandfathered professional mental health counselor license which was applied for prior to July 1, 1994.]~~ Holds a current professional mental health counselor license.

~~[D:]~~ E. ~~[Education requirements:]~~ Holds a master's or doctoral degree from ~~[a regionally]~~ an accredited institution

~~[Applications must be received during the period July 1, 2000 through July 1, 2004. Applicants must have a master's or doctoral degree and a total of forty eight (48) semester graduate hours or seventy two (72) quarter hours from a regionally accredited institution; and]~~

~~[E:]~~ E. Experience requirements.

(1) ~~[evidence of having participated in a minimum of 10,000 client contact experience and a minimum of 300 hours of face to face supervision of which 100 must be individual received from an individual with education, clinical experience and supervisory experience in the field of clinical counseling]~~ evidence of having participated in a total of 10,000 hours of postgraduate client contact and 300 hours of appropriate face-to-face postgraduate supervision; or

(2) ~~[evidence of having participated in a minimum of 5,000 client contact experience and a minimum of 200 hours of face to face supervision of which 100 must be individual from an individual with education, clinical experience and supervisory experience in the field of clinical counseling; and must take examination.]~~ evidence of having participated in a total of 3000 hours of postgraduate client contact and 100 hours of appropriate face-to-face supervision; and must take and pass the national counselor exam (NCE) and national counselor mental health clinical exam (NCMHCE) examinations;

G. application fee of \$75.00.

[16.27.5.8 NMAC - Rp 16 NMAC 27.25.8, 6-15-01; A, 7-1-04; A, 2-10-06]

16.27.5.9 EXAMINATION: ~~[Applicants meeting the 5,000 client contact hours and 200 hours of face to face supervision, applicants must demonstrate professional competency by satisfactorily passing an examination selected and approved by the board]~~ Applicants meeting the 3000 client contact hours and 100 hours of face-to-face supervision, and must demonstrate professional competency by passing the national counselor exam (NCE) and national counselor mental health clinical exam (NCMHCE) examinations.

[16.27.5.9 NMAC - Rp 16 NMAC 27.25.9, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.5.10 DOCUMENTATION REQUIRED FOR LICENSURE:

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed

envelope from each institution [contributing to the applicant's master or doctoral degree and the required forty eight (48) semester graduate hours or seventy two (72) quarter hours;] and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's client contact and supervision experience and setting forth the nature and extent of such supervision must be submitted with the application [~~unopened~~]; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision;

[(3) documentation of the appropriate hours of client contact and appropriate face to face supervision; additional documentation of client contact hours must be provided to the board upon request.

(4) documentation of the applicant's licensure, registration or certification status must be submitted on attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.]

[16.27.5.10 NMAC - Rp 16 NMAC 27.25.10, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.5.11 [REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR FOR LPC'S THAT WAS APPLIED FOR BETWEEN JULY 1, 1994 THROUGH JULY 1, 1998:**

A. Applicants for licensure: As a professional clinical mental health counselor (LPCC) must possess the following qualifications and provide the required documentation with the application:

B. Age requirement. Be at least 21 years of age.

C. Code of ethics statement: Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

D. Licensure requirements. Hold a professional mental health counselor license that was applied for between July 1, 1994 through July 1, 1998.

E. Education requirements. Hold a master's or doctoral degree from a regionally accredited institution. Applications must be received during the period July 1, 2003 through July 1, 2004. Applicants must have a master's or doctoral degree and a total of forty eight (48) semes-

ter graduate hours or seventy two (72) quarter hours from a regionally accredited institution.

F. Experience requirements: Evidence of having participated in a minimum of 5,000 client contact experience and a minimum of 200 hours of face to face supervision of which 100 must be individual from an individual with education, clinical experience and supervisory experience in the field of clinical counseling; and must take examinations selected by the board.

G. Examination: Applicants must demonstrate professional competency by satisfactorily passing the (NCA and NCMHCE ) examinations.]

[RESERVED]  
[16.27.5.11 NMAC - N, 7-01-04; Repealed, 2-10-06]

**16.27.5.12 [DOCUMENTATION REQUIRED FOR LICENSURE:**

A. A completed application as specified in Part 3.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree and the required forty eight (48) semester graduate hours or seventy two (72) quarter hours graduate hours; and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's client contact and supervision experience and setting forth the nature and extent of such supervision must be submitted with the application (unopened); the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3) documentation of the appropriate hours of client contact and appropriate face to face supervision; additional documentation of client contact hours must be provided to the board upon request.]

[RESERVED]  
[16.27.5.12 NMAC - N, 7-01-04; Repealed, 2-10-06]

**NEW MEXICO  
COUNSELING AND  
THERAPY PRACTICE  
BOARD**

This is an amendment to 16.27.6 NMAC, Sections 8, 9, 10, 11, and 12, effective 02-10-06. The part name is also amended.

**PART 6 REQUIREMENTS FOR LICENSURE AS A MARRIAGE AND FAMILY THERAPIST (LMFT)**

**16.27.6.8 SUPERVISION:**

A. Appropriate supervision.

(1) [Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as a marriage and family therapist (LMFT), the supervision must be provided by a licensed marriage and family therapist; or an approved AAMFT supervisor, or an individual with a minimum of 2,000 hours of clinical practice in marriage and family therapy and is a licensed professional clinical mental health counselor, licensed professional art therapist, licensed psychiatrist, licensed psychologist, or licensed independent social worker with education in marriage and family therapy.] Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, licensed independent social worker (LISW). Appropriate supervisors must have education and experience in marriage and family therapy.

[(2) Supervision received after July 1, 2003, for licensure as a marriage and family therapist (LMFT) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervision clinical experience.]

[(3)] (2) It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

[(4)] (3) Client contact and supervision hours prior to being licensed will not be [applicable] acceptable for licensure.

B. Marriage and family therapy core curriculum, means a curriculum for training marriage and family therapists that includes 45 semester hours or 67.5 quarter hours of graduate level coursework that embraces a family systems perspective and consists of the following areas of graduate study:

(1) Marriage and family studies- a minimum of 9 semester hours or 12 quarter-hours of graduate coursework. Course content in this area may include the study of the family life cycle, family development, family subsystems, family theories, blended families, gender issues and families, cultural issues and families, contemporary families, family and interpersonal relationships and family crisis. All courses in this area must come from a systems perspective where systems theory is a major focus of the course.

(2) Marriage and family therapy - a minimum of 9 semester hours or 12 quarter hours of graduate coursework in family therapy assessment, treatment and intervention methods. Major theoretical approaches that may be studied include: strategic, structural, object relations family therapy, behavioral family therapy, communication family therapy, intergenerational family therapy and systemic sex therapy. Courses should have a major focus on family systems theory and systemic interventions.

(3) Human development - a minimum of 9 semester hours or 12 quarter hours of graduate coursework. Courses in human development across the life span including special issues (e.g., culture, gender, human sexuality) would be appropriate. Topic areas may include human development, infant/child/adolescent development, psychopathology, personality theory, and human sexuality. Courses should have a systemic focus. Testing and measurement courses are NOT acceptable in this area.

(4) Multicultural studies - a minimum of 3 semester hours or 4 quarter hours of graduate coursework, includes a systemic orientation relevant to diverse racial ethnic populations.

(5) Professional studies- a minimum of 3 semester hours or 4 quarter hours of graduate coursework. Areas of study include legal issues and responsibilities, professional liabilities, and ethics related to the practice of marriage and family therapy. Religious ethics and moral theology courses are NOT acceptable in this area.

(6) Research a minimum of 3 semester hours or 4 quarter hours of graduate coursework. Courses in this area should assist the student in understanding and performing research. Topical areas may include: research design and methodology, quantitative methods and statistics. Personality and test and measurement

courses are NOT accepted in this area.

(7) Supervised practicum - a minimum of 6 semester hours or 8 quarter hours of graduate coursework. As part of the 6 semester hours or 8 quarter hours of coursework, there must be a minimum of 300 hours of supervised direct client contact, for a period of at least 12 months [~~direct client contact, for a period of at least 12 months~~]. Practicum students may only count hours in which they work directly with individuals, couples, and families for the purpose of assessment, diagnosis and treatment in marriage and family related issues.

(8) Electives from any area listed above satisfy the 45 semester-hour requirement. Remaining course work would be distributed as electives among the above areas.

[16.27.6.8 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.6.9 APPLICANTS FOR LICENSURE:** As a marriage and family therapist (LMFT) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. [~~Code of ethics statement~~] Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics [~~and~~].

C. [~~Education requirements~~] Hold a master's or doctoral degree from a [~~regionally~~] accredited institution in marriage and family therapy, meets the requirements of the core curriculum in marriage and family therapy.

D. Experience requirements.

(1) A minimum of two years' postgraduate marriage and family therapy experience. [~~A year is defined as 12 months during which the applicant can show evidence of having no less than 500 hours of clinical client contact hours.~~]

(2) Evidence of having participated in a total of at least 1,000 hours of postgraduate marriage and family clinical client contact.

(3) [~~At least~~] 200 hours of appropriate postgraduate marriage and family supervision, including at least 100 hours of individual supervision. The appropriate supervision must be received from an individual who has education, clinical experience and supervisory experience in the field of marriage and family therapy.

E. Application fee of \$75.00.

[16.27.6.9 NMAC - Rp 16 NMAC 27.5.8, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.6.10 EXAMINATION:**

Applicants must demonstrate professional competency by [~~satisfactorily~~] passing the examination for marital and family therapy (PES).

[16.27.6.10 NMAC - Rp 16 NMAC 27.5.9, 6-15-01; A, 2-10-06]

**16.27.6.11 DOCUMENTATION REQUIRED FOR LICENSURE:**

A. A completed application as specified in [~~Part 3~~] 16.27.3.8 NMAC.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision;

(3) documentation of 1,000 hours of postgraduate client contact hours in marriage and family therapy and 200 hours of appropriate postgraduate supervision in marriage and family therapy [~~additional documentation of client contact hours must be provided to the board upon request.~~].

(4) attachment D, listing only specific graduate coursework;

(5) documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.

[16.27.6.11 NMAC - Rp 16 NMAC 27.5.10, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.6.12 LICENSURE BY CREDENTIALS:**

A. Submit a completed application per 16.27.3.8 NMAC.

B. [Documentation] Verification on (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation [~~;-and~~].

C. [Documentation:] Verification directly from the American association of marriage and family therapy that the applicant is a current clinical member of the American association for marriage and family therapy (AAMFT).

D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.

E. Application fee of \$75.00.

[16.27.6.12 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.7 NMAC, Sections 8, 10, 12, 13, and 14, effective 02-10-06. The part name is also amended.

### PART 7 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL- ART THERAPIST (LPAT)

#### 16.27.7.8 SUPERVISION:

A. Appropriate supervision.

(1) [Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as an art therapist (LPAT), the supervision must be provided by a nationally registered art therapist, a licensed professional art therapist. Supervision can also be provided by the following professionals provided they have education and experience in art therapy: licensed psychiatrist, licensed psychologist, licensed independent social worker, licensed clinical mental health counselor, or licensed marriage and family therapist each with education and experience in art therapy.] Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed art therapist (LPAT), licensed psychologist, licensed psychiatrist, or licensed independent social worker (LISW). Appropriate supervisors must have education and experience in art therapy.

[~~(2) Supervision received after~~

July 1, 2003, for licensure as a art therapist (LPAT) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.]

[~~(3) (2) It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure [that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services].~~

[~~(4) (3) Client contact and supervision hours prior to being licensed will not be [applicable] acceptable for licensure.~~

B. Supervised practicum/internship: Each student must be required to successfully complete supervised practicum as follows:

(1) at least six hundred (600) hours of supervised art therapy practice;

(2) at least 300 hours of supervised practice in which the student must be working directly with clients in individual, group, or family setting;

(3) the balance of the supervised hours must include discussion of student work with the supervisor(s) and related activities including, but not limited to, case review record keeping, preparation, and staff meetings.

C. Supervision: Supervision may take place on or off site.

(1) Art therapy supervision

(a) Individual supervision: For every ten (10) hours of client contact, there must be one (1) hour of supervision by a registered art therapist (ATR). In New Mexico, a licensed professional art therapist (LPAT) or a qualified licensed professional art therapist (LPAT) or a qualified licensed professional in a related discipline with at least a master's degree.

(b) Group supervision: The ratio of eight (8) students to one (1) supervisor may not be exceeded for group supervision for every ten (10) hours of client contact.

(2) Agency supervision: For every ten (10) hours of related activity, there must be one (1) hour of supervision by either a registered art therapist (ATR, in New Mexico, a licensed professional art therapist (LPAT) or a qualified professional in a related discipline with at least a master's degree.

[16.27.7.9 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.7.10 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL ART THERAPIST (LPAT) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION:** [~~as a~~] A licensed professional art therapist (LPAT) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. [~~Code of ethics statement~~] Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics [~~;-and~~].

C. Education requirements. Holds either:

(1) a master's or doctoral degree from [~~a regionally~~] an accredited or nationally approved art therapy program in art therapy that includes seven hundred hours of supervised internship experience form an accredited institution;

(2) a masters degree in counseling or a counseling related field; that includes a minimum of twenty-four (24) semester hours or thirty-six (36) quarter hours of sequential course work in the history, theory, and practice of art therapy and has completed seven hundred hours of supervised internship experience form an accredited institution; the board may approve on a case-by-case basis applicants who have a master's degree or a doctoral degree from non-accredited institutions; or

(3) a masters degree in a counseling related field, and completed a minimum of twenty-four (24) semester hours or thirty-six (36) quarter hours in an art therapy [~~certificated~~] certified program from [~~a regionally~~] an accredited institution or a nationally approved American art therapy association program.

D. Experience requirements: One thousand client contact hours of postgraduate face to face experience under appropriate supervision beyond the requirements in Paragraphs (1), (2) and (3) of Subsection C of this section.

E. Application fee of \$75.00.

[16.27.7.10 NMAC - Rp 16 NMAC 27.6.8, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.7.12 EXAMINATION:** Applicants must demonstrate professional competency by [~~satisfactorily~~] passing the art therapy credentials board certification examination (ATCBE).

[16.27.7.12 NMAC - Rp 16 NMAC 27.6.9, 6-15-01; A, 2-10-06]

**16.27.7.13 DOCUMENTATION**

**REQUIRED FOR LICENSURE:**

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. Proof of education and experience:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; ~~[the transcript must be submitted with the application;]~~ applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision;

(3) documentation of required client contact hours and appropriate supervision; additional documentation of client contact hours must be provided to the board upon request;

(4) attachment E, listing only specific graduate coursework.

(5) documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.

[16.27.7.13 NMAC - Rp 16 NMAC 27.6.10, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.7.14 LICENSURE BY CREDENTIALS:**

A. Submit a completed application per 16.27.3.8 NMAC.

B. Documentation (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

C. Documentation: that the applicant is a current registered art ther-

apists, board certified (ATR-BC) by the art therapy credential board.

D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.

E. Application fee of \$75.00.

[16.27.7.14 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.8 NMAC, Sections 8, 9, 10, 11, and 12, effective 02-10-06. The part name is also amended.

### PART 8 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL MENTAL HEALTH COUNSELOR (LPC)

#### 16.27.8.8 APPROPRIATE SUPERVISION:

A. ~~[Supervision received after July 1, 1994, must be provided by a licensed individual as defined: For licensure as a professional mental health counselor, the supervision must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed professional art therapist, licensed psychiatrist, licensed psychologist, licensed independent social worker, or licensed marriage and family therapist.]~~ Supervision must be provided by a licensed professional clinical health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, or licensed independent social worker (LISW).

~~[B. Effective July 1, 2003, for licensure as a professional mental health counselor (LPC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.]~~

~~[C.]~~ B. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and

the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

~~[D.]~~ C. Client contact and supervision hours prior to being licensed will not be ~~[applicable]~~ acceptable for licensure.

[16.27.8.8 NMAC - Rp 16 NMAC 27.1.7.5, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.8.9 APPLICANTS FOR LICENSURE:** As a professional counselor (LPC) must possess the following qualifications and provide the required documentation with the application:

A. Age requirement. Be at least 21 years of age.

B. ~~[Code of ethics statement.]~~ Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

C. Education requirements. Holds either:

(1) a master's or doctoral degree in counseling from ~~[a regionally]~~ an accredited institution or

(2) ~~[has a master's or doctoral degree in a counseling related field and completed a minimum of 33 semester hours or 44 quarter hours and 9 semester hours or 12 quarter hours of practicum. (Total 42 semester graduate hours or 56 quarter hours) of the mental health core curriculum from a regionally accredited institution.]~~ holds a master's or doctoral degree in counseling or counseling related field with no less than 48 graduate hours and 9 practicum hours.

D. ~~[Experience requirements.]~~ Evidence of having participated in a total of at least 1,000 hours of postgraduate client contact ~~[under appropriate postgraduate clinical supervision as defined above with at least 100 hours of face to face postgraduate supervision]~~ and 100 face-to-face postgraduate supervision.

[16.27.8.9 NMAC - Rp 16 NMAC 27.7.8, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.8.10 EXAMINATION:** Applicants must demonstrate professional competency by ~~[satisfactorily]~~ passing the national counselor examination (NCE).

[16.27.8.10 NMAC - Rp 16 NMAC 27.7.8, 6-15-01; A, 2-10-06]

#### 16.27.8.11 DOCUMENTATION REQUIRED FOR LICENSURE:

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. Proof of education and experience:

(1) the applicant is required to

submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application; ~~[applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board;]~~ and

(2) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

C. Documentation of 1000 postgraduate client contact hours and 100 hours of appropriate postgraduate clinical supervision. Additional documentation of client contact hours must be provided to the board upon request.

D. Documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

E. Application fee of \$75.00.

[16.27.8.11 NMAC - Rp 16 NMAC 27.7.10, 6-15-01; A, 7-1-04; A, 2-10-06]

#### **16.27.8.12 LICENSURE BY CREDENTIALS:**

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. ~~[Documentation]~~ Verification (attachment A) that the applicant holds a current license issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

C. ~~[Documentation that the applicant is a current registered art therapists, board certified (ATR-BC) by the art therapy credential board.]~~ Verification directly from the national board of certified counselors (NBCC) that the applicant has taken and passed the national counselor cer-

tification (NCC) or national counselor examination (NCE).

D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.

E. Application fee of \$75.00.

[16.27.8.12 NMAC - Rp 16 NMAC 27.9.8&9, 6-15-01; A, 7-1-04; A, 2-10-06]

## **NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD**

This is an amendment to 16.27.9 NMAC, Sections 8, 9, 10, and 11, effective 02-10-06. The part name is also amended.

### **PART 9 REQUIREMENTS FOR LICENSURE AS A MENTAL HEALTH COUNSELOR (LMHC) (Practice under Supervision)**

#### **16.27.9.8 SUPERVISION:**

A. Supervision must be provided by a licensed ~~[individual as defined: For entry level licensure as a mental health counselor (LMHC), appropriate supervision may be provided by a licensed psychologist, licensed psychiatrist, licensed independent social worker, licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, or licensed professional art therapist]~~ professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, or licensed independent social worker (LISW).

~~[B. Supervision received after July 1, 2003, for licensure as a mental health counselor (LMHC) to perform diagnoses must be provided by a licensed clinical supervisor as defined: the supervision must be provided by a licensed professional clinical mental health counselor, licensed marriage and family therapists, licensed professional art therapists, licensed psychiatrist, licensed clinical psychologist, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.]~~

~~[C.]~~ B. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the deliv-

ery of counseling or therapy services.

~~[D.]~~ C. Client contact and supervision hours prior to being licensed will not be ~~[applicable]~~ acceptable for licensure.

[16.27.9.8 NMAC - N, 6-15-01; A, 7-1-04; A, 2-10-06]

#### **16.27.9.9 LICENSED MENTAL HEALTH COUNSELOR (MENTAL HEALTH SPECIALTY OR ART THERAPY SPECIALTY):**

A. LMHC is intended as a transition between the required degree and the completion of supervised training required for licensure as a professional mental health counselor, a professional clinical mental health counselor, ~~[a marriage and family therapist]~~ or a professional art therapist. All work must be under appropriate clinical supervision. Applicants must assure that their education and experience are appropriate for the level of licensure they will seek upon completion of supervised training. There is no time limit as a licensed mental health counselor, but all work at this level must be done under clinical supervision.

B. Qualifications for entry level licensure. An applicant for licensure as an entry-level mental health counselor (LMHC) must possess the following qualifications:

(1) be at least 21 years of age; and  
(2) ~~[Code of ethics statement: Applicant]~~ applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics ~~[-and];~~

(3) ~~[hold a master's or doctoral degree in counseling or counseling related field from a regionally accredited institution. Related fields are as designated in the following areas: LPC (counseling related field); LPCC (counseling related field); LMFT (focus in marriage and family therapy); and LPAT (counseling related field) as defined in Part 1, and have completed all education requirements in their field of study; and]~~ holds a masters or doctoral degree in a counseling or counseling related field with no less than 48 graduate hours and 9 practicum hours;

(4) have arranged for appropriate clinical supervision, including a postgraduate experience plan, which includes one hour of face-to-face supervision for every ten hours of client contact.

[16.27.9.9 NMAC - Rp 16 NMAC 27.8.8, 6-15-01; A, 7-1-04; A, 2-10-06]

#### **16.27.9.10 DOCUMENTATION REQUIRED:**

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree. The transcript must be submitted with the application. Applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board ~~[-and].~~

C. A statement from each supervisor in a sealed envelope on a form provided by the board (attachment C) verifying the applicant's has arranged for appropriate supervision supervised experience and setting forth the nature and extent of such supervision must be submitted with the application.

D. Applicant with the mental health specialty must complete attachment E and art therapy specialty must complete attachment F.

E. Application fee of \$75.00.  
[16.27.9.10 NMAC - Rp 16 NMAC 27.8.9, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.9.11 EXAMINATION:

Applicants must demonstrate professional competency by ~~[satisfactorily]~~ passing the national counselors exam (NCE) or (NCC) and art therapy specialty must demonstrate professional competency by passing the art therapy credentialing board (ATCB) exam.  
[16.27.9.11 NMAC - Rp 16 NMAC 27.8.10, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.11 NMAC, Sections 8, 9, and 10, effective 02-10-06. The part name is also amended.

### PART 11 REQUIREMENTS FOR LICENSURE WITH EXAMINATION AS AN ALCOHOL AND DRUG ABUSE COUNSELOR (LADAC) EFFECTIVE JULY 1, 2005

#### 16.27.11.8 SUPERVISION:

A. ~~[Supervision received effective July 1, 2003, for alcohol and/or drug abuse counselors must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional~~

~~art therapist, licensed psychiatrist, licensed clinical psychologist, licensed alcohol and drug abuse counselor with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.] Supervision for alcohol and/or drug abuse counselors must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, licensed alcohol and drug abuse counselor (LADAC) with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in substance abuse or licensed independent social worker (LISW). Supervisors must have experience in alcohol and drug abuse counseling.~~

B. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

C. Client contact and supervision hours acquired prior to being licensed will not be ~~[applicable]~~ acceptable for licensure.

[16.27.11.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.11.9 APPLICANTS FOR LICENSURE:** An alcohol and drug abuse counselor (LADAC) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement: Be at least 21 years of age.

B. ~~[Code of ethics statement]~~ Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics ~~[-and].~~

C. ~~[Examination:]~~ Applicant must demonstrate professional competency by ~~[satisfactorily]~~ passing the national certification examination for addiction counselors ~~[level 1]~~ (NCAC level 1).

D. Education requirements

(1) ~~[Hold a baccalaureate degree in a counseling related field from a regionally accredited institution. The board may approve on a case-by-case basis applicants whose education is not in a counseling related field and a minimum of 276 clock hours in the following areas:]~~ Holds an

~~associate degree in counseling, counseling related field or a substance abuse related field from an accredited institution. The board may approve, on a case-by-case basis, applicants whose education is not a counseling related field, and education and training to include 276 clock hours in the following areas:~~

(a) 90 hours in the field of alcohol abuse

(b) 90 hours in the field of drug abuse

(c) 90 hours in the field of counseling

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training ~~[-(must be acquired two years prior to submission of an application)];~~

(2) ~~[Hold a master's degree in a counseling related field from a regionally accredited institution. The board may approve on a case-by-case basis applicants whose education is not in a counseling related field and includes a minimum of 276 clock hours in the following areas:]~~ Holds a baccalaureate degree in a counseling related field or a substance abuse related field from an accredited institution. The board may approve, on a case-by-case basis, applicants whose education is not in a counseling related field; and to include 276 clock hours in the following areas:

(a) 90 hours in the field of alcohol abuse

(b) 90 hours in the field of drug abuse

(c) 90 hours in the field of counseling

(d) 6 hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application) ~~[-and];~~

(3) Holds a masters or doctoral degree in counseling, a counseling related field or a substance abuse related field from an accredited institution and education and training that includes 276 clock hours with 90 hours in each area of alcohol, drug abuse, counseling and 6 hours of professional ethics. One year and 1,000 client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and fifty hours of face to face supervision. The board may approve, on a case-by-case basis, applicants whose education is not in a counseling related field or substance abuse related field and to include 276 clock hours in education or training.

~~[F.]~~ E. Experience requirements.

(1) ~~[A baccalaureate degree requires a minimum of two years and two thousand client contact hours of alcohol and drug abuse counseling and one hundred hours of face to face supervision under~~

~~appropriate supervision, or~~ associate degree requires a minimum of three years and three thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and two hundred hour of face-to-face supervision; or

(2) ~~[A masters degree requires a minimum of one year and one thousand client contact hours of alcohol and drug abuse counseling and fifty hours of face to face supervision under appropriate supervision]~~ a baccalaureate degree requires a minimum of two years and two thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and one hundred hours of face-to-face supervision under appropriate supervision; or

(3) a masters or doctoral degree requires a minimum of one year and one thousand client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and fifty hours of face-to-face supervision.

[G.] E. Documentation required for licensure[-]:

(1) a completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC, and

(2) proof of completed education and experience requirements:

(a) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's ~~associate, baccalaureate, or masters degree~~; the official transcript must be submitted with the application; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board; and/or

(b) documentation of required drug, alcohol, counseling and ethics training (attachment D) shall include:

(i) transcripts from the college or university, or

(ii) the date, course title, course description, number of hours attended and certificate of attendance, and

(c) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application ~~[(unopened)]~~; the statement shall verify that the applicant's performance was in accordance with adequate counseling standards of alcohol and drug practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from

other individuals verifying that supervision took place and describing the nature and the extent of supervision, and

(3) original letters of recommendation ~~are to be submitted with the application in a sealed envelope:~~

(a) provide one letter from current supervisor attesting to good moral character and competency of the applicant, and

(b) provide one letter from current employer attesting to good moral character and competency of the applicant, and

(c) provide one letter from a professional substance abuse colleague attesting to the professionalism of the applicant ~~[; letters must be in a sealed envelope and submitted with the application].~~

(4) ~~[signed code of ethics statement; applicant]~~ applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

(5) ~~[documentation of the applicant's licensure, registration, or certification status must be submitted on attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.]~~ verification of the applicant's licensure, registration, or certification status must be submitted on attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.11.8 NMAC - Rp 16 NMAC 27.26.8, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.11.10 LICENSURE BY CREDENTIALS:

A. A completed application as specified in ~~[Part 3]~~ 16.27.3.8 NMAC.

B. ~~[Documentation]~~ Verification (attachment A) that the applicant holds a current license or certification issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

C. ~~[Documentation: that the applicant has taken and passed the national certification examination for addiction counselors - level 1-]~~ Verification directly from the national certification examination board (NCAC) that the applicant has taken and passed the national certification examination for addiction counselors (NCAC level 1) or the international certification and reciprocity consortium (ICRC).

~~[D. The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree.]~~

[16.27.11.9 NMAC - Rp 16 NMAC

27.9.8&9, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.13 NMAC, Sections 2, 6, 8, and 9, effective 02-10-06. The part name is also amended.

### PART 13 REQUIREMENTS FOR LICENSURE AS A SUBSTANCE ABUSE ~~[TRAINEE]~~ ASSOCIATE (LSAA) EFFECTIVE JULY 1, 2005

**16.27.13.2 SCOPE:** All individuals applying for licensure as a substance abuse ~~[trainee]~~ associate.

[16.27.13.2 NMAC - Rp 16 NMAC 27.27.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.13.6 OBJECTIVE:** The objective of Part 13 is to state the minimum requirements for licensure as a substance abuse ~~[trainee]~~ associate and list the documentation required for application effective July 1, 2005.

[16.27.13.6 NMAC - Rp 16 NMAC 27.27.6, 6-15-01; A, 7-1-04; A, 2-10-06]

#### 16.27.13.8 SUPERVISION:

A. ~~[Supervision received effective July 1, 2003, for substance abuse trainee must be provided by a licensed professional clinical mental health counselor, licensed professional mental health counselor, licensed marriage and family therapist, licensed professional art therapist, licensed psychiatrist, licensed clinical psychologist, licensed alcohol and drug abuse counselor with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent social worker with two years of mental health and supervised clinical experience.]~~ Supervision received for substance abuse associate must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LFMT), licensed professional art therapist (LPAT), licensed psychologist, licensed clinical psychiatrist, licensed alcohol and drug abuse counselor (LADAC) with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent social worker (LISW). Supervisors must have experience in alcohol and drug abuse counseling.

B. It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure ~~[that will be requested at~~



~~the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services].~~

[16.27.13.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.13.9 APPLICANTS FOR LICENSURE:** A substance abuse ~~[trainee (LSAT)]~~ associate (LSAA) must possess the following qualifications and provide the required documentation with the application.

A. Age requirement: Be at least 21 years of age.

B. ~~[Code of ethics statement]~~ Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics ~~[-and]~~.

C. Supervisory requirements: Applicant must have arranged for appropriate supervision, including an experience plan ~~[-and]~~.

D. ~~[Hold an associate degree, a counseling related field from a regionally accredited institution and education and training that includes at a minimum of 90 clock hours of education and training in the areas of alcohol, drug, and counseling. The board may approve on a case-by-case basis applicants whose education is not in a counseling related field.]~~ Holds an associate degree in counseling, counseling related field, or a substance abuse related field from an accredited institution and has a total of ninety (90) clock hours of education and training in the areas of alcohol, drug, and counseling. The board may approve, on a case-by-case basis, applicants whose education is not in counseling, counseling related field, or substance related field.

~~[E. provides two letters of recommendation]~~

~~[F.]~~ E. Documentation required for licensure~~[-];~~

(1) a completed application as specified in ~~[Part 3.8]~~ 16.27.3.8 NMAC, and

(2) ~~[Proof]~~ proof of completed education requirements. the applicant is required to submit an official transcript in a sealed envelope from each institution associate, baccalaureate, masters or doctoral degree. The transcript must be submitted with the application ~~[(unopened). Applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on~~

~~the curricula offered, and any other documentation requested by the board]; and~~

(3) ~~[Verification of associates degree in a counseling related field and that 90 clock hours of education and training in the fields of alcohol and/or drug abuse has been completed to document knowledge of a working definition of substance abuse, and]~~ verification of associates degree in counseling, a counseling-related field, or substance abuse related field and 90 clock hours of education and training in the fields of alcohol and/or drug abuse, and

(4) ~~[Verification]~~ verification on attachment C that an appropriate supervisor has been obtained and an experience plan has been established and a signed statement is provided by the supervisor indicating the ~~[trainee]~~ associate shall only participate in alcohol and drug abuse counseling sessions, and

(5) ~~[Letters]~~ original letters of recommendation: letters must be in a sealed envelope and submitted with the application.

(a) ~~[provide]~~ one letters from a current supervisor attesting to good moral character and competency of the applicant, and

(b) one letter from a professional substance abuse colleague attesting to good moral character and competency of the applicant.

[16.27.13.9 NMAC - Rp 16 NMAC 27.27.8, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.14 NMAC, Sections 2, and 8, effective 02-10-06.

**16.27.14.2 SCOPE:** All individuals approved for examinations for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, licensed mental health counselors, licensed associate marriage and family therapist and alcohol and drug abuse counselors.

[16.27.14.2 NMAC - Rp 16 NMAC 27.15.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.14.8 T E M P O R A R Y LICENSURES:** Will ~~[grant]~~ be granted to individuals meeting all requirements except the prescribed examination. The temporary license will be valid no more than sixty days after the results of the next examination become available. The temporary license of an individual shall automatically expire upon failure to take or to pass the required

examination and cannot be reissued ~~(The temporary license must be returned to the board office). Individuals practicing under a temporary license [must not supervise] shall not provide supervision.~~

[16.27.14.8 NMAC - Rp 16 NMAC 27.15.8, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.15 NMAC, Sections 2, 9 and 15, effective 02-10-06.

**16.27.15.2 SCOPE:** All examination candidates for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, licensed mental health counselors, associate marriage and family therapist and alcohol and drug abuse.

[16.27.15.2 NMAC - Rp 16 NMAC 27.12.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.15.9 APPLICATION FOR EXAMINATION:** Complete applications for licensure must be approved by the board no later than 90 days prior to the ~~[date on which the examination is offered]~~ next available examination.

[16.27.15.9 NMAC - Rp 16 NMAC 27.12.9, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.15.15 SPECIAL ACCOMMODATIONS:** An ~~[ADA]~~ American Disability Act (ADA) covered applicant who requests special accommodation (particularly when the request involves assistance in taking the examination) must make the request in writing; must support the request with a medical statement confirming the need for the accommodation and the basis of the need; and must state with specificity the nature of the requested accommodation. In its sole discretion, the board will either grant or deny the request. Requests must be submitted with the application. The board will consider each request on a case-by-case basis.

[16.27.15.15 NMAC - Rp 16 NMAC 27.12.15, 6-15-01; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.16 NMAC, Sections 2, 8 and 9, effective 02-10-06.

**16.27.16.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, ~~[and registered mental health counselors,]~~ registered independent counselors, ~~[and]~~ licensed mental health counselors, licensed associate marriage and family therapists, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[trainees]~~ associates.

[16.27.16.2 NMAC - Rp 16 NMAC 27.11.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.16.8 CONTINUING EDUCATION REQUIREMENT:** Continuing education credit. Effective for the renewal period beginning October 1, 1997 forty (40) contact hours of continuing education approved by the New Mexico counseling and therapy practice board will be required to be documented during each two-year renewal period.

A. Continuing education must be acquired during the expiring licensing period.

B. One contact hour of continuing education is sixty minutes.

C. Specific continuing education which must be obtained and verified:

(1) six hours of ethics related to counseling/mental health for all licensees;

(2) three hours in supervision related to counseling/mental health for all licensees who are supervisors  
[16.27.16.8 NMAC - Rp 16 NMAC 27.11.8, 6-15-01; A, 2-10-06]

**16.27.16.9 ACCEPTABLE CONTINUING EDUCATION COURSES:**

~~[A. The board will accept for continuing education credit only those courses, which are relevant to counseling and psychotherapy and are presented at a post baccalaureate level or is;]~~

~~[B.]~~ A. approved by certifying groups such as the national board for certified counselors, American marriage and family therapy regulatory board, American art therapy, association international certification reciprocity consortium, national association of alcohol and drug abuse council;

~~[C.]~~ B. approved by other regulatory boards of related mental health or substance abuse fields, including psychiatry, psychology and social work;

~~[D.]~~ C. sponsored by international, national, regional or state mental health professional associations including psychiatry, psychology and social work, or state and federal divisions of substance abuse; or

~~[E.]~~ D. publication of professional writings and presenting board

approved educational courses shall be awarded in a manner consistent with Part 16, section 16.27.16.8 and shall not exceed 20 hours for a license renewal period.

~~[F.]~~ E. approved by the New Mexico counseling and therapy practice board;

~~[G.]~~ E. internet continuing education correspondence shall not exceed 12 hours for a license renewal period;

~~[H.]~~ G. home studies continuing education shall not exceed 12 hours for a license renewal period.

[16.27.16.9 NMAC - Rp 16 NMAC 27.11.9, 6-15-01; A, 7-1-04; A, 2-10-06]

## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.17 NMAC, Sections 2, 9, 10, 11, 12, 14, 15 and 16 effective 02-10-06.

**16.27.17.2 SCOPE:** All applicants applying for licensure as professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, licensed mental health counselors, associate marriage and family therapists, alcohol and drug abuse counselors, and substance abuse ~~[trainees]~~ associates.

[16.27.17.2 NMAC- Rp 16 NMAC 27.10.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.17.9 INITIAL LICENSE FEE:** Individuals accepted for licensure shall pay an initial licensure fee. This fee is based on the biennial cost of the license and must be paid in full before a license can be issued and is non-refundable.

A. Fee for initial licensure as a ~~[entry level]~~ mental health counselor and associate marriage and family therapist is \$75 ~~[for the biennial period]~~. This fee must be paid in full before a license can be issued and is non-refundable.

B. Fee for initial licensure as a professional mental health counselor is \$150 ~~[for the biennial period]~~. This fee must be paid in full before a license can be issued and is non-refundable.

C. Fee for initial licensure as a clinical mental health counselor, a marriage and family therapist or an art therapist is \$220 ~~[for the biennial period]~~. This fee must be paid in full before a license can be issued and is non-refundable.

D. Fee for initial licensure as an alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor is \$150 ~~[for the biennial period]~~. This fee must be paid in full before a license can

be issued and is non-refundable.

E. Fee for initial licensure as a substance abuse ~~[trainee]~~ associate is \$75 ~~[for the biennial period]~~. This fee must be paid in full before a license can be issued and is non-refundable.

[16.27.17.9 NMAC - Rp 16 NMAC 27.10.9, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.17.10 RENEWAL FEES:** ~~[Effective October 1, 2000,]~~ The fees are as listed below and are non-refundable:

A. licensed ~~[or registered]~~ mental health counselor, \$75.00,

B. registered independent mental health counselor, \$150.00.

C. professional mental health counselor, \$150.00.

D. clinical mental health counselor, \$220.00.

E. marriage and family therapist, \$220.00.

F. professional art therapist, \$220.00.

G. alcohol and drug abuse counselor, \$150.00.

H. alcohol abuse counselor, \$150.00.

I. drug abuse counselor, \$150.00.

J. substance abuse ~~[trainee]~~ associate, \$75.00.

K. licensed associate marriage and family therapist, \$75.00

L. renew extension penalty fee, \$300.00

[16.27.17.10 NMAC- Rp 16 NMAC 27.10.10, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.17.12 [TRANSFER FEE] LICENSURE UPGRADE:** Individuals who are currently licensed or registered by the board may, upon approval, ~~[transfer]~~ upgrade the category of licensure or registration by submitting a new application and required documentation ~~[for review]~~,

accompanied by the application fee. ~~[Upon approval of the change in license type, the initial license fee for the new license shall be the difference between the initial licensing fee and the new category initial licensing fee with no change in expiration date.]~~

[16.27.17.12 NMAC- Rp 16 NMAC 27.10.12, 6-15-01; A, 2-10-06]

**16.27.17.14 LATE FEE:** Any renewal application, including fee, not post-marked by the license expiration date is considered ~~[lapsed]~~ expired. Renewal after the expiration date, but during the ~~[90]~~ 30-day period, is subject to a late fee of \$100 which is non-refundable ~~[, in addition to the renewal fee and compliance with all renewal requirements].~~

[16.27.17.14 NMAC - Rp 16 NMAC 27.10.14, 6-15-01; A, 2-10-06]

**16.27.17.15** **[REINSTATEMENT FEE]:** ~~A license or registration that is not renewed within 90 days of expiration is automatically suspended. A license or registration that has been suspended for non-renewal may be reinstated if the renewal application is received within ninety (90) days of the automatic suspension and upon payment of a reinstatement fee of \$100 which is non refundable, in addition to the unpaid renewal fee, late fee, and compliance with all renewal requirements. A license that is not renewed within one hundred and eighty (180) days of expiration is automatically expired.~~ **[Reserved]**

[16.27.17.15 NMAC - Rp 16 NMAC 27.10.15, 6-15-01; A, 7-1-04; Repealed, 2-10-06]

**16.27.17.16** **ADMINISTRATIVE FEES:** The board will charge the following administrative fees, which are non-refundable:

A. ~~[\$.25 (twenty five cents) per page for copies.]~~ \$10.00 (ten dollars) for file copies.

B. \$10.00 (ten dollars) for written license verification.

C. \$250.00 (two hundred fifty dollars) for address labels of New Mexico licensed counselors and therapists.

D. \$150.00 (one hundred fifty dollars) for an address list of New Mexico licensed counselors and therapists.

E. \$300.00 (three hundred dollars) for electronic list of New Mexico licensed counselors and therapists.

~~[F. fee for translating services required for foreign transcripts.]~~

~~[G.]~~ E. \$25.00 (twenty-five dollars) charge for returned checks.

~~[H.]~~ G. ~~[\$75.00 (seventy five dollars)]~~ \$100.00 (one hundred dollars) for pre-approved continuing education provider number.

~~[I.]~~ H. \$20.00 (twenty dollars) administrative NCAC examination fees.

~~[J.]~~ I. \$25.00 (twenty-five dollars) administrative NCE, NCMHCE, marriage and family therapist, art therapist, and NCAC examinations fees.

[16.27.17.16 NMAC - Rp 16 NMAC 27.10.16, 6-15-01; A, 7-1-04; A, 2-10-06]

**NEW MEXICO  
COUNSELING AND  
THERAPY PRACTICE  
BOARD**

This is an amendment to 16.27.18 NMAC, Sections 2, 6, 8 and 9 effective 02-10-06.

**16.27.18.2** **SCOPE:** All professional clinical mental health counselors,

marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, ~~[registered mental health counselors,]~~ licensed mental health counselors, associate marriage and family therapists, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[trainees]~~ associates.

[16.27.18.2 NMAC- Rp 16 NMAC 27.14.2, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.18.6** **OBJECTIVE:** The objective of Part 18 is to outline the code of ethics all applicants and licensed professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, ~~[registered mental health counselors,]~~ associate marriage and family therapists, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[trainees]~~ associates must adhere to as licensed professionals. Failure to adhere to the code of ethics may result in disciplinary action by the board.

[16.27.18.6 NMAC- Rp 16 NMAC 27.14.6, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.18.8** **WHO MUST ADHERE TO THE CODE OF ETHICS:**

The counseling and therapy practice board code of ethics for professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, ~~[registered mental health counselor,]~~ associate marriage and family therapist, registered independent mental health counselor, licensed mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor, and substance abuse ~~[trainee]~~ associate and approved supervisors. Licensure/registration is binding to all individuals holding ~~[a license/registration to practice professional mental health counseling, professional clinical mental health counseling, marriage and family therapy, professional art therapy, registered and licensed mental health counseling, registered independent mental health counseling, alcohol and drug abuse counseling, alcohol abuse counseling, drug abuse counseling, and substance abuse trainee]~~ licensure in the state of New Mexico~~, and approved supervisors].~~

[16.27.18.8 NMAC- Rp 16 NMAC 27.14.8, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.18.9** **SCOPE:** This code of ethics regulates the ethical and professional conduct of:

A. all licensed and registered individuals;

B. all applicants for licensure ~~[or registration];~~

C. ~~[registered and licensed mental health counselors, substance abuse trainees and supervisors during their education, practicum and post graduate training; and]~~ licensed mental health counselors, licensed associate marriage and family therapists and substance abuse associates and supervisors during their education, practicum and postgraduate training; and

D. expert witnesses: it applies to all licensed or registered individuals, in direct contact with clients, as well as during education, training, and research endeavors.

[16.27.18.9 NMAC- Rp 16 NMAC 27.14.9, 6-15-01; A, 7-1-04; A, 2-10-06]

**NEW MEXICO  
COUNSELING AND  
THERAPY PRACTICE  
BOARD**

This is an amendment to 16.27.19 NMAC, Sections 7 and 9, effective 02-10-06.

**16.27.19.7** **DEFINITIONS:** Approved supervisor definitions.

A. Administrative supervision means those supervisory activities, which increase the efficiency and management of the delivery of counseling services.

B. Clinical supervision means the supportive and educative activities of the supervisor designed to improve the application of counseling theory and technique directly to clients. Clinical supervision is the only supervision acceptable for licensure.

C. Applied counseling settings means public, state/federal agencies, or private organizations of counselors and therapists such as community mental health counselors, hospitals, schools, and group or individual private practice settings.

D. Supervisees means ~~[registered mental health counselors,]~~ licensed mental health counselors, associate marriage and family therapist or substance abuse ~~[trainees]~~ associates, or licensees who are working with clients in an applied counseling settings.

E. Supervisors means counselors and therapists or other approved supervisors who within applied counseling settings oversee the professional clinical work of registered mental health counselors or licensees or substance abuse associates.

[16.27.19.7 NMAC- Rp 16 NMAC 27.16.7, 6-15-01; A, 7-1-04; A, 2-10-06]

**16.27.19.9** **SUPERVISORY**

**ROLE.**

A. The primary obligation of supervisors is to train counselors and therapists so that they respect the integrity and promote the welfare of the client. Inherent and integral to the role of supervisor are responsibilities for:

- (1) monitoring client welfare;
- (2) encouraging compliance with relevant legal, ethical, and professional standards for clinical practice;
- (3) monitoring clinical performance and professional development of supervisees; and
- (4) evaluating and certifying current performance and potential of supervisees for academic, screening, selection, placement, employment, and credentialing purposes.

B. Supervisors should have ~~had~~ 3 years training and experience in their field prior to initiating their role as supervisors. ~~[Effective July 1, 2003, supervisors]~~ Supervisors will acquire ~~[nine]~~ three hours of continuing education relative to supervision prior to initiating their role as supervisors.

C. Supervisors shall obtain professional and personal continuing education activities such as advanced courses, seminars, and professional conferences. Supervisors are required to obtain and document three hours of continuing education pertaining to supervision topics and skills per renewal period.

D. Supervisors shall inform their supervisees of professional and ethical standards and legal responsibilities of the counseling/therapy profession.

E. Supervisors of post-graduate counselors and therapists who are seeking state licensure should encourage these counselors and therapists to adhere to the standards for practice established by the state licensure board of the state in which they practice.

F. Procedures for contacting the supervisor, or an alternative supervisor, to assist in handling crisis situations shall be established and communicated to supervisees.

G. Actual work samples via session process notes, audio and/or video tape or live observation in addition to case notes shall be reviewed by the supervisor as a regular part of the ongoing supervisory process.

H. Supervisors shall meet regularly in face-to-face sessions with their supervisees.

I. Supervisors shall provide supervisees with ongoing feedback on their performance. This feedback should take a variety of forms, both formal and informal, and should include verbal and written evaluations. It should be formative during the supervisory experience and sum-

mative at the conclusion of the experience.

J. Supervisors who have multiple roles (e.g., teacher, clinical supervisor, administrative supervisor, etc.) with supervisees shall minimize potential conflicts. Where possible, the roles should be divided among several and it should be conveyed to the supervisee as to the expectations and responsibilities associated with each supervisory role.

K. Supervisors shall not participate in any form of sexual contact with supervisees. Dual relationships with supervisees that might impair the supervisor's objectivity and professional judgment should be avoided and/or the supervisory relationship terminated.

L. Supervisors shall not establish a psychotherapeutic relationship as a substitute for supervision. Personal issues should be addressed in supervision only in terms of the impact of these issues on clients and on professional functioning.

M. Supervisors, through ongoing supervisee assessment and evaluation, should be aware of any personal or professional limitations of supervisees which are likely to impede future professional performance. Supervisors have the responsibility of recommending remedial assistance to the supervisee and of screening from the training program, applied counseling setting, or state licensure those supervisees who are unable to provide competent professional services. These recommendations should be clearly and professionally explained in writing to the supervisees who are so evaluated.

N. Supervisors shall not endorse a supervisee for certification, licensure, completion of an academic training program, or continued employment if the supervisor believes the supervisee is impaired in any way that would interfere with the performance of counseling/therapy duties. The presence of any such impairment should begin a process of feedback and remediation wherever possible so that the supervisee understands the nature of the impairment and has the opportunity to remedy the problem and continue with his/her professional development.

O. Supervisors shall supervise clinical work only in areas where they are fully competent, and experienced.

P. Supervisors shall inform supervisees of the goals, policies, theoretical orientations toward counseling/therapy, training, and supervision model or approach on which the supervision is based.

Q. Supervisors shall use the following prioritized sequence in resolving conflicts among the needs of the client, the needs of the supervisee, and the needs of the program or agency. Insofar as the client must be protected, it shall be

understood that client welfare is usually subsumed in federal and state laws such that these statutes should be the first point of reference. Where laws and ethical standards are not present or are unclear, the good judgment of the supervisor shall be guided by the following list:

- (1) relevant legal and ethical standards (e.g. duty to warn, state child abuse laws, etc.);
- (2) client welfare;
- (3) supervisee welfare;
- (4) supervisor welfare; and
- (5) program and/or agency service and administrative needs.

[16.27.19.9 NMAC- Rp 16 NMAC 27.16.9, 6-15-01; A, 2-10-06]

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## NEW MEXICO COUNSELING AND THERAPY PRACTICE BOARD

This is an amendment to 16.27.20 NMAC, Section 2 effective 02-10-06.

**16.27.20.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, ~~[registered mental health counselors]~~ associate marriage and family therapists, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse ~~[trainees]~~ associates.

[16.27.20.2 NMAC - Rp 16 NMAC 27.17.2, 6-15-01; A, 7-1-04; A, 2-10-06]

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## NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS ARTS DIVISION

Explanatory paragraph: 4.12.1 NMAC is amended, specifically to Subsection V of 4.12.1.7 NMAC by the striking of limiting language "limited two-year" and "Funding from NMA cannot be used for any organization or activities that have received funding through another NMA application in the same fiscal year". This is an effort on the part of NMA's ongoing efforts to create a more user-friendly, modern and flexible grants application process. This action also replaces the "New Mexico Arts - Funding Guidelines FY2006" with the "New Mexico Arts - Funding Guidelines FY2007", effective 1-31-06.

**4.12.1.7**

**DEFINITIONS:**

...

V. "Eligibility" means tax-exempt nonprofit organizations, units of government, schools, universities, colleges or organizations with Indian tribal government designation in New Mexico are eligible to apply. Organizations without tax-exempt nonprofit or tribal designation, or that are not units of local government may enter into a [~~limited two year~~] fiscal sponsorship using a fiscal agent to apply. These organizations are eligible to apply once per fiscal year. [~~Funding from NMA cannot be used for any organization or activities that have received funding through another NMA application in the same fiscal year.~~] See guidelines for other eligibility requirements.

**NEW MEXICO  
DEPARTMENT OF  
CULTURAL AFFAIRS  
ARTS DIVISION**

This is an amendment to 4.12.10 NMAC, replacing the "New Mexico Arts - Folk Arts Guidelines 2004-2005" with the "New Mexico Arts - Folk Arts Guidelines 2006-2007", effective 1-31-06.

**NEW MEXICO  
DEPARTMENT OF GAME  
AND FISH**

This is an amendment to 19.31.4 NMAC, Sections 4, 11, 12, effective January 31, 2006.

**19.31.4.4 DURATION:** [~~April 15, 2002 through March 31, 2006~~] April 1, 2006 through March 31, 2010.  
[19.31.4.4 NMAC - Rp 19.31.4.4 NMAC, 4-15-02; A, 1-31-06]

**19.31.4.11 DAILY BAG AND POSSESSION LIMITS:**

**A. Trout**

(1) Waters with reduced bag limit: No person shall fish waters regulated for reduced limits while having in excess of that limit in possession.

(2) Brown, rainbow, cutthroat, lake, Brook trout and Kokanee salmon:

(a) The daily bag limit shall be 5 trout and no more than 10 trout shall be in possession.

(b) The daily bag limit for cutthroat trout shall be 2 trout and no more than 2 cutthroat trout may in possession. Cutthroat trout are included in the bag and possession limits for trout explained in 19.31.4.11(A. 2.a) NMAC (above).

(3) Special Kokanee salmon season: During the special Kokanee salmon season, the daily bag limit shall be 12

Kokanee salmon in addition to the daily bag limit for trout, and no more than 24 Kokanee salmon may be possessed in addition to the possession limit for trout. It shall be unlawful to possess Kokanee salmon at Heron lake and Pine river during the closed Kokanee salmon season (October 1 through November 14).

(4) Special trout waters - On certain waters, hereafter referred to as "Special Trout Waters", the following exceptions shall apply:

(a) On those sections of the following waters the daily bag limit shall be 2 trout and no more than 2 trout shall be in possession. Anglers must stop fishing in those waters when the daily bag limit is reached: In Rio Arriba county: all waters lying within or adjacent to the Little Chama valley ranch (Edward Sargent wildlife area) including the Rio Chamito, Sexton creek, and Rio Chama, excluding Nabor creek and Nabor lake; In Colfax county; the Shuree lakes on the Valle Vidal; In Taos county: a posted portion of the Rio Pueblo between the bridge at mile marker 55 on state hwy. 518 upstream approximately 1 mile to the Canon Tio Maes trailhead; In San Miguel county: an approximately 1-1/2 mile posted portion of the Pecos river beginning approximately 1/2 mile above the confluence of the Mora river (Mora-Pecos) upstream to approximately 1/4 mile above the bridge crossing at Cowles; In Rio Arriba county: a posted portion of the Chama river approximately 2.9 miles within the boundaries of the Rio Chama wildlife and fishing area; In Catron county: a posted portion of Gilita creek from the Gila wilderness boundary downstream approximately 5 miles to its confluence with Snow creek; In Rio Arriba county: a posted portion of the Rio de los Pinos from USFS Boundary 24 at the junction of forest road 284 and 87A, 2.5 miles upstream to the private property boundary; In Taos county: a posted portion of Red River from the confluence of Goose creek 1 mile upstream.

(b) In San Juan county, in a posted portion of the San Juan river, from a point beginning approximately 1/4 mile downstream of Navajo dam and extending downstream 3.5 miles to the east side of section 16: the daily bag limit shall be 1 trout and no more than 1 trout shall be in possession except in the catch-and-release section. The angler must stop fishing in the section defined once the daily bag limit is reached.

(c) On those sections of the following waters no fish may be kept or held in possession while fishing in the posted portions of the following waters: In San Juan county: a posted portion of the San Juan river from Navajo dam downstream approximately 1/4 mile; In Sandoval county: a

posted portion of the Rio Cebolla from the Seven Springs day use area upstream to its headwaters; In Sandoval County: a posted portion of the San Antonio River from the Baca location boundary downstream approximately 2.0 miles (T. 19 N., R. 03 E., S 16 and 20); In Sandoval county: a posted portion of the Rio Guadalupe from the Porter landing bridge downstream approximately 1.3 miles to Llano Loco Spring; In Taos county: a posted portion of the Rio Costilla from the Valle Vidal tract of the Carson national forest downstream for approximately 2.4 miles to the confluence of Latir creek; In Sierra county: the Rio las Animas within the Gila national forest, Black range ranger district; In Mora county: the Pecos river in the Pecos wilderness, above Pecos falls; In Rio Arriba county: Nabor creek and Nabor lake on the Edward Sargent wildlife area; In San Miguel and Santa Fe counties: Doctor creek from 1/4 mile above its confluence with Holy Ghost creek upstream to its headwaters; In Mora county: Rio Valdez in the Pecos wilderness from 1/4 mile below Smith cabin upstream to its headwaters; In San Miguel and Mora counties: Jack's creek from the water falls located 1/4 mile downstream of NM Highway 63 crossing upstream to its headwaters; In Taos and Colfax counties: any stream on the Valle Vidal (Vermejo tract - Carson national forest).

(d) In Colfax county: on a posted section of the Cimarron river from the lower end of Tolby campground downstream approximately 1.4 miles to the first bridge of N.M. 64 the daily bag limit shall be 1 fish and no more than one fish may be in possession.

(e) At Conservancy park/Tingley beach in Albuquerque: the southernmost pond shall be catch-and-release only.

(5) On the following waters, the daily bag limit shall be 3 trout and no more than 3 trout may be in possession, although there are no special restrictions regarding the use of legal gear.

(a) In Taos county: a posted portion of the Rio Grande beginning at the New Mexico/Colorado state line downstream to the Taos junction bridge.

(b) In Taos county: a posted portion of the Red River beginning approximately 1/2 mile downstream of the walking bridge at Red River state fish hatchery downstream to its confluence with the Rio Grande.

(c) In Taos county: the designated fishing pond at Red River state fish hatchery.

(d) In Rio Arriba county: on a posted portion of the Rio Chama from the base of Abiquiu dam downstream approximately 7 miles to the river crossing bridge on U.S. 84 at Abiquiu.

(e) In Sierra county: the Rio Grande from Elephant Butte dam downstream to and including Caballo lake.

(f) In Lincoln county: The Rio Ruidoso from the boundary between the Mescalero Apache reservation and the city of Ruidoso downstream to Fridenbloom drive.

(g) In Rio Arriba county: Burns canyon lake at Parkview hatchery.

(6) Gila trout: It shall be unlawful for any person to possess Gila trout (*Oncorhynchus gilae*).

**B. Warm-water fishes:**

The daily bag limit for game fish other than trout shall be as listed below and the possession limit shall be twice the daily bag limit.

(1) striped bass [2] 3 fish;

(2) largemouth, smallmouth, and spotted bass 5 fish;

(3) walleye 5 fish;

(4) crappie 20 fish;

(5) white bass and white bass x striped bass hybrid 25 fish;

(6) northern pike 10 fish;

(7) catfish (all species, except bullheads) 15 fish;

(8) yellow perch 30 fish;

(9) all other warm-water game species 20 fish.

**C. The following exception shall apply:**

(1) At Conservancy park/Tingley beach in Albuquerque; lake Van (Chaves county); Oasis state park; Greene Acres lake (Curry county); Burn lake (Dona Ana county); Escondida lake (Socorro county); ~~Aztec pond (San Juan county);~~ McGaffey lake (McKinley county); Bataan lake (Eddy county); Chaparral lake (Lea county); Bosque Redondo (De Baca county); Carrizozo lake (Lincoln county); Green Meadow lake; Eunice lake; and Jal lake (Lea county): the daily bag limit for channel catfish will be 2 fish and the possession limit shall be twice the daily bag limit.

(2) In San Juan county, in the San Juan and Animas rivers, not including Navajo lake, there is no daily bag limit or possession limit for channel catfish and striped bass.

(3) Statewide, all tiger muskie (*Esox lucius* x *E. masquinongy*) caught must immediately be released.

[19.31.4.11 NMAC - Rp 19.31.4.11 NMAC, 4-15-02; A, 10-31-02; A, 6-25-03; A, 8-13-04; A, 5-13-05; A, 9-15-05; A/E, 01-03-06; A, 1-31-06]

**19.31.4.12 SIZE LIMITS:**

**A. Salmonids**

(1) On that section of the San Juan river where only barbless lures or flies may be used, any trout taken that are less than 20 inches long shall be immediately returned to the water and no fish under 20

inches shall be possessed in that section; provided, however, that no fish may be possessed in the catch-and-release water section.

(2) On Shuree lakes, on the Valle Vidal tract, any trout taken that are less than 15 inches long shall be immediately returned to the water.

(3) In Colfax county, a posted portion of the Cimarron river where only barbless lures or flies may be used (and more specifically described in Subsection A of 19.31.4.11 NMAC above), any trout taken that are less than 16 inches long shall be immediately returned to the water.

(4) [Reserved]

(5) Any trout taken that are less than 12 inches long shall be immediately returned to the water in the following locations:

(a) In San Miguel county: a posted portion of the Pecos river where only barbless lures or flies may be used (more specifically described in Subsection A of 19.31.4.11 NMAC above).

(b) In Lincoln county: a posted section of the Rio Ruidoso where only barbless lures or flies may be used (more specifically described in Subsection A of 19.31.4.11 NMAC above).

(c) In Taos county: a posted section of the Red River from the confluence with Goose creek 1 mile upstream.

**B. Black basses**

(1) Any largemouth or spotted bass taken which is less than 14" long shall be immediately returned to the water.

(2) Any smallmouth bass taken which is less than 12" long shall be immediately returned to the water except at Ute and Conchas reservoirs where any smallmouth bass taken which is less than 14" long shall be immediately returned to the water.

**C. Walleye:** Any walleye taken which are less than 14" long shall be immediately returned to the water.

[19.31.4.12 NMAC - Rp 19.31.4.12 NMAC, 4-15-02; A, 8-13-04; A, 1-31-06]

**NEW MEXICO  
DEPARTMENT OF GAME  
AND FISH**

This is an amendment to 19.31.9 NMAC, Sections 7, 8, 9, 10, 12. New Sections added 13, 14, 15, effective 01-31-06. This rule was also renumbered and reformatted to comply with current NMAC requirements.

**PART 9 COMMERCIAL  
[FISHING] USE OF FISH**

**19.31.9.7 DEFINITIONS:**

A. "Commercial fish"

shall mean gizzard shad, whitesucker, carp-sucker, flannelmouth sucker, smallmouth buffalo, carp, gar, yellow perch and all species of bullheads.

B. "Commercial fisherman" shall mean a person who makes or intends to make income by taking and selling commercial fish.

C. "Commercial fishing permit" shall mean a permit issued by the director of the department of game and fish to authorize a commercial fisherman and his named employees to take commercial fish from specified waters by specified means.

D. "Commercial fishing water" shall mean a water that the director of the department of game and fish has designated as one for which commercial fishing permits will be available.

E. "Minnow" shall mean all non-game fish sold as bait, regardless of taxonomic classification.

F. "Bait dealers license" shall mean a license issued by the director of the department of game and fish to authorize a vendor and his named employees to sell minnows, amphibians, and crayfish for use as bait.

[5/24/77; 19.31.9.7 NMAC - Rn & A, 19 NMAC 31.9.7, 1-31-06]

**19.31.9.8 AVAILABILITY OF  
COMMERCIAL FISHING PERMITS:**

A. The director may designate the commercial waters for the following calendar year during December.

B. When the director designates commercial fishing waters, he may also designate the numbers of permits available for each water.

C. The director may also designate the number of employees that each commercial fisherman may include in the activities authorized by his commercial fishing permit.

[5/24/77; 19.31.9.8 NMAC - Rn & A, 19 NMAC 31.9.8, A, 1-31-06]

**19.31.9.9 ISSUANCE OF  
COMMERCIAL PERMITS:**

A. Individuals desiring commercial fishing permits shall apply on the application form provided by the department of game and fish.

B. If more applications are received than there are permits available for any water, the available permits will be allotted by public drawing.

C. No one may hold more than one commercial fishing permit during any one calendar year.

D. Applicants must include payment in accordance with 19.30.9 NMAC with completed application. License fee is nonrefundable.

[5/24/77; 19.31.9.9 NMAC - Rn & A, 19 NMAC 31.9.9, 1-31-06]

**19.31.9.10 CONDITIONS OF COMMERCIAL FISHING PERMITS:**

A. Each commercial fishing permit shall be valid from the date of issue to December 31 of the year in which it was issued.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of commercial fish from only two waters.

D. Each permit shall specify the methods by which commercial fish may be taken.

E. A commercial fishing permittee shall report each month's catch to the department of game and fish, no later than the 20th of the following month, on forms provided by the department.

F. A commercial fishing permittee and his employees shall permit inspection of their catch upon request by any commissioned department of game and fish officer.  
[5/24/77; 19.31.9.10 NMAC - Rn & A, 19 NMAC 31.9.10, 1-31-06]

**19.31.9.12 REVOCATION OF COMMERCIAL FISHING PERMIT:**

The director may, at any time, revoke in writing, a commercial permit for any of the following:

A. Violation of this or any other regulation of the state game commission;

B. Failure to abide by the conditions of the commercial fishing permit;

C. Conflicts between permitted methods for taking commercial fish and proper management of game fish;

D. Occurrence of low water levels or other natural phenomena in a commercial fishing water that would render inadvisable continued commercial fishing in that water;

E. Requests from state or federal agencies for discontinuance of commercial fishing because of conflicts with other designated uses of the water.  
[5/24/77; 19.31.9.12 NMAC - Rn & A, 19 NMAC 31.9.12, 1-31-06]

**19.31.9.13 ISSUANCE OF BAIT DEALERS LICENSE:**

A. Individuals desiring a bait dealers license shall apply on the application form provided by the department of game and fish.

B. Applicants must include payment in accordance with 19.30.9 NMAC with completed application.

C. Application must include all sources the bait dealer will use to

obtain minnows.

[19.31.9.13 NMAC - N, 1-31-06]

**19.31.9.14 PERMISSABLE SPECIES FOR SALE AS BAIT**

A. Fish: Only fathead minnow (pimephales promelas), red shiner (cyprinella lutrensis), golden shiner (notemigonus crysoleucas), gizzard shad (dorosoma cepedianum), and threadfin shad (dorosoma petenense) may be sold as bait fish.

B. Amphibians: Only tiger salamander larvae (ambystoma tigrinum), or "waterdogs", may be sold as bait.

C. Crayfish: Only native species (orconectes deaneam, orconectes virilis, orconectes causeyi and procambarus simulans) may be sold as bait.

[19.31.9.14 NMAC - N, 1-31-06]

**19.31.9.15 CONDITIONS OF BAIT DEALER LICENSES:**

A. Each bait dealers license shall be valid from April 1 of the year in which it was issued until March 31 of the following year.

B. Each permit shall state the name and address of the permittee and of all employees who may assist the permittee.

C. Each permit shall authorize the taking of bait fish using only those methods specified in 19.31.10 NMAC.

(1) It shall be unlawful to collect bait from those waters designated as trout waters in 19.31.4 NMAC.

(2) It shall be unlawful to collect bait fish from the mainstem Pecos river, with the exceptions of Santa Rosa, Sumner, and Brantley lakes.

(3) It shall be unlawful to collect bait fish from the mainstem Rio Grande with the exceptions of Abiquiu, Cochiti, Elephant Butte, and Caballo lakes.

(4) It shall be unlawful to collect bait fish from the mainstem Canadian river with the exceptions of Conchas and Ute lakes.

(5) It shall be unlawful to collect bait fish west of the continental divide, with the exception of Navajo lake.

E. A licensed bait dealer must comply with 19.35.7 NMAC when purchasing live bait obtained from an out-of-state source.

F. A licensed bait dealer and his employees shall permit inspection of their inventory upon request by any commissioned department of game and fish officer.

G. It is unlawful to release live fish or bait into the waters of New Mexico without first obtaining a permit

from the department of game and fish (19.35.7 NMAC).

[19.31.9.15 NMAC - N, 1-31-06]

## NEW MEXICO HUMAN SERVICES DEPARTMENT

### MEDICAL ASSISTANCE DIVISION

#### TITLE 8 SOCIAL SERVICES CHAPTER 248 MEDICAID ELIGIBILITY - MEDICARE DRUG COVERAGE (CATEGORY 048)

#### PART 400 RECIPIENT POLICIES

**8.248.400.1 ISSUING AGENCY:**  
New Mexico Human Services Department.  
[8.248.400.1 NMAC - N, 2-1-06]

**8.248.400.2 SCOPE:** The rule applies to the general public.  
[8.248.400.2 NMAC - N, 2-1-06]

**8.248.400.3 STATUTORY AUTHORITY:** The New Mexico medicare program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See NMSA 1978, 27-2-12 et. seq. ( Repl. Pamph. 1991). The legal basis for the low-income subsidy (LIS) program is the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173.  
[8.248.400.3 NMAC - N, 2-1-06]

**8.248.400.4 DURATION:**  
Permanent.  
[8.248.400.4 NMAC - N, 2-1-06]

**8.248.400.5 EFFECTIVE DATE:**  
February 1, 2006, unless a later date is cited at the end of a section.  
[8.248.400.5 NMAC - N, 2-1-06]

**8.248.400.6 OBJECTIVE:** The objective of these regulations is to provide eligibility policy and procedures for the medicare part D - low-income subsidy program.  
[8.248.400.6 NMAC - N, 2-1-06]

**8.248.400.7 DEFINITIONS:**  
[RESERVED]

**8.248.400.8** [RESERVED]

**8.248.400.9 LOW-INCOME SUBSIDY FOR MEDICARE PART D ELIGIBLES:** Applicants/recipients who meet certain income and other non-financial requirements can be eligible for the low-

income subsidy (LIS) under medicare part D.

[8.248.400.9 NMAC - N, 2-1-06]

**8.248.400.10 BASIS FOR DEFINING THE GROUP:**

A. Medicare recipients who are eligible for part D medicare coverage under the MMA of 2003 may be eligible for the low-income subsidy program. Eligibility is based on financial criteria, both income and resources, of applicant and spouse (if any) for the appropriate family size.

B. **Family size:** The following persons are included in the family size:

- (1) the applicant;
- (2) the applicant's spouse, if living with the applicant; and
- (3) any persons who are related by blood, marriage, or adoption, who are living with the applicant and spouse and who are dependent on the applicant or spouse for at least one half of their financial support.

[8.248.400.10 NMAC - N, 2-1-06]

**8.248.400.11 GENERAL RECIPIENT REQUIREMENTS:**

A. **Medicare:** Applicants must be eligible for and receiving part A or part B medicare benefits.

B. **Residence:** To be eligible for the low-income subsidy, an applicant/recipient must be physically present in New Mexico on the date of application or final determination of eligibility and must have demonstrated intent to remain in the state. Eligibility for the low-income subsidy (LIS) will transfer to New Mexico if determined by the social security administration (SSA) in another state. If eligibility was determined by another state (not SSA), eligibility must be re-determined in New Mexico.

[8.248.400.11 NMAC - N, 2-1-06]

**8.248.400.12 SPECIAL RECIPIENT REQUIREMENTS:**

Applicants/recipients must be enrolled in a part D prescription drug plan (PDP) or a medicare advantage prescription drug (MAPD) plan.

[8.248.400.12 NMAC - N, 2-1-06]

**8.248.400.13 RECIPIENT RIGHTS AND RESPONSIBILITIES:**

An applicant/recipient is responsible for establishing his eligibility for the LIS.

A. As part of this responsibility, the applicant/recipient must provide required information and documents or take the actions necessary to establish eligibility. Failure to do so must result in a decision that eligibility does not exist.

B. An applicant/recipient

must also grant the human services department (HSD) permission to contact other persons, agencies or sources of information that are necessary to establish eligibility.

C. An applicant can voluntarily withdraw an application any time prior to the determination of eligibility. The ISD office advises an applicant that withdrawing an application has no effect upon his right to apply for assistance in the future.

[8.248.400.13 NMAC - N, 2-1-06]

**8.248.400.14 REPORTING REQUIREMENTS:**

A LIS recipient must report to the local ISD office any change in his circumstances that might affect eligibility within ten (10) days of the change.

[8.248.400.14 NMAC - N, 2-1-06]

**HISTORY OF 8.248.400 NMAC:**

[RESERVED]

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

**TITLE 8 SOCIAL SERVICES  
CHAPTER 248 MEDICAID ELIGIBILITY - MEDICARE DRUG COVERAGE (CATEGORY 048)  
PART 500 INCOME AND RESOURCE STANDARDS**

**8.248.500.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.248.500.1 NMAC - N, 2-1-06]

**8.248.500.2 SCOPE:** The rule applies to the general public.  
[8.248.500.2 NMAC - N, 2-1-06]

**8.248.500.3 STATUTORY AUTHORITY:** The New Mexico medicare program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See NMSA 1978, 27-2-12 et. seq. ( Repl. Pamp. 1991). The legal basis for the low-income subsidy (LIS) program is the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173.  
[8.248.500.3 NMAC - N, 2-1-06]

**8.248.500.4 DURATION:** Permanent.  
[8.248.500.4 NMAC - N, 2-1-06]

**8.248.500.5 EFFECTIVE DATE:** February 1, 2006, unless a later date is cited at the end of a section.

[8.248.500.5 NMAC - N, 2-1-06]

**8.248.500.6 OBJECTIVE:** The objective of these regulations is to provide eligibility policy and procedures for the medicare part D (drug benefit) - low income subsidy program.

[8.248.500.6 NMAC - N, 2-1-06]

**8.248.500.7 DEFINITIONS:**

[RESERVED]

**8.248.500.8** [RESERVED]

**8.248.500.9 NEED DETERMINATION:** This section describes the methodology to be used in determining countable resources and income for the low-income subsidy (LIS) program which is based in part on supplemental security income (SSI) methodology. These guidelines are used for initial and on-going eligibility for medicare beneficiaries enrolled in part A or part B medicare. LIS eligibility is determined prospectively. Applicants/recipients must meet, or expect to meet, all financial and non-financial eligibility criteria in the month for which a determination of eligibility is made.  
[8.248.500.9 NMAC - N, 2-1-06]

**8.248.500.10 APPLICATION PROCESS:** The income support division (ISD) office is responsible for taking LIS applications from those individuals who do not want to submit their application to the social security administration either directly or through the ISD office.

A. **Who does not have to apply:** Certain groups of medicare beneficiaries who are also receiving medicaid do not have to apply for the LIS. These individuals are called "deemed eligible" and will automatically be put on the LIS:

(1) full-benefit dual eligibles, who are persons eligible for both medicare and have full medicaid benefits (including drug benefits);

(2) SSI recipients;

(3) medicare beneficiaries, who are participants in the medicare saving programs, which are: QMB, SLIMB, and QI-1;

(4) working disabled individuals (WDI) who are receiving medicare;

(5) HCBW recipients who are receiving medicare; and

(6) individuals screened for QMB, SLIMB, or QI-1 and determined eligible before the application for LIS is processed.

B. **Who can apply:** Medicare beneficiaries who are not deemed eligible (See Paragraphs (1) through (6) above) and who insist on filing their application with the state rather than with social security administration (SSA).



[8.248.500.10 NMAC - N, 2-1-06]

**8.248.500.11 RESOURCE STANDARDS:** A "resource" is defined as cash and other assets that can be converted to cash within 20 days.

A. **Resource determination:** The resource determination is made as of the first moment of the first day of the month. An applicant/recipient is ineligible for any month in which his countable resources exceed the allowable resource standard as of the first moment of the first day of the month. Changes in the amount of countable resources during a month do not affect eligibility or ineligibility for that month.

B. **Distinguishing between resources and income:** Resources must be distinguished from income to avoid counting a single asset twice. As a general rule, ownership of a resource precedes the current month while income is received in the current month. Income held by an applicant/recipient until the following month becomes a resource.  
[8.248.500.11 NMAC - N, 2-1-06]

**8.248.500.12 APPLICABLE RESOURCE STANDARDS:** The resource standard for the LIS is \$10,000 for an individual and \$20,000 for a couple. Resources belonging to other dependent family members are not considered.

A. **Cash resources:** The face value of cash, savings or checking accounts is considered in determining LIS eligibility.

(1) An applicant/recipient must provide verification of the value of all cash resources. The resource value of a bank account is customarily verified by a statement from the bank showing the account balance as of the first moment of the first day of the month in question. If an applicant/recipient cannot provide this verification, the ISD worker sends a bank or postal savings clearance to the appropriate institution(s).

(2) If the applicant/recipient can demonstrate that a check was written and delivered to a payee but not cashed by the payee prior to the first moment of the first day of the month, the amount of that check is subtracted from the applicant/recipient's checking account balance to arrive at the amount to be considered a countable resource.

B. **Other resources:** The value of other resources is evaluated according to the applicant/spouse's equity in the resource(s). The equity value of an item is defined as the price for which that item, minus any encumbrances, can reasonably be expected to sell on the open market in the particular geographic area. Other

resources which can be converted to cash within 20 days include, but are not limited to: stocks, bonds, mutual fund shares, promissory notes, mortgages, whole life insurance policies, financial institution accounts (savings, checking, CDs, IRAs, 401(K) accounts, and annuities), and real property not contiguous with home property.  
[8.248.500.12 NMAC - N, 2-1-06]

**8.248.500.13 COUNTABLE RESOURCES:** Before a resource can be considered countable, the three (3) criteria listed below must be met.

A. **Ownership interest:** An applicant/recipient must have an ownership interest in a resource for it to be countable. The fact that an applicant/recipient has access to a resource, or has a legal right to use it, does not make it countable unless the applicant/recipient also has an ownership interest in it.

B. **Legal right to convert resource to cash:** An applicant/recipient must have the legal ability to spend the funds or to convert non-cash resources into cash.

(1) **Physical possession of resource:** The fact that an applicant/recipient does not have physical possession of a resource does not mean it is not his resource. If he has the legal ability to spend the funds or convert the resource to cash, the resource is considered countable. Physical possession of savings bonds is a legal requirement for cashing them.

(2) **Unrestricted use of resource:** An applicant/recipient is considered to have free access to the unrestricted use of a resource even if he can take those actions only through an agent, such as a representative payee or guardian.

(3) If there is a legal bar to the sale of a resource, such as a co-owner legally blocking the sale of jointly owned property, the resource is not countable. The applicant/recipient is not required to undertake litigation in order to accomplish the sale.

C. **Legal ability to use a resource:** If a legal restriction exists which prevents the use of a resource for the applicant/recipient's own support and maintenance, the resource is not countable.

D. **Jointly-held account:** If the applicant/spouse is the only subsidy claimant or subsidy recipient who is an account holder on a jointly held account, the state will presume that all of the funds in the account belong to the applicant/spouse. If more than one subsidy claimant or subsidy recipient are account holders, the state will presume that the funds in the account belong to those individuals in equal shares. If the applicant/spouse disagrees with the ownership presumption described in this

subsection, he may rebut the presumption. Rebuttal is a procedure that permits an individual to furnish evidence and establish that some or all of the funds in the jointly-held account do not belong to him.

[8.248.500.13 NMAC - N, 2-1-06]

**8.248.500.14 RESOURCE EXCLUSIONS:** The following resources are not to be considered for purposes of determining LIS eligibility:

A. **Applicant's home:** A home is any property in which the applicant and his spouse have an ownership interest and which serves as his principal place of residence. There is no restriction on acreage of home property. This property includes the shelter in which an individual resides, the land on which the shelter is located, and any outbuildings.

B. **Non-liquid resources, other than real property:** These include, but are not limited to:

- (1) household goods and personal effects;
- (2) automobiles, trucks, tractors and other vehicles;
- (3) machinery and livestock; and
- (4) non-cash business property.

C. **Property of a trade or business:** Property of a trade or business that is essential to the applicant/spouse's means of self-support.

D. **Non-business property:** Non-business property that is essential to the applicant/spouse's means of self-support.

E. **Stock in regional or village corporations:** Stock in regional or village corporations held by natives of Alaska during the twenty-year period in which the stock is inalienable pursuant to the Alaska Native Claims Settlement Act.

F. **Whole life insurance:** Whole life insurance owned by an individual (and spouse, if any) if the total face value of all the life insurance policies on any person does not exceed \$1,500. When the total face value of all policies exceeds \$1,500, the cash surrender value of all policies is countable.

G. **Term life insurance:** Term life insurance that has no cash surrender value.

H. **Restricted, allotted Indian lands:** Restricted, allotted Indian lands, if the Indian/owner cannot dispose of the land without the permission of other individuals, his tribe, or an agency of the federal government.

I. **Payments or benefits:** Payments or benefits provided under a federal statute other than title XVI of the act where exclusion is required by such statute.

J. **Federal disaster relief:** Federal disaster relief assistance received

on account of a presidentially declared major disaster, including accumulated interest, or comparable state or local assistance.

**K. Funds of \$1,500:** Funds of \$1,500 for the individual and \$1,500 for the spouse who lives with the individual if these funds are intended to be used for funeral or burial expenses of the individual and spouse.

**L. Burial spaces:** Burial spaces, including burial plots, gravesites, crypts, mausoleums, urns, niches, vaults, headstones, markers, plaques, burial containers, opening and closing of the gravesite, and other customary and tradition repositories for the deceased's bodily remains, for the applicant/spouse.

**M. Retained retroactive SSI or social security:** Retained retroactive SSI or social security benefits for nine months after the month they are received.

**N. Certain housing assistance.**

**O. Refunds:** Refunds of federal income taxes and advances made by an employer relating to an earned income tax credit for the month following the month of receipt, and refunds of child tax credits for nine months after the month they are received.

**P. Payments:** Payments received as compensation incurred or losses suffered as a result of a crime (victims' compensation payments), for nine months beginning with the month following the month of receipt.

**Q. Relocation assistance:** Relocation assistance for a state or local government, for nine months, beginning with the month following the month of receipt.

**R. Dedicated financial institution accounts:** Dedicated financial institution accounts consisting of past-due benefits for an SSI-eligible individual under age 18.

**S. Gifts:** A gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the internal revenue code of 1986 which is exempt from taxation under section 501(a) of such code. The resource exclusion applies to any in-kind gift that is not converted to cash, or to a cash gift that does not exceed \$2,000.

**T. Funds received:** Funds received from a government or non-governmental agency, program, or health insurance policy whose purpose is to provide medical care or medical services or social services and conserved to pay for medical or social services.

[8.248.500.14 NMAC - N, 2-1-06]

**8.248.500.15 INCOME STANDARDS:** Income is anything the appli-

cant/spouse receives in cash or in-kind that can be used to meet his needs for food or shelter. The gross income of the applicant and his spouse if living with him, but not dependent family members, will be considered. However, dependent family members will be counted in the family size. [8.248.500.15 NMAC - N, 2-1-06]

**8.248.500.16 EARNED INCOME:**

**A. Earned income:** Earned income consists of the following types of payments:

(1) wages counted at the earliest of: when received, when credited to the person employed, or when set aside for the employee's use;

(2) net earnings from self-employment counted on a taxable year basis; net losses, if any, are deducted from other earned income, but not from unearned income;

(3) payments for services performed in a sheltered workshop or work activities center counted when received or set aside for the employee's use;

(4) royalties earned by an individual in connection with any publication of his work and any honoraria received for services rendered; and

(5) in-kind earned income is counted based on current market value. If the applicant/spouse receives an item that is not fully paid for and he is responsible for the balance, only the paid up value is income to the applicant.

**B. Period under consideration:** The period for which earned income is counted is, in 2006, the remainder of the calendar year, starting with the month of application for the subsidy. Adjust prospective earned income based on the number of months remaining in the calendar year. The income standard against which the income is measured should be adjusted to reflect the same number of months. For subsidy applications filed in 2005, eligibility cannot begin prior to January 1, 2006.

**C. Earned income exclusions:** Earned income exclusions apply in the order listed below:

(1) refund of federal income taxes and payments under the earned income tax credit;

(2) the first \$30 of earned income per calendar quarter that is received too irregularly or infrequently to be counted as income;

(3) any portion of the \$20 per month exclusion that has not been excluded from combined unearned income;

(4) \$65 per month of the applicant/spouse's earned income;

(5) for applicants who are under age 65 and receive a social security disability insurance benefit based on disability, 16.3% of gross earnings for impairment

related work expenses (IRWE);

(6) one half of the applicant/spouse's remaining earned income; and

(7) for applicants who are under age 65 and receive a social security disability insurance benefit that is based on blindness, 25% of gross earnings for blind work expenses (BWE).

[8.248.500.16 NMAC - N, 2-1-06]

**8.248.500.17 UNEARNED INCOME:**

Unearned income is all income that is not earned income. Unearned income is counted at the earliest of the following points: when received, when credited to the recipient, or when set aside for the recipient's use.

**A. Unearned income** includes, but is not limited to:

(1) social security;

(2) railroad retirement;

(3) veterans benefits;

(4) temporary assistance for needy families (TANF);

(5) pensions;

(6) annuities;

(7) alimony and support payments;

(8) rents;

(9) workmen's compensation;

(10) in-kind support and maintenance;

(11) death benefits;

(12) royalties not counted as earned income; and

(13) dividends and interest not otherwise excluded under SSI rules.

**B. Unearned income disregards:**

(1) In-kind support and maintenance is any food and shelter that is given to the applicant/spouse or received because someone else pays for it. This includes room, rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewage, and garbage collection services. The maximum amount of income countable for in-kind support and maintenance is limited to one third of the monthly SSI benefit rate for an individual or a couple, if the applicant's spouse is counted, or the current market value of the support, whichever is lower.

(2) When benefits are reduced for overpayments or garnishments, count the gross benefit before deductions.

(3) If part of a payment reflects expenses the applicant/spouse incurred in getting the payment, such as legal fees, damages, or medical expenses, incurred because of an accident, reduce the payment by the amount of the expenses. Do not reduce the payment by the amount of personal income taxes owed on the payment.

(4) Subtract from veterans benefits any amount included in the payment for

a dependent. If the applicant/spouse is the dependent, count the portion of the benefit attributable to the dependent if they reside with the veteran or receive their own separate payment from the department of veteran affairs.

(5) Subtract from death benefits the expenses of the deceased person's last illness and death paid by the recipient.

**C. Unearned income exclusions:** The following types of unearned income are not considered for purposes of determining LIS eligibility:

- (1) SSI benefits;
- (2) any public agency's refund of taxes on real property or food;
- (3) need-based assistance wholly funded by a state or one of its subdivisions, including state supplementation of SSI benefits but not a federal/state grant program such as TANF;
- (4) any portion of a grant, scholarship, fellowship, or gift used for paying tuition, fees, or other educational expenses; any portion set aside or used for food, clothing or shelter is countable;
- (5) food which the applicant or their spouse raise if it is consumed by them or their household;
- (6) assistance received under the Disaster Relief and Emergency Assistance Act and assistance provided under any federal statute because of a catastrophe which the president of the United States declares to be a major disaster;
- (7) Alaska longevity bonus payments made to an individual who is a resident of Alaska and who, prior to October 1, 1985 met the 25-year residency requirement for receipt of such payments in effect prior to January 1, 1983, and was eligible for SSI;
- (8) payments for providing foster care to a child who was placed in the applicant's home by a public or private non-profit child placement or child care agency;
- (9) any interest earned on excluded burial funds and any appreciation in the value of an excluded burial arrangement which are left to accumulate and become part of the separate burial fund;
- (10) home energy assistance (any assistance related to meeting the costs of heating or cooling a home);
- (11) one-third of support payments made to or for the applicant by an absent parent if the applicant is a child;
- (12) the first \$20 of any unearned income in a month other than income in the form of in-kind support and maintenance received in the household of another and income based on need;
- (13) housing assistance-any assistance paid with respect to a dwelling unit under:
  - (a) the United States Housing Act of 1937;

- (b) the National Housing Act;
  - (c) Section 101 of the Housing and Urban Development Act of 1965;
  - (d) Title V of the Housing Act of 1949; or
  - (e) Section 202(h) of the Housing Act of 1959;
  - (14) any interest accrued on and left to accumulate as part of the value of an excluded burial space purchase agreement;
  - (15) gift of a domestic travel ticket received by the applicant or their spouse and not converted to cash;
  - (16) payments made to the applicant or their spouse from a fund established by the state to aid victims of crime;
  - (17) relocation assistance provided to the applicant or their spouse by the state or local government that is comparable to relocation assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
  - (18) hostile fire pay received from one of the uniformed services;
  - (19) the first \$60 of unearned income received per calendar quarter that is received too irregularly or infrequently to be counted as income; or
  - (20) any dividends or interest earned on countable resources, any dividends or interest earned on resources excluded under a federal statute other than the Social Security Act, and any dividends or interest excluded under the Social Security Protection Act of 2004.
- [8.248.500.17 NMAC - N, 2-1-06]

**8.248.500.18 DEEMED INCOME:** Deeming income from a spouse to his minor child(ren) or from one spouse to his spouse when living in the same household, does not apply.  
[8.248.500.18 NMAC - N, 2-1-06]

**8.248.500.19 TOTAL COUNTABLE INCOME:** Countable income is the sum of unearned income or earned income for the individual or spouse less disregards or 0 exclusions. Only one earned income exclusion (\$65 plus 1/2 the remainder) is applied and one \$20 disregard is applied if using income from both spouses.  
[8.248.500.19 NMAC - N, 2-1-06]

**HISTORY OF 8.248.500 NMAC:**  
[RESERVED]

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

**TITLE 8 SOCIAL SERVICES  
CHAPTER 248 MEDICAID ELIGIBILITY - MEDICARE DRUG COVERAGE (CATEGORY 048)  
PART 600 BENEFIT DESCRIPTION**

**8.248.600.1 ISSUING AGENCY:** New Mexico Human Services Department.  
[8.248.600.1 NMAC - N, 2-1-06]

**8.248.600.2 SCOPE:** The rule applies to the general public.  
[8.248.600.2 NMAC - N, 2-1-06]

**8.248.600.3 STATUTORY AUTHORITY:** The New Mexico medicaid program is administered pursuant to regulations promulgated by the federal department of health and human services under Title XIX of the Social Security Act, as amended and by the state human services department pursuant to state statute. See NMSA 1978, 27-2-12 et. seq. ( Repl. Pamph. 1991). The legal basis for the low-income subsidy (LIS) program is the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA), Public Law 108-173.  
[8.248.600.3 NMAC - N, 2-1-06]

**8.248.600.4 DURATION:** Permanent.  
[8.248.600.4 NMAC - N, 2-1-06]

**8.248.600.5 EFFECTIVE DATE:** February 1, 2006, unless a later date is cited at the end of a section.  
[8.248.600.5 NMAC - N, 2-1-06]

**8.248.600.6 OBJECTIVE:** The objective of these regulations is to provide eligibility policy and procedures for the medicare part D - low income subsidy program.  
[8.248.600.6 NMAC - N, 2-1-06]

**8.248.600.7 DEFINITIONS:**  
[RESERVED]

**8.248.600.8** [RESERVED]

**8.248.600.9 GENERAL BENEFIT DESCRIPTION:** An individual or couple who is determined eligible for the low income subsidy (LIS) under part D of medicare, is eligible for financial assistance with the monthly premium, the yearly deductible, the per-prescription co-payment, and continuous coverage with no gap prior to reaching \$3,600 in out-of-pocket

spending. The financial assistance may be full or partial depending on the income, family size and resources of the beneficiary. [8.248.600.9 NMAC - N, 2-1-06]

**8.248.600.10 BENEFIT DETERMINATION:** Completed applications must be acted upon and notice of approval, denial, or delay sent out within forty-five (45) days of the date of application. The applicant will have time limits explained, and be informed of the date by which the application should be processed. [8.248.600.10 NMAC - N, 2-1-06]

**8.248.600.11 INITIAL BENEFITS:** Eligibility is always prospective and begins the month of application, but not earlier than January 1, 2006. When an eligibility determination is made, notice of the approval or denial is sent to the individual. If the application is denied, the notice shall include reason for denial and the applicant's right to request a fair hearing. [8.248.600.11 NMAC - N, 2-1-06]

**8.248.600.12 ONGOING BENEFITS:** The applicant/recipient is responsible to report changes affecting eligibility within ten (10) days of when the change took place. A re-determination of eligibility is made every twelve (12) months. If a LIS recipient/applicant becomes eligible for certain medicaid categories; SSI, QMB, SLIMB, QI-1, WDI, IC, and HCBW, he will still be eligible for LIS. CMS will notify the beneficiary that he is now deemed eligible, because of categorical relatedness and will take over the re-determination of eligibility on a yearly basis. A change notice will be sent to the LIS recipient. For the year 2006, all certification periods will end December 31, 2006. Effective January 1, 2007, the certification period will be twelve (12) months from the month of application or recertification. [8.248.600.12 NMAC - N, 2-1-06]

**8.248.600.13 RETROACTIVE BENEFIT COVERAGE:** There is no three (3) month retroactive LIS coverage under this program. The subsidy is effective the beginning of the month of application or January 1, 2006, whichever is later. [8.248.600.13 NMAC - N, 2-1-06]

**HISTORY OF 8.248.600 NMAC:**  
[RESERVED]

## NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

Explanatory Paragraph: This is an amendment to 8.200.400 NMAC, Section 10, which will be effective on February 1, 2006.

The Medical Assistance Division added Subsection P to include Medicare Part D - Low Income Subsidy as a category of eligibility.

**8.200.400.10 BASIS FOR DEFINING GROUP:** Individuals are eligible for medicaid if they meet the specific criteria for one of the eligibility categories. In New Mexico, other medical assistance programs for individuals who do not qualify for medicaid are available, such as the children's medical services program (category 007) administered by the New Mexico department of health.

**P. Medicare part D - low income subsidy:** The subsidy program (category 048) available to individuals enrolled in part D of medicare and whose gross income is less than 150% of the federal poverty level (FPL). This subsidy helps pay the cost of premiums, deductibles, and co-payments.

[2-1-95; 1-1-97; 4-1-98; 6-30-98; 3-1-99; 8.200.400.10 NMAC - Rn, 8 NMAC 4.MAD.402 & A, 7-1-01; A, 7-1-02; A, 10-1-02; A, 7-1-05; A, 2-1-06]

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") has repealed 6.75.2 NMAC (RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BUREAU.), effective January 31, 2006. The Department has adopted new rule 6.75.2 NMAC (RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BUREAU) which repromulgates the repealed rule and adds new language addressing the summer review institute.

## NEW MEXICO PUBLIC EDUCATION DEPARTMENT

### TITLE 6 PRIMARY AND SECONDARY EDUCATION CHAPTER 75 INSTRUCTIONAL MATERIALS AND TECHNOLOGY PART 2 RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BUREAU

**6.75.2.1 ISSUING AGENCY:** Public Education Department  
[6.75.2.1 NMAC - Rp, 6.75.2.1 NMAC, 01-31-06]

**6.75.2.2 SCOPE:** This regulation governs the procedures for the adop-

tion, purchase, and delivery of instructional material.

[6.75.2.2 NMAC - Rp, 6.75.2.2 NMAC, 01-31-06]

**6.75.2.3 STATUTORY AUTHORITY:** This regulation is promulgated pursuant to Sections 9-24-8, 22-2-1, 22-15-4, and 22-15-8 NMSA 1978. [6.75.2.3 NMAC - Rp, 6.75.2.3 NMAC, 01-31-06]

**6.75.2.4 DURATION:** Permanent  
[6.75.2.4 NMAC - Rp, 6.75.2.4 NMAC, 01-31-06]

**6.75.2.5 EFFECTIVE DATE:** January 31, 2006, unless a later date is cited at the end of a section.  
[6.75.2.5 NMAC - Rp, 6.75.2.5 NMAC, 01-31-06]

**6.75.2.6 OBJECTIVE:** This regulation is designed to facilitate the adoption, requisition and distribution of instructional material.  
[6.75.2.6 NMAC - Rp, 6.75.2.6 NMAC, 01-31-06]

**6.75.2.7 DEFINITIONS:**  
A. "Adoption" means approval by the secretary of a multiple list of core/basal instructional materials and a list of non-core/basal supplemental materials for use in the schools.

B. "Chief" means the chief of the state instructional material bureau.

C. "Contract" means an agreement between the department and the publisher or publisher's agent to provide certain material at the best price for the use of students in New Mexico schools and including a penalty for failure to perform.

D. "Core" or "basal" means the primary tool(s) of instruction in a set of subjects and material (science, mathematics, social studies, language acquisition, comprehensive health, early childhood education, special education, physical education, vocational education, fine arts, performing arts, and language arts) or courses that make up a required portion of a curriculum.

E. "Department" means the public education department.

F. "Distribution" means transporting to the schools those items of instructional material on the multiple list requisitioned by a particular school or school district.

G. "Educational media" means a system of instructional materials, computer software, interactive videodisc, magnetic media, CD-ROM, DVD, computer courseware, on-line services, an electron-

ic medium, or other means of conveying information to the student or otherwise containing intellectual content and contributing to the learning process.

H. "Governing authority" means the governing authority of a state agency, a public two-year post-secondary institution, or a private school accredited by the department.

I. "In-state distribution point" means a depository located within the state of New Mexico and meeting the criteria established in Subsection C of 6.75.2.11 NMAC.

J. "Instructional material" means school textbooks and other educational media that are used as the basis for instruction, including combinations of textbooks, learning kits, supplementary material and electronic media.

K. "Instructional material bureau" means that unit established within the department pursuant to the Instructional Material Law.

L. "Local school board" means the governing body of a school district or, as appropriate, the governing authority of a charter school.

M. "Multiple list" means a written list consisting of several items of core/basal instructional material selected for each course of study approved by the department in each grade.

N. "Regional review center" means a designated location where samples of instructional materials will be received and made available to evaluators.

O. "Request for proposals (RFP)" means the written notice issued by the department to all publishers listing the subjects for which they will adopt material in a specific year and the terms and conditions under which proposals from publishers to supply such material will be considered.

P. "Requisition" means listing by local school boards or governing authorities in a format specified by the in-state distributors, those items from the multiple list they wish to purchase and transmitting the list to the in-state distribution point.

Q. "Section" means the list of core/basal and non-core/basal material adopted in a specific year.

R. "Substitution" means the replacement of an item under contract with a revised edition of the item. [6.75.2.7 NMAC - Rp, 6.75.2.7 NMAC, 01-31-06]

#### **6.75.2.8 REQUIREMENTS: RESPONSIBILITIES OF THE DEPARTMENT**

A. Annual adoption. There shall be one (1) annual adoption, pro-

vided however, that the department may allow other adoptions upon a finding that an emergency is determined to exist.

(1) The department will issue the request for proposals (RFP): The RFP shall specify:

(a) the schedule disseminated with the RFPs will establish timelines for adoption, requisition, and distribution of instructional material;

(b) length of contract;

(c) a submission fee to be collected by the department equal to the retail value of the materials submitted for adoption; fees for classroom kits shall be equal to the retail per pupil (based on 20 pupils per class) value of the material; and

(d) such other terms and conditions as the department determines.

(2) The chief, subject to review by the department, may reject any proposal that fails to comply fully with the provisions of the request for proposals, or may reject any or all proposals.

(3) The department may accept any conforming proposal which is determined to be most advantageous to the state, considering the educational value of material, cost to state, reliability of the publisher, and all other significant factors.

B. The annual summer review institute. The department shall conduct an annual summer review institute during the first full week of June each year for the review of core/basal texts submitted for the current adoption.

(1) In conducting the summer review institute, the department shall:

(a) appoint highly qualified teachers (licensure levels two and three -A), who are current practitioners of the content and performance standards, as the reviewers of record; reviewers will be selected proportionally across the state from the eight local school board regions and Albuquerque;

(b) appoint teachers who are licensed in the content areas under review as facilitators of the review teams;

(c) appoint level one teachers, community members, parents, and students preparing for careers as teachers to assist the reviewers of record in the review;

(d) pay to facilitators and reviewers of record a minimum daily stipend of \$100, mileage reimbursement provided that they meet the state qualification standards for mileage reimbursement, and meal reimbursement not to exceed state standards for meal reimbursement, where appropriate; and

(e) reimburse other participants for mileage provided they meet state qualification standards for mileage reimbursement and provide room and board and meal reimbursement not to exceed state standards for meal reimbursement, where

appropriate as determined by the chief.

(2) The materials under review shall be scored according to the extent of their alignment with state content and performance standards and presented pedagogy.

(a) Materials which score less than 90% alignment with state content and performance standards but higher than 80% alignment shall be assessed by a special panel of reviewers for validation of the score.

(b) Materials which achieve a final total score of 90% or higher may be considered for recommendation to the secretary.

(c) Supplementary and ancillary materials shall be adopted without review.

(d) Core/basal materials shall also be scored on the basis of research-based, data proven effectiveness.

(e) Other considerations in the recommendation for adoption may be publisher-provided professional development and general pedagogy.

(f) Subsequent to the review, materials will be recommended to the secretary for adoptions by a panel of reviewers and department staff. The secretary will authorize adoption of instructional materials no later than August 1 of each adoption cycle.

(3) Pursuant to Section 22-15-13 NMSA 1978, the department may enter into a contract for the purchase and delivery of instructional material selected from the multiple list adopted by the department.

C. Administration. The department shall develop, implement and maintain procedures to address the requirements that:

(1) the disbursement of funds, using estimated forty-day membership for the next school year, are issued efficiently to districts, state-supported schools and adult basic education centers;

(2) the reimbursement of funds, using estimated forty-day membership for the next school year, are issued efficiently to depositories on behalf of private schools after determining that the materials purchased meet state requirements;

(3) the disposition of instructional material by all entities occurs and if a private school closes, ensure that materials are given to the local district or funds are received for the sale of material;

(4) the instructional material funds are expended on materials which aid in providing direct instruction by providing schools an itemized chart as to what is and what is not allowed; and

(5) the state is receiving the lowest price offered for materials by checking adoption list prices against publishers' catalogue prices, calling publishers' customer

service, and exchanging adoption lists with other states.

D. The department shall consider for approval, requests for waiver by the local superintendent of the use of funds allocated for the purchase of instructional material included on the multiple list. The request shall include the specific materials to be purchased, the cost of the purchase and justification for the purchase relating to the improved instruction and performance of students.

[6.75.8 NMAC - Rp, 6.75.2.8 NMAC, 01-31-06]

**6.75.2.9 REQUIREMENTS: RESPONSIBILITIES OF LOCAL SCHOOL BOARDS OR GOVERNING AUTHORITIES**

A. Each local school board shall develop and implement a process for the selection of instructional materials and shall ensure that parents and other community members are involved in the implementation of this process.

B. Schools and districts must submit to depositories and in-state publishers all requisitions for instructional materials for the next school year no later than March 31, unless justification is provided. For supplemental requisitions received by the in-state distribution point after March 31, delivery to schools shall be made by the later of the following dates: (a) sixty (60) days after receipt or (b) August 1.

C. Each public school district, charter school, adult basic education center and state institution may purchase items of instructional material as defined herein and not on the state-adopted list by issuing a purchase order to the publisher or the publisher's authorized agent. The entity is responsible for payment to the vendor/publisher, etc. The cost of the items, plus transportation charges, will be charged to the discretionary funds (50 % of the total allocation) line item of the entity's instructional material allocation.

D. Entities not receiving orders on a timely basis shall provide written documented evidence of ordering dates and/or other pertinent information as required by the department.

E. Annually, at a time specified by the department, each local school board of a school district and each governing authority of a state institution, private school or adult basic education center acquiring instructional material pursuant to the Instructional Material Law [22-15-1 to 22-15-14 NMSA 1978] shall file a report with the department. The annual report shall include the total instructional material allocation received, the average per pupil cost, and year-end cash balances and other documentation as required by the department.

F. Pursuant to the Instructional Material Law [22-15-1 to 22-15-14 NMSA 1978], each local school board of a school district and each governing authority of a state institution, private school or adult basic education center shall keep an itemized list of instructional materials purchased by school and publisher.

G. If closure of a private school is imminent, the school shall contact the chief in writing within 30-days of closure to obtain the approval to dispose of materials either by sale or return to the bureau. If the chief authorizes the school to sell material purchased with state funds, the monies received must be remitted to the bureau.

H. All entities receiving monies for instructional materials will be provided training on the process of obtaining funds, ordering materials, receiving funds, returning funds for sold or lost materials, and completing the annual report.

[6.75.2.9 NMAC - Rp, 6.75.2.8 NMAC, 01-31-06]

**6.75.2.10 REQUIREMENTS: RESPONSIBILITIES OF PUBLISHERS**

A. Contracts shall be returned to the department fully executed by the publisher no later than thirty (30) days after receipt by the publisher. Failure to return the fully executed contract may result in the rejection of the publisher's proposal.

B. Contracts shall be for a period of six (6) years, except where material is necessary for:

(1) the completion or update of a series or educational media previously adopted; or,

(2) the transfer of a subject from one section to another.

C. The contract shall:

(1) require that the publisher agrees to keep sufficient stock at a designated in-state distribution point to assure delivery in accordance with the timelines set forth in this regulation; and

(2) require that the publisher will be assessed a non-performance penalty of \$100 per day for each day delivery is delayed, up to a maximum of \$10,000 per order.

D. Qualifications.

(1) Items of instructional material, including accompanying material, must be in proof format by the adoption date, and in finished format by May 1 immediately preceding the fiscal year for which funds become available for the purchase of the instructional material.

(2) Substitutions of new or revised editions will be allowed by the chief:

(a) only if the substitution will be advantageous to the user schools;

(b) subject to all terms and condi-

tions of the original contract, including price; and,

(c) during the second, third, and fifth years of the contract only where exceptional justification is provided.

E. The publisher shall agree to provide free and/or reduced cost materials as stated in the contract on an equitable basis to all schools and shall agree not to provide at free and/or reduced cost, materials not stated in the contract as free/or reduced cost materials.

F. The publisher shall designate an in-state distribution point meeting the criteria established in Subsection C of 6.75.2.11 NMAC for the distribution of instructional material and to act as the agent for the publisher for requisition, billing, and receipt of payments for the purchase of instructional material.

G. The publisher shall provide samples of core/basal student and teacher instructional materials as well as other material they deem necessary to provide adequate instruction to the authorized regional review centers within thirty (30) days of the finalization of a contract.

H. The publisher shall reduce the price of instructional material under contract in New Mexico when prices are reduced elsewhere in the United States so that no such item or items shall at any time be sold in New Mexico at a higher wholesale price than received for items elsewhere in the United States, like conditions prevailing.

I. The publisher shall ensure the use of the international standard book number (ISBN) system where applicable.

J. Publishers are prohibited from conducting a pilot program in which schools receive free materials and professional development during the eighteen (18) month period previous to the official date of adoption of those materials (August 1 for each cycle).

[6.75.2.10 NMAC - Rp, 6.75.2.8 NMAC, 01-31-06]

**6.75.2.11 REQUIREMENTS: RESPONSIBILITIES OF IN-STATE DISTRIBUTION POINTS (DEPOSITORIES)**

A. It is the responsibility of depositories to distribute instructional materials to schools and districts in a timely and accurate fashion and to ensure that:

(1) for requisitions received by the in-state distribution point before March 31, of each year, delivery to schools shall be made by July 1;

(2) for supplemental requisitions received by the in-state distribution point after March 31, of each year, delivery to schools shall be made by the later of the following dates: (a) sixty (60) days after

receipt or by August 1; the in-state distribution point may reject any incomplete or incorrect requisition.

B. The depositories will provide training to all entities receiving monies for instructional materials on the online process for ordering instructional materials.

C. Depositories must meet the following requirements:

(1) financial viability adequate to ensure performance of all obligations under a contract between the publisher and the depository for the purpose of distributing instructional material to schools and school districts within New Mexico;

(2) warehouse facilities, including location, equipment, and staffing patterns, adequate to ensure performance of all obligations under a contract between the publisher and the depository for the purpose of distributing instructional material to schools and school districts within New Mexico;

(3) compatible computer capacity to receive and process instructional material orders and to communicate in the automated format as established by the department; and

(4) sufficient inventory of instructional material to fill requisitions in accordance with the timelines set forth in this regulation.

[6.75.2.11 NMAC - Rp, 6.75.2.8 NMAC, 01-31-06]

#### **6.75.2.12 UNOBLIGATED AND UNEXPENDED INSTRUCTIONAL MATERIAL BALANCES**

A. Instructional material funds allocated to a school district, state institution or adult basic education center during any fiscal year and not obligated or expended prior to the close of that fiscal year are available to the school district, state institution or adult basic education center for expenditure in subsequent fiscal years. Funds meeting this definition may be budgeted and expended in subsequent fiscal years for any combination of multiple list instructional material and instructional material not included on the multiple list.

B. Any balance remaining in an instructional material account of a private school at the end of a fiscal year remains available for reimbursement by the department for multiple list instructional material purchases in subsequent fiscal years.

[6.75.2.12 NMAC - Rp, 6.75.2.9 NMAC, 01-31-06]

#### **HISTORY OF 6.75.2 NMAC:**

**PRE-NMAC HISTORY:** The material is this part was derived from that previously filed with the State Records Center and Archives under: SDE 75-2, (Certificate No.

75-2) Regulation Relating To The State Department Of Education Instructional Materials Division, filed 6-4-75;

SDE 77-2, Regulation Relating To The State Department Of Education Instructional Materials Division, filed 2-7-77;

SBE 79-12, Relating To The State Department Of Education Instructional Material Division, Procedures For The Adoption, Purchase And Delivery Of Instructional Material, filed 9-21-79;

SBE Regulation No. 83-5, Relating To The State Department Of Education Instructional Material Division - Procedures For The Adoption, Purchase, And Delivery Of Instructional Material, filed 8-31-83 and SBE Regulation 93-20, Relating To The State Department Of Education Instructional Materials Bureau - Procedures For The Adoption, Purchase, And Delivery Of Instructional Material, filed 10-19-93.

**HISTORY OF REPEALED MATERIAL:** 6.75.2 NMAC, RELATING TO THE PUBLIC EDUCATION DEPARTMENT INSTRUCTIONAL MATERIAL BUREAU, repealed effective 01-31-06.

## **NEW MEXICO WATER QUALITY CONTROL COMMISSION**

This is an amendment to 20.6.4.9 NMAC, effective 02-16-06.

### **20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:**

**A. Procedures for nominating an ONRW:** Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to the *guidelines for water quality control commission regulation hearings*. A petition to classify a surface water of the state as an ONRW shall include:

(1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;

(2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more the applicable ONRW criteria listed in Subsection B of this section;

(3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;

(4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;

(5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state; and

(6) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

#### **B. Criteria for ONRWs:**

A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

(1) the water is a significant attribute of a state gold medal trout fishery, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

(2) the water has exceptional recreational or ecological significance; or

(3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life uses, recreational uses and human health uses, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the commission may classify a surface water of the state or a portion of a surface water of the state as an ONRW if the criteria set out in Subsection B of this section are met.

**D. Waters classified as ONRWs:** The following waters are classified as ONRWs:

(1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness[-]; and

(2) the waters within the United States forest service Valle Vidal special management unit including:

(a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, Little Costilla, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;

(b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;

(c) Shuree lakes;

(d) North Ponil creek, including McCrystal and Seally Canyon creeks, from their headwaters downstream to the bound-

ary of the United States forest service Valle Vidal special management unit; and

(e) Leandro creek from its headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit.

[20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 05-23-05; A, 05-23-05; A, 07-17-05; A, 02-16-06]

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**End of Adopted Rules Section**

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## Other Material Related to Administrative Law

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### NEW MEXICO LIVESTOCK BOARD

#### NEW MEXICO LIVESTOCK BOARD NOTICE OF REGULAR BOARD MEETING

**NOTICE IS HEREBY GIVEN** that a regular board meeting will be held on Thursday, February 2, 2006, in Morgan Hall at the State Land Office, 310 Old Santa Fe Trail, Santa Fe, New Mexico, at 9:00 a.m. The Board will discuss matters of general business.

Copies of the agenda can be obtained by contacting Daniel Manzanares, Executive Director, New Mexico Livestock Board, 300 San Mateo NE Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161.

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

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### NEW MEXICO COMMISSION OF PUBLIC RECORDS HISTORICAL RECORDS ADVISORY BOARD

Commission of Public Records  
New Mexico State Records Center &  
Archives  
1205 Camino Carlos Rey  
Santa Fe, New Mexico 87505

#### NOTICE OF REGULAR MEETING

A regular meeting of the New Mexico Historical Records Advisory Board has been scheduled for Friday, February 24, 2006 at 9:00 A.M. The meeting will be held in the Commission Room, of the State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM 87507. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gail Packard at the State Records Center and Archives at least one week prior to the meeting, or as soon as possible. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact Gail Packard at 505-476-7948 at the State Records Center and Archives if a summary or other type of

accessible format is needed.

A copy of the proposed agenda may be obtained at the State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87507.

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**End of Other Related  
Material Section**

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## SUBMITTAL DEADLINES AND PUBLICATION DATES

**2006**

<b>Volume XVII</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 3	January 17
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 3	April 14
Issue Number 8	April 17	April 28
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 3	July 17
Issue Number 14	July 18	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 18	September 29
Issue Number 19	October 2	October 16
Issue Number 20	October 17	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 14
Issue Number 24	December 15	December 29

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