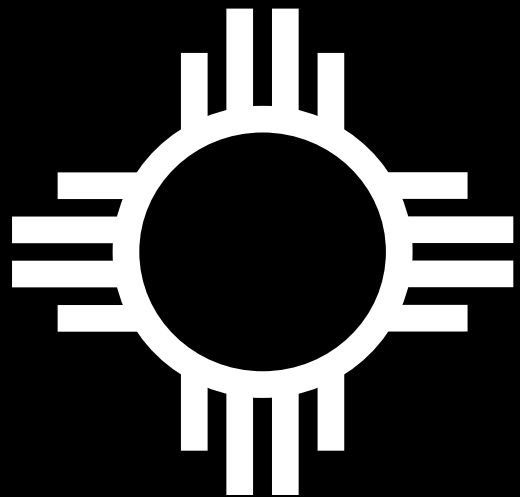


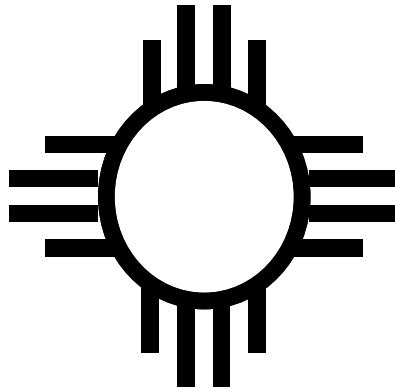
**NEW
MEXICO
REGISTER**



**Volume XVII
Issue Number 20
October 31, 2006**

New Mexico Register

**Volume XVII, Issue Number 20
October 31, 2006**



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

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2006

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New Mexico Register

Volume XVII, Number 20

October 31, 2006

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

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

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is \$270.00. Individual copies of any Register issue may be purchased for \$12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. Telephone: (505) 476-7907; Fax (505) 476-7910; E-mail staterules@state.nm.us.

Notices of Rulemaking and Proposed Rules

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT STATE PARKS DIVISION

Notice of Public Hearing On Proposed Amendments and New State Park Rules

The New Mexico State Parks Division of the Energy, Minerals and Natural Resources Department will hold a public hearing at **6:00 P.M. on Wednesday, November 29, 2006** in Porter Hall, at the Energy, Minerals and Natural Resources Department (Wendell Chino Building), 1220 South St. Francis Blvd, Santa Fe, NM.

The purpose of the meeting is to consider proposed rule amendments and a new proposed rule as follows:

19.5.2 Park Visitor Provisions

The proposed rule amendment would change the expiration date of annual permits from the current expiration date of December 31 of the year issued, to one year from the date an annual permit is issued.

18.17.2 Boating Operation and Safety

The proposed rule amendment would require a child age twelve or under whom is aboard the vessel to wear a personal flotation device approved by the U.S. Coast Guard while the vessel is underway.

18.17.4 Boating Safety Education

The new rule would require a person born on or after January 1, 1989 who operates a motorboat on the waters of the state to have completed a safe boating education course.

Other minor non-substantive changes are proposed as well. Copies of the proposed rule amendments, new rule, and narratives may be obtained from the State Parks Division web site at <http://www.nmparks.com>, or by contacting Alice Chavira via telephone at (505) 476-3368 or via email at alice.chavira@state.nm.us.

All interested parties may participate in the hearing and will be given an opportunity to submit relevant evidence, data, views and arguments, orally or in writing. Anyone wishing to submit written comments may do so at the hearing, or prior to the hearing via email to alice.chavira@state.nm.us or via mail to the New Mexico State Parks Division, C/O Alice Chavira, P.O. Box 1147, Santa Fe, NM 87504. No statements

will be accepted after the conclusion of the hearing.

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 meeting, please contact Alice Chavira at least one week prior to the meeting or as soon as possible. Public documents can be provided in various accessible forms. Please contact Alice Chavira at 476-3368, through Relay New Mexico at 1-800-659-1779 Voice or 1-800-659-8331 TTY, if a summary or other type of accessible form is needed.

For Additional information

Contact: Alice Chavira
Phone (505) 476-3368
Fax (505) 476-3361

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD NOTICE OF PUBLIC HEARING TO CONSIDER PROPOSED REVISION OF LIQUID WASTE DISPOSAL REGU- LATIONS, 20.7.3 NMAC

The New Mexico Environmental Improvement Board (Board) will hold a public hearing beginning at 9:00 a.m. on January 3, 2007, and continuing thereafter as necessary at 1220 South St. Francis Drive, the New Mexico Energy, Minerals and Natural Resources Department, Wendell Chino Building, Porter Hall, Santa Fe, New Mexico 87505. The hearing location may change prior to January 3, and those interested to attending should check the EIB website: <http://www.nmenv.state.nm.us/oots/eib.htm> prior to the hearing. The purpose of the hearing is to consider proposed amendments to Liquid Waste Disposal Regulations, 20.7.3 NMAC. The New Mexico Environment Department (NMED) is the proponent of the amendments to the regulations. In addition, amendments have been proposed by the New Mexico Homebuilders Association and the Professional On-Site Wastewater Re-use Association of New Mexico, Inc.

The amendments proposed by NMED include (i) clarifications of various existing provisions and definitions, (ii) a change in the space requirements for replacement drainfields, (iii) clarification of the effect of letters of determination, (iv) clarification of water softener requirements, (v) a change in

the setback required for seepage pits, (vi) a change in inspection requirements, (vii) clarification of property transfer requirements, (viii) clarification of the effect on a permit if a lot size is changed, (ix) changes regarding advanced treatment system requirements, (x) a change in notice requirements for variances, (xi) a change in disposal field sizing requirements, (xii) changes to requirements for soil depth, (xiii) a surface application prohibition, (xiv) a change in distribution box construction requirements, (xv) a change in mound system requirements, (xvi) a change in setbacks to irrigation systems, (xvii) site condition changes, (xviii) a change in the date for NMED's certification program requirement. The sections that would be revised include the following: Subsections A, C, E, F, L and M of Section 20.7.3.7; Subsections H, L, N and R of Section 20.7.3.201; Subsections A and E of Section 20.7.3.202; Subsections A and B of Section 20.7.3.203; Subsections C, I and J of Section 20.7.3.301; Table 302 of Section 20.7.3.302; Subsections C, J and K of Section 20.7.3.401; Subsection E of Section 20.7.3.403; Subsection B of Section 20.7.3.405; Subsection B of Section 20.7.3.501; Section 20.7.3. 601 and Subsections D and E of Section 20.7.3.601; Subsections B, C and D of Section 20.7.3.605; Subsections E, F and H of Section 20.7.3.701; Section 20.7.3.702; Subsections B, F, G and J of Section 20.7.3.703; Section 20.7.3.801; Subsection D of Section 20.7.3.803; Subsections A and J of Section 20.7.3.805; Subsections C, E and F of Section 20.7.3.807; Subsection A of Section 20.7.3.811; Subsection E of Section 20.7.3.902; Subsection A of Section 20.7.3.904; and Section 20.7.3.907.

Amendments proposed by the New Mexico Homebuilders Association include (i) a change in the space requirements for replacement drainfields, (ii) a change in requirements for moundfields and elevated systems, and (iii) a change in inspection port requirements for conventional systems. The sections that would be revised include the following:

Addition of a definition to Section 20.7.3.7 and amendments to Subsection H of 20.7.3.301; Subsection D of 20.7.3.701; and 20.7.3.807.

Amendments proposed by the Professional On-Site Wastewater Re-use Association of New Mexico, Inc. include (i) changes to various definitions, (ii) clarification of various provisions, (iii) a prohibition of water softener discharges to septic systems and other amendments to provisions affecting water softener discharges, (iv) amendments

to inspection requirements, (v) amendments to inspection port requirements, (vi) amendments to drainfield size requirements, (vii) amendments affecting mound and elevated systems, (viii) amendments related to gray-water systems, and (ix) amendments to certification program requirements. The sections that would be revised include the following:

Addition of or amendments to definitions in Section 20.7.3.7, and amendments to Subsection C, O, Q and R of 20.7.3.201, Subsection K of 20.7.3.401, Subsection K of 20.7.3.401, Subsection D of 20.7.3.701, Subsection J of 20.7.3.703, Section 20.7.3.807, Section 20.7.3.808, Section 20.7.3.810, Section 20.7.3.904.

Please note that formatting and minor technical changes in the regulations other than those proposed by petitioners may occur. In addition, the Board may make other changes as necessary to accomplish the purpose of providing public health and safety in response to public comments and evidence presented at the hearing.

The proposed changes may be reviewed during regular business hours at the office of the Environmental Improvement Board offices located in the Harold Runnels Building, 1190 St. Francis Drive, Room N-2153 Santa Fe, NM, 87505. In addition, a copy of the proposed amendments is posted on the NMED website at <http://www.nmenv.state.nm.us/fod/LiquidWaste/Regulation%20Update.htm>

Written comments regarding the proposed revisions may be addressed to Ms. Joyce Medina at the above address, and should reference docket number EIB 06-06R.

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

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views and arguments, orally or in writing, to introduce exhibits, and to examine witnesses. Any person who wishes to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Persons wishing to present technical testimony must file with the Board a written notice of intent to do so. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the

person intends to present and state the qualifications of the witness, including a description of his or her education and work background;

- summarize or include a copy of the direct testimony of each technical witness and state the anticipated duration of the testimony of that witness;

- list and describe, or attach, each exhibit anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of the rules; and,

- attach the text of any recommended modifications to the proposed changes.

Notices of intent for the hearing must be received in the Office of the Environmental Improvement Board not later than 5:00 pm on December 19, 2006, and should reference the name of the regulation, the date of the hearing, and docket number EIB 06-06 (R). Notices of intent to present technical testimony should be submitted to:

Joyce Medina
Office of the Environmental Improvement Board
Harold Runnels Building
1190 St. Francis Dr., Room N-2153
Santa Fe, NM 87502

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact the Personnel Services Bureau by November 19, 2004. The Personnel Services Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 26110, Santa Fe, NM 87502, (505) 827-9872. TDD or TDY users may access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779.)

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

**NEW MEXICO
DEPARTMENT OF
FINANCE AND
ADMINISTRATION**
STATE BOARD OF FINANCE

NEW MEXICO DEPARTMENT OF
FINANCE AND ADMINISTRATION

STATE BOARD OF FINANCE

NOTICE OF BOARD OF FINANCE
RULE

The state Board of Finance is in the process of revising one of its rules: Capital Expenditures by State Educational Institutions. Copies of the existing rule and proposed changes are available in room 181, Bataan Memorial Building, Santa Fe, NM 87501 and on the Board of Finance website, <http://nmsbof.state.nm.us>. The Board will consider adopting the proposed rule at its December 19, 2006 meeting, which takes place at 9:30 in the Governor's Cabinet Room, State Capitol Building. Please mail or deliver written comments on the proposed changes to Olivia Padilla-Jackson, 181 Bataan Memorial Building, Santa Fe, NM 87501 by November 30, 2006.

**NEW MEXICO GAME
COMMISSION**

**STATE GAME COMMISSION
PUBLIC MEETING AND
RULE MAKING NOTICE**

On Thursday, November 16, 2006, beginning at 9:00 a.m. at the San Juan Community College, 4601 College Boulevard - Room 9008, Farmington, NM 87402, the State Game Commission will meet in Public Session to consider action as appropriate on the following: Consent Agenda for Committee Reports, 1st Quarter Depredation Report; Listing Recommendations for Headwater Chub (19.33.6.8, NMAC); Colorado Basin Chubs Recovery Plan; Commission's Decision Regarding the Lesser-Prairie Chicken Investigation; Boreal Toad Recovery Plan; Discussion of Topics of Mutual Interest with Colorado Wildlife Commission; Mexican Wolf Update; Update Briefing on Warm Water Fish Hatchery Construction; General Public Comments (comments limited to 3 minutes); Closed Executive Session to discuss litigation, personnel, and acquisition or disposal of real property or water rights, and pursuant to Section 10-15-1(H)(1), NMSA, 1978; and Land Conservation Appropriation Update and Action as Needed.

The following rules are open for public comment and consideration for adoption by the Commission:

* Amending List of Threatened or Endangered Species (19.33.1, NMAC) to List the Headwater Chub if Approved by the Commission;

* Amending the Private Land Elk Allocation Rule (19.30.5, NMAC) and the Hunting and Fishing License Revocation Rule (19.31.2, NMAC) to Suspend Landowners from Participating in E-PLUS (Elk Private Lands Use System) if they Breach the Terms of the Agreement,

Provide False Representation of Property Acreage, Rightful Ownership, or Legal Representation of the Property; and

* Amending Hunting and Fishing License Revocation (19.31.2, NMAC) to Assess 20 Revocation Points to Individuals who Provide False or Fraudulent Information Regarding the Results of Hunting or Trapping Activities.

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

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

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing on the New Mexico School of the Deaf campus, the Pat Payne Room, 1068 Cerrillos Road, Santa Fe, New Mexico 87505 on November 14th, 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
5.100.4 NMAC	Advisory Council for Proprietary Education	Amend

Interested individuals may testify at the public hearing or submit written comments to Nicole A. Taylor, (nicole.taylor@state.nm.us or fax 505-476-6511). Written comments must be received no later than 5 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged.

Copies of the proposed rule may be accessed on the Department’s website (www.hed.state.nm.us) or obtained from Anthony Chavez, Administrative Assistant, 505-476-6500.

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 Nicole A. Taylor as soon as possible.

NEW MEXICO MEDICAL BOARD

NEW MEXICO MEDICAL BOARD

Notice

The New Mexico Medical Board will convene a regular Board Meeting on Thursday, November 16, 2006 at 8:00 a.m. and Friday, November 17, 2006 at 8:30 a.m. in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico. A Public Rule Hearing will be held on Thursday, November 16, 2006 at 1:00 p.m. The Board will reconvene after the Hearing to take action on the proposed rules. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider amending 16.10.2 NMAC (Physicians: Licensure Requirements), 16.10.7 (License Expiration, Renewal, and Reinstatement), 16.10.8 NMAC (Medical Ethics), 16.10.9 NMAC (Fees), 16.10.11 NMAC (Physicians Supervising Pharmacist Clinicians), and 16.10.12 NMAC (Supervision of Non-Licensed Physicians).

Changes to Parts 2, 7 and 9 will provide further clarification of credential verification services, summary suspension for non-renewal and fees. Changes to Part 8 creates a provision for expedited partner therapy and changes to Part 11 will provide further definitions on supervising pharmacist clinicians and their alternates. Part 12 is being amended to define the scope of practice and supervision of non-licensed physicians.

Copies of the proposed rules will be available on October 13th on request from the Board office at the address listed above, by phone (505) 476-7220, or on the Internet at www.nmmb@state.nm.us.

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m., November 9, 2006, to the board office, 2055 S. Pacheco, Building 400, Santa Fe, NM, 87505.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service in order to attend or participate in the hearing, please contact Lynnelle Tipton, Administrative Assistant at 2055 S. Pacheco, Building 400, Santa Fe, NM at least one week prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats.

NEW MEXICO OFF- HIGHWAY MOTOR VEHICLE SAFETY BOARD

NEW MEXICO OFF-HIGHWAY MOTOR VEHICLE SAFETY BOARD

Notice of Public Hearings on Proposed Rule

18.15.3 NMAC
Off-Highway Motor Vehicle Safety Standards
And
Open Meeting Notice

The Off-Highway Motor Vehicle Safety Board ("Board") hereby gives notice that it will conduct three public hearings on proposed rule 18.15.3 NMAC, Motor Vehicle Safety Standards, at the dates, locations and times listed below:

DATE: November 6, 2006
LOCATION: Espanola:
Mision y Convento
1 Calle de las Espanolas
(corner of Oate and Bond streets)
TIME: 6 p.m. to 9 p.m.

DATE: November 8, 2006
LOCATION: Las Cruces:
Dona Ana County Public Health Offices
1170 N. Solano St.
Room 1101 (NW corner of building)
TIME: 6 p.m. to 8 p.m.

DATE: November 9, 2006
LOCATION: Albuquerque:
Central New Mexico Community College (CNM, formerly TVI)
Montoya Campus room J-122
4700 Morris NE (Morris & Montgomery) Albuquerque, NM 87111
TIME: 6 p.m. to 9 p.m.

Interested individuals may testify at any of the public hearings or submit written comments regarding the proposed rule to Ms. Nicole McKnight, Administrative Assistant, New Mexico Tourism Department ("Department"), 491 Old Santa Fe Trail, Santa Fe, New Mexico 87501; nicole.mcknight@state.nm.us ; (505) 827-7400; fax _____. Written comments must be received no later than November 9, 2006, by 5:00 p.m. if directed to the Tourism Department or by the conclusion of the public hearing in Albuquerque for those in attendance there.

The proposed rulemaking actions may be accessed on the Department's website (www.newmexico.org/index2.php) or obtained from Ms. McKnight through her contact information listed above.

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

All written and oral testimony will be considered prior to the adoption of the final rule. The Board will meet for the purpose of discussing testimony and comments received on the proposed rule and to adopt a final rule on Thursday, November 16, 2006, in room 317 of the New Mexico State Capitol Building, Santa Fe, New Mexico, from 10:30 a.m. to 4:30 p.m. Contact Ms. Nicole McKnight, contact information above, at least ten (10) days in advance, if you have any special needs in order to attend this meeting.

NEW MEXICO PUBLIC REGULATION COMMISSION

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

IN THE MATTER OF A RULEMAKING)
TO DEVELOP A RULE RELATING) Docket No.
TO A FUEL SURCHARGE) 06-00060-TR-P

NOTICE OF PROPOSED RULEMAKING

NOTICE is hereby given that the New Mexico Public Regulation Commission is commencing a rulemaking proceeding for the purpose of promulgating a new motor carrier rule 18.3.15 NMAC relating to a fuel surcharge. The proposed rule would be promulgated under authority granted to the Commission by the New Mexico Constitution, Article XI, Section 2 (1996) and by the Legislature pursuant to NMSA 1978 Sections 8-8-4, 8-8-15, 65-2A-4, 65-2A-5 and 65-2A-21. A copy of the proposed rule is attached hereto as Attachment "A". Examples of a prospective Diesel Fuel Price Increase Percentage Table ("Table 1-D"), Gasoline Fuel Price Increase Percentage Table ("Table 1-G") and Rate Increase Percentage Table ("Table 2"), respectively, as may be issued by the Director pursuant to this proposed rule are attached hereto as Attachment "B".

On February 28, 2006 the Commission entered an Order establishing this docket for the purpose of promulgating a new rule relating to a fuel surcharge. The proposed rule would allow rate regulated motor carriers to charge a voluntary automatic fuel surcharge based on a prescribed methodology and with filing and record-keeping requirements. Any person wishing to comment on the proposed rule may

do so by submitting written comments no later than November 30, 2006.

Comments suggesting changes to the rule amendments as proposed shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested. Specific proposed language changes to the draft rule shall be provided in legislative format.

All pleadings, including comments, shall bear the caption and case number contained at the top of this notice. Additional copies of the proposed Rule 18.3.15 NMAC can be obtained from and comments on the proposed rule shall be sent to:

Betty Cordova, Docketing Office
NMPRC Transportation Division
PERA Bldg. Room 406
1120 Paseo de Peralta
PO Box 1269
Santa Fe, New Mexico 87504-1269
Telephone: (505) 827-4526

A public hearing will begin at 10 AM on December 4th 2006 at the offices of the NMPRC Transportation Division, PERA Bldg. 4th Fl., 1120 Paseo de Peralta, Santa Fe, New Mexico to receive oral comments and to clarify or supplement the written comments. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. Pursuant to Section 8-8-15(B), this Notice shall be published, without Attachment A, in the New Mexico Register and two newspapers of general circulation in the state. Also pursuant to NMSA Section 8-8-15(B) this Notice, including Attachment A shall be mailed at least thirty (30) days prior to the hearing date to all persons who have made a written request for advance notice.

Copies of any Final Order adopting the proposed Rule will be sent, along with copies of the particular rule, to all affected motor carriers, commentators in the case and individuals requesting such copies.

ISSUED under the Seal of the Commission at Santa Fe, New Mexico, this 10th day of October, 2006.

NEW MEXICO PUBLIC REGULATION
COMMISSION

BEN R. LUJAN, CHAIRMAN

JASON MARKS, VICE CHAIRMAN

DAVID KING, COMMISSIONER

LINDA LOVEJOY, COMMISSIONER

E. SHIRLEY BACA, COMMISSIONER

NEW MEXICO DEPARTMENT OF TRANSPORTATION

LEGAL NOTICE

Public Rule Hearing

The New Mexico Department of Transportation (Department) will hold a Rule Hearing on November 30, 2006 at 9:30am. The hearing will be held at the New Mexico Department of Transportation General Office, located at 1120 Cerrillos Rd, Santa Fe, New Mexico. The hearing will be held in Training Room 1.

The purpose of the rule hearing is to consider adoption of a proposed alteration to 18.27.2 NMAC based on the revision of the Department's Standard Specification for Highway and Bridge Construction.

Persons desiring to present their views on the proposed rules may write to request draft copies from the Department General Office, South Building Four, located at 1350 Alta Vista, in Santa Fe, New Mexico 87504, or call (505) 827-5222. To allow time for review, any comments from persons wishing to make comment regarding the proposed rules must be received by the Department General Office, South Building Four, in writing no later than November 20, 2006. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Department Commissioners and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Department office at (505) 827-5222 at least two weeks prior to the meeting or as soon as possible.

Lee Onstott, Department Hearing Officer
PO Box 1149 - Santa Fe, New Mexico
87504

**End of Notices and
Proposed Rules Section**

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Adopted Rules

NEW MEXICO DEPARTMENT OF CULTURAL AFFAIRS

MUSEUM OF NATURAL HISTORY AND SCIENCE DIVISION

This is an amendment to 4.53.2 NMAC, Section 8, effective 11/18/2006.

4.53.2.8 PUBLIC ADMISSIONS PRICES:

A. Public admissions prices for the New Mexico museum of natural history and science are as follows:

- (1) Adults [~~\$6~~] \$7
- (2) Seniors (60+) [~~\$5~~] \$6
- (3) Children (3-12) [~~\$3~~] \$4

B. Public admissions prices for the dynatheater located at the New Mexico museum of natural history and science are as follows:

- (1) Adults [~~\$6~~] \$7
- (2) Seniors [~~\$5~~] (60+) \$6
- (3) Children (3-12) [~~\$3~~] \$4

C. Public admissions prices for the museum or off-site location for special traveling exhibits, also known as "blockbuster" exhibits. The prices indicated are "up to" dollar amounts and are as follows:

- (1) Adults Up To \$5
- (2) Seniors (60+) Up To \$4
- (3) Children (3-12) Up To \$2

D. Public admissions prices for the lodestar virtual voyages simulator ride located at the New Mexico museum of natural history and science are as follows:

- (1) Adults [~~\$4~~] \$7
- (2) Seniors (60+) [~~\$4~~] \$6
- (3) Children (3-12) \$4

E. Public admissions prices for the lodestar planetarium located at the New Mexico museum of natural history and science are as follows:

- (1) Adults [~~\$6~~] \$7
- (2) Seniors (60+) [~~\$5~~] \$6
- (3) Children (3-12) [~~\$3~~] \$4

[12-12-89, 9-10-96, 10-29-99; 4.53.2.8 NMAC - Rn & A, 4 NMAC 53.2.8, 7/14/2000; A, 8/1/2004; A, 11/18/2006]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.34.3 NMAC, Section 12, effective October 31, 2006.

19.34.3.12 AUTHORITY OF DIRECTOR: The director shall have the

authority to close, in whole or in part, or otherwise restrict the use of commission-owned or managed lands when in the opinion of the director such closure or restriction is reasonably necessary for the protection of such lands, wildlife, habitat or the public or otherwise to respond to circumstances concerning such lands.

[19.34.3.12 NMAC - N, 10/31/06]

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.34.7 NMAC, Section 8, effective October 31, 2006

19.34.7.8 CONSERVATION & ACCESS FEE:

On or after April 1, 2006 each resident and nonresident license or permit shall include a \$1.00 PLEASE conservation and access fee. No resident and nonresident license or permit shall be considered to be a proper and valid license unless the licensee can demonstrate, by a stamp, check-off or other official mark, that the fee for conservation and access has been paid, provided that an individual purchaser shall be required to pay for only one conservation and access fee each license year, regardless of the number of licenses or permits purchased by the licensee. Exceptions: No person under the age of 18, no resident angler age 70 and older and no person designated by the department as 100% disabled resident veteran is required to purchase the PLEASE conservation and access fee.

[19.34.7.8 NMAC - N, 10-31-2005; A, 3-31-2006; A, 10-31-2006]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.310.7 NMAC, Sections 10, 12, 13, 14 and 17, which will be effective on November 1, 2006. The Medical Assistance Division amended the sections to allow for one additional clinical oral examination by a second dental provider for recipients under 21 years of age and to allow for one oral prophylaxis service per recipient every 6 months for recipients 21 years of age or older who have developmental disabilities.

8.310.7.10 ELIGIBLE PROVIDERS:

A. Upon approval of New Mexico medical assistance program provider participation agreements by the New Mexico human services department,

medical assistance division [~~(MAD)~~] (HSD/MAD) or its designee, individuals and those in professional corporations, associations or other types of group dental practices licensed to practice dentistry are eligible to participate as medicaid dental providers.

(1) Dental hygienists certified for collaborative practice as defined by NMSA 1978 Section 61-5A-4(D&E) may be enrolled to provide any of those services specified for collaborative practice dental hygienists in 8.310.7.12 NMAC.

(2) Certified collaborative practice dental hygienists must be in good standing with the New Mexico board of dental health care and the New Mexico dental hygienist committee and must reverify their certificate with the New Mexico board of dental health care annually.

B. Once enrolled, providers receive a packet of information, including medicaid program policies, billing instructions, utilization review instructions, and other pertinent material from [~~MAD~~] HSD/MAD or its designee. Providers are responsible for ensuring that they have received these materials and for updating them as new materials are received from [~~MAD~~] HSD/MAD or its designee. [2/1/95; 8.310.7.10 NMAC - Rn, 8 NMAC 4.MAD.716.1 & A, 10/1/02; A, 11/1/06]

8.310.7.12 COVERED SERVICES AND SERVICE LIMITATIONS: Medicaid covers the following types of dental services with the specified limitations.

A. **Emergency services:** Medicaid covers emergency care for all eligible recipients. "Emergency" care is defined as services furnished when immediate treatment is required to control hemorrhage, relieve pain or eliminate acute infection. Care includes operative procedures necessary to prevent pulpal death and the imminent loss of teeth, and treatment of injuries to the teeth or supporting structures, such as bone or soft tissue contiguous to the teeth.

(1) Routine restorative procedures and root canal therapy are not emergency procedures.

(2) Prior [~~approval~~] authorization requirements are waived for emergency care, but the claims can be reviewed prior to payment to confirm that an actual emergency existed at the time of service.

B. **Diagnostic services:** Medicaid coverage for diagnostic services is limited to the following:

(1) for recipients under twenty-one (21) years of age, diagnostic services are limited to one clinical oral examination every six (6) months; medicaid covers one

additional clinical oral examination by a second dental provider for recipients under twenty-one (21) years of age; for recipients twenty-one (21) years of age and over, coverage is limited to one clinical oral examination per year; and

(2) medicaid covers emergency oral examinations which are performed as part of an emergency service to relieve pain and suffering[~~;~~and].

C. **Radiology services:** Medicaid coverage of radiology services is limited to the following:

(1) One (1) intraoral complete series every three (3) years per recipient. This series includes bitewing x-rays. *Collaborative practice dental hygienists may provide this service.*

(2) Additional bitewing x-rays once every twelve (12) months per recipient. *Collaborative practice dental hygienists may provide this service.*

(3) Panoramic films performed can be substituted for an intraoral-complete series, which is limited to one every three (3) years per recipient. *Collaborative practice dental hygienists may provide this service.*

D. **Preventive services:** Medicaid coverage of preventive services is subject to certain limitations.

(1) **Prophylaxis:** Medicaid covers one prophylaxis service per recipient [~~per provider~~] every six (6) months for recipients under twenty-one (21) years of age. For recipients twenty-one (21) years of age or older, medicaid covers one prophylaxis per recipient per year. Medicaid covers one prophylaxis service per recipient every six (6) months for recipients twenty-one (21) years of age or older who have developmental disabilities as defined in 8.314.5.12 NMAC, Eligible Recipients. *Collaborative practice dental hygienists may provide this service after diagnosis by a dentist.*

(2) **Fluoride treatment:** Medicaid covers one fluoride treatment per recipient per provider every six (6) months furnished in the office to recipients under twenty-one (21) years of age. For recipients twenty-one (21) years of age or older, medicaid does not reimburse providers for fluoride treatments unless it is deemed medically necessary by MAD or its designee. *Collaborative practice dental hygienists may provide this service.*

(3) **Molar sealants:** Medicaid only covers sealants for permanent molars for recipients under twenty-one (21) years of age. Each eligible recipient can receive one treatment per tooth every five (5) years. Medicaid does not cover sealants when an occlusal restoration has been completed on the tooth. Replacement of a sealant within the five (5)-year periods requires prior [approval] authorization. *Collaborative*

practice dental hygienists may provide this service after diagnosis by a dentist.

(4) **Space maintenance:** Medicaid covers fixed unilateral and fixed bilateral space maintainers (passive appliances).

E. **Restorative services:** Medicaid covers the following restorative services:

(1) amalgam restorations (including polishing) on permanent and deciduous teeth;

(2) resin restorations for anterior and posterior teeth;

(3) one prefabricated stainless steel crown per permanent or deciduous tooth;

(4) one prefabricated resin crown per permanent or deciduous tooth; and

(5) one recementation of a crown or inlay.

F. **Endodontic services:** Medicaid covers therapeutic pulpotomy for recipients under twenty-one (21) years of age if performed on a primary or permanent tooth and no periapical lesion is present on a radiograph.

G. **Periodontic services:** Medicaid covers certain periodontics surgical, non-surgical and other periodontics services subject to certain limitations:

(1) collaborative practice dental hygienists may provide periodontal scaling and root planning, per quadrant after diagnosis by a dentist; and

(2) collaborative practice dental hygienists may provide periodontal maintenance procedures with prior authorization.

H. **Removable prosthodontic services:** Medicaid covers two denture adjustments per calendar year per recipient. Medicaid also covers repairs to complete and partial dentures.

I. **Fixed prosthodontics services:** Medicaid covers one recementation of a fixed bridge.

J. **Oral surgery services:** Medicaid covers the following oral surgery services:

(1) **simple and surgical extractions for all recipients:** coverage includes local anesthesia and routine post-operative care; "erupted surgical extractions" are defined as extractions requiring elevation of mucoperiosteal flap and removal of bone, and/or section of tooth and closure;

(2) autogenous tooth reimplantation of a permanent tooth for recipients under twenty-one (21) years of age; and

(3) incision and drainage of an abscess for all recipients.

K. **Adjunctive general services:** Medicaid covers emergency palliative treatment of dental pain for all recipients. Medicaid covers general anesthesia and intravenous sedation for medicaid recipients. Documentation of medical

necessity must be available for review by MAD or its designee. Medicaid covers nitrous oxide analgesia for recipients under twenty-one (21) years of age.

[2/1/95; 8.310.7.12 NMAC - Rn, 8 NMAC 4.MAD.716.3 & A. 10/1/02; A, 7/1/04; A, 11/1/06]

8.310.7.13 PRIOR [APPROVAL] AUTHORIZATION AND UTILIZATION REVIEW: Dental services are subject to utilization review for medical necessity and program compliance. These reviews can be performed before services are furnished, after services are furnished and before payment is made, after payment is made, or at any point in the service or payment process. See Part 8.302.5 NMAC, *Prior [Approval] Authorization and Utilization Review.* Once enrolled, providers receive utilization review instructions and documentation forms which assist in the receipt of prior [approval] authorization and claims processing from HSD/MAD or its designee.

A. **Prior [approval] authorization:** Medicaid covers certain services, including some diagnostic, preventive, restorative, endodontic, periodontic, removable prosthodontics, maxillofacial prosthetic, oral surgery, and orthodontic services only when prior [approval] authorization is received from MAD or its designee. Medicaid covers medically necessary orthodontic services to treat handicapping malocclusions for recipients under twenty-one (21) years of age with prior [approval] authorization.

B. **Eligibility determination:** Prior [approval] authorization of services does not guarantee that individuals are eligible for medicaid. Dental providers must verify that individuals are eligible for medicaid at the time services are furnished and determine if medicaid recipients have other health insurance.

C. **Reconsideration:** Providers or recipients who are dissatisfied with a utilization review decision or action can request a re-review and a reconsideration. See Part 8.350.2 NMAC, *Reconsideration of Utilization Review Decisions.*

[2/1/95; 8.310.7.13 NMAC - Rn, 8 NMAC 4.MAD.716.4, 10/1/02; A, 7/1/04; A, 11/1/06]

8.310.7.14 HOSPITAL CARE: Medicaid covers dental services normally furnished in an office setting if they are performed in an inpatient hospital setting only with prior [approval] authorization, unless one (1) of the following conditions exist:

A. the recipient is under twenty-one (21) years of age; or

B. the recipient has a documented medical condition for which hos-

pitalization for even a minor procedure is medically justified;

C. any service which requires prior ~~approval~~ authorization in an outpatient setting must be prior ~~approved~~ authorized if performed in an inpatient hospital.

[2/1/95; 8.310.7.14 NMAC - Rn, 8 NMAC 4.MAD.716.5, 10/1/02; A, 11/1/06]

8.310.7.17 REIMBURSEMENT:

A. Dental providers must submit claims for reimbursement on the dental claim form. See Part 8.302.2 NMAC, *Billing for Medicaid Services*. Upon enrolled, providers receive information on billing, documentation requirements, and claims processing from HSD/MAD or its designee.

B. Reimbursement for dental covered services is made at the lesser of the following:

(1) the provider's billed charge; or

(2) the MAD fee schedule for the specific service or procedure;

(3) the provider's billed charge must be their usual and customary charge for services;

(4) "usual and customary charge" refers to the amount which the individual provider charges the general public in the majority of cases for a specific procedure or service.

[2/1/95; 8.310.7.17 NMAC - Rn, 8 NMAC 4.MAD.716.8, 10/1/02; A, 11/1/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

Notice of Repeal

16.22.1 NMAC, Psychologist and Psychologist Associates, General Provisions, filed March 17, 2000 is repealed and replaced with 16.22.1 NMAC, Psychologist and Psychologist Associates, General Provisions, effective November 15, 2006.

16.22.2 NMAC, Code of Conduct, filed March 17, 2000 is repealed and replaced with 16.22.2 NMAC, Code of Conduct, effective November 15, 2006.

16.22.3 NMAC, Non Licensed Psychologist/Applicant with an Independent Mental Health License, filed March 17, 2000 is repealed and replaced with 16.22.3 NMAC, Non Licensed Psychologist/Applicant with an Independent Mental Health License, effective November 15, 2006.

16.22.4 NMAC, Education Requirements

for Psychologists, filed March 17, 2000 is repealed and replaced with 16.22.4 NMAC, Psychologists: Education Requirements, effective November 15, 2006.

16.22.5 NMAC, Application Procedures and Requirements for Licensure as a Psychologist, filed March 17, 2000 is repealed and replaced with 16.22.5 NMAC, Psychologists: Application Requirements; Procedures, effective November 15, 2006.

16.22.6 NMAC, Predoctoral and Postdoctoral Supervised Experience, filed March 17, 2000 is repealed and replaced with 16.22.6 NMAC, Psychologists: Predoctoral and Postdoctoral Supervised Experience, effective November 15, 2006.

16.22.7 NMAC, Examination Requirements, filed March 17, 2000 is repealed and replaced with 16.22.7 NMAC, Examination Requirements, effective November 15, 2006.

16.22.8 NMAC, License Expiration and Renewal, filed March 17, 2000 is repealed and replaced with 16.22.8 NMAC, License Expiration and Renewal, effective November 15, 2006.

16.22.9 NMAC, Continuing Professional Education Requirements, filed March 17, 2000 is repealed and replaced with 16.22.9 NMAC, Continuing Professional Education Requirements, effective November 15, 2006.

16.22.10 NMAC, Inactive Status and Reinstatement, filed March 17, 2000 is repealed and replaced with 16.22.10 NMAC, Inactive Status and Reinstatement, effective November 15, 2006.

16.22.11 NMAC, Complaint Procedures and Adjudicatory Proceedings, filed March 17, 2000 is repealed and replaced with 16.22.11 NMAC, Complaint Procedures; Adjudicatory Proceedings, effective November 15, 2006.

16.22.12 NMAC, Educational Requirements and Conditions of Practice for Psychologist Associates, filed March 17, 2000 is repealed and replaced with 16.22.12 NMAC, Psychologist Associates: Education Requirements and Conditions of Practice, effective November 15, 2006.

16.22.13 NMAC, Fees, filed May 5, 2000 is repealed and replaced with 16.22.13 NMAC, Fees, effective November 15, 2006.

16.22.20 NMAC, Health Care Practitioner Collaboration Guidelines, filed December

8, 2004 is repealed and replaced with 16.22.20 NMAC, Conditional Prescription Certificate; Prescription Certificate: Health Care Practitioner Collaboration Guidelines, effective November 15, 2006.

16.22.21 NMAC, Limits of Practice, filed December 8, 2004 is repealed and replaced with 16.22.21 NMAC, Conditional Prescribing or Prescribing Psychologists: Limits of Practice, effective November 15, 2006.

16.22.22 NMAC, Prescribing Psychologists: Application Committee, filed December 8, 2004 is repealed and replaced with 16.22.22 NMAC, Conditional Prescribing or Prescribing Psychologists: Application Committee, effective November 15, 2006.

16.22.23 NMAC, Requirements for Education and Conditional Prescription Certificate, filed December 8, 2004 is repealed and replaced with 16.22.23 NMAC, Requirements for Education and Conditional Prescription Certificate, effective November 15, 2006.

16.22.24 NMAC, Application Procedures: Two-Year Supervised Practice, filed December 8, 2004 is repealed and replaced with 16.22.24 NMAC, Application Procedures: Two-Year Supervised Practice, effective November 15, 2006.

16.22.25 NMAC, Application for Prescription Certificate; Peer Review, filed December 8, 2004 is repealed and replaced with 16.22.25 NMAC, Prescription Certificate: Application; Peer Review; Evaluation Outcome, effective November 15, 2006.

16.22.26 NMAC, Graduates of the Department of Defense Psychopharmacology Demonstration Project, filed December 8, 2004 is repealed and replaced with 16.22.26 NMAC, Graduates of the Department of Defense Psychopharmacology Demonstration Project, effective November 15, 2006.

16.22.27 NMAC, Formulary, filed December 8, 2004 is repealed and replaced with 16.22.27 NMAC, Conditional Prescribing or Prescribing Psychologists: Formulary, effective November 15, 2006.

16.22.28 NMAC, Prescribing Psychologists: Complaint Procedures, filed December 8, 2004 is repealed and replaced with 16.22.28 NMAC, Conditional Prescribing or Prescribing Psychologists: Complaint Procedures, effective November 15, 2006.

16.22.29 NMAC, Prescribing Psychologists: Continuing Professional Education and Certificate Renewal, filed December 8, 2004 is repealed and replaced with 16.22.29 NMAC, Conditional Prescribing or Prescribing Psychologists: Continuing Professional Education and Certificate Renewal, effective November 15, 2006.

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 1 GENERAL PROVI- SIONS

16.22.1.1 ISSUING AGENCY:
Regulation and Licensing Department
Board of Psychologist Examiners
[16.22.1.1 NMAC - Rp, 16.22.1.1 NMAC,
11/15/06]

16.22.1.2 SCOPE: This part
applies to the board, licensees, applicants
for licensure, and the general public.
[16.22.1.2 NMAC - Rp, 16.22.1.2 NMAC,
11/15/06]

**16.22.1.3 STATUTORY
AUTHORITY:** This part is adopted pur-
suant to the Professional Psychologist Act,
NMSA 1978 Section 61-9-6, 61-9-8, 61-9-
16. Section 1 of Part 1 is authorized by
NMSA 1978 Section 10-15-1.C (1993
Repl.)
[16.22.1.3 NMAC - Rp, 16.22.1.3 NMAC,
11/15/06]

16.22.1.4 DURATION:
Permanent.
[16.22.1.4 NMAC - Rp, 16.22.1.4 NMAC,
11/15/06]

16.22.1.5 EFFECTIVE DATE:
November 15, 2006, unless a later date is
cited at the end of a section.
[16.22.1.5 NMAC - Rp, 16.22.1.5 NMAC,
11/15/06]

16.22.1.6 OBJECTIVE: The
objective of Part 1 is to set forth the provi-
sions, which apply to all of Chapter 22, and
to all persons affected or regulated by
Chapter 22 of Title 16.
[16.22.1.6 NMAC - Rp, 16.22.1.6 NMAC,
11/15/06]

16.22.1.7 DEFINITIONS:
A. As used in these regula-
tions, the following words and phrases have

the following meanings, unless the context
or intent clearly indicates a different mean-
ing:

(1) "Act" means the Professional
Psychologist Act, Section 61-9-1 through
61-9-19 NMSA 1978.

(2) "Administrator" or "board
administrator" means the staff person
assigned certain express or implied execu-
tive and administrative functions of the
board as defined by board regulations or as
required to carry out the provisions of the
act.

(3) "Adult" means all persons 18
years of age or older.

(4) "Applicant" means a person
who has completed all educational require-
ments of the eligibility requirements for
licensure and has submitted a complete
application to the board. An applicant is
seeking approval of his or her application
by the board to advance him or her to can-
didacy for licensure.

(5) "Board" means the New
Mexico state board of psychologist examiners.

(6) "Board administrator" or
"administrator" means the staff person
assigned certain express or implied execu-
tive and administrative functions of the
board as defined by board regulations or as
required to carry out the provisions of the
act.

(7) "Board certified psychiatrist"
means a physician licensed in New Mexico
who has been certified by the American
board of psychiatry and neurology in the
specialty of psychiatry or the subspecialty
of child and adolescent psychiatry.

(8) "Board regulations" or "regu-
lations" means any part adopted by the
board pursuant to authority under the act
and includes any superseding regulation.

(9) "Candidate" is an applicant
whose application has been approved by the
board and is eligible to take the on-line
jurisprudence examination.

(10) "Children/adolescents" mean
all persons through 17 years of age (chil-
dren 2-12 years; adolescents 13-17 years).

(11) "Client" means a person, cor-
porate entity, patient or organization that is
a recipient of psychological services. A cor-
porate entity or other organization is a client
when the purpose of the professional con-
tract is to provide services of benefit prima-
rily to the organization rather than to the
individuals. In the case of individuals with
legal guardians, including minors and legal-
ly incompetent adults, the legal guardian
shall be the client for decision-making pur-
poses, except that the individual receiving
services shall be the client for:

(a) issues directly affecting the
physical or emotional safety of the individ-
ual, such as sexual or other exploitative dual
relationships; and

(b) issues specifically reserved to
the individual, and agreed to by the
guardian prior to rendering of services, such
as confidential communication in a therapy
relationship;

(c) all matters specifically desig-
nated to individuals in the Mental Health
Code and Children's Code, NMSA 1978.

(12) "Collaborative relationship"
means a cooperative working relationship
between a conditional prescribing or pre-
scribing psychologist and a health care
practitioner in the provision of patient care,
including cooperation in the management
and delivery of physical and mental health
care, to ensure optimal patient care.

(13) "Confidential information"
means information revealed by a patient or
clients or otherwise obtained by a psychol-
ogist, as a result of a confidential relation-
ship where there is reasonable expectation
that the information is not to be disclosed
by the psychologist without the informed writ-
ten consent of the patient or client in accor-
dance with the Public Health Act, Section
24-1-20 NMSA 1978. A confidential rela-
tionship, as used here, results from:

(a) the relationship between the
patient(s) or client(s) and the psychologist,
or

(b) the circumstances under
which the information was revealed or
obtained; when such information is
revealed or obtained through the psychol-
ogist's interaction with an individual from
within a client corporation or organization,
and that interaction is the result of the pro-
fessional contract between the psychologist
and the client, the confidential relationship
is between the psychologist and the client,
not between the psychologist and an indi-
vidual within the organization; in this
instance, information obtained by the psy-
chologist from the individual shall be avail-
able to the organization unless such infor-
mation was obtained in a separate profes-
sional relationship with that individual and
is therefore subject to confidentiality
requirements in itself.

(14) "Conditional prescribing
psychologist" means a licensed psychol-
ogist who holds a valid conditional prescrip-
tion certificate.

(15) "Conditional prescription
certificate" means a document issued by the
board to a licensed psychologist that per-
mits the holder to prescribe psychotropic
medication under the supervision of a
licensed physician pursuant to the act.

(16) "Conflict of interest" means
any situation or relationship that compro-
mises or impairs, or appears to compromise
or impair, the neutrality, independence or
objectivity of a psychologist, psychologist
associate, supervising physician, or board
member, including relationships and/or sit-
uations that arise from past or present famil-

ial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationships as provided herein at 16.22.2.9 NMAC. If a conflict of interest or dual relationship arises during the performance of the professional duties of a psychologist, psychologist associate, supervising physician, or board member, he shall immediately report the conflict of interest or dual relationship to the board and shall cease that professional relationship.

(17) "Consultant" means a licensed psychologist who provides professional advice or opinion to a another licensed psychologist and who has no professional relationship with the patient or client, has no authority over the case, or has no responsibility for the services performed for the patient or client or the welfare of the patient or client.

(18) "Continuing professional education" means educational opportunities beyond doctoral education and initial entry level training as a psychologist or psychologist associate for which hourly credit is earned to:

(a) enable maintenance of competence, including cultural competence, by applicants and licensees;

(b) become aware of new developments; and

(c) provide responsible, quality services.

(19) "Controlled substance" means any drug, substance or immediate precursor enumerated in schedules I through V of the U.S. Drug Enforcement Administration, Controlled Substance Act and in Sections 30-31-6 thru 30-31-10 of the act.

(20) "Court order" means the written communication of a member of the judiciary, or other court magistrate or administrator, if such authority has been lawfully delegated to such magistrate or administrator that is under the authority of law.

(21) "Criminal Offender Employment Act", Sections 28-2-1 thru 28-2-6 NMSA 1978 is the statutory provision regulating the relevance and weight to be given an applicant, candidate, or licensee's criminal record, by the board, during the licensure or renewal process.

(22) "Cultural competence" means the ability and the will to respond to the unique needs of an individual patient that arise from the patient's culture, and the ability to use aspects of the person's culture as a resource or tool to assist with the intervention. Cultural competence includes being able to:

(a) recognize and respond to health related beliefs and cultural values;

(b) incorporate research about disease incidence and prevalence, and treatment efficacy; and

(c) know when to seek consultation about the patient's culture.

(23) "Currently enrolled" means enrolled as a student in a college or university.

(24) "Custodian" means the board administrator.

(25) "Doctoral program in psychology" includes programs whose degree specify a doctoral degree in counseling, clinical or school psychology, as well as those programs the board deems to be equivalent to the requirements contained in the Professional Psychologist Act, using the standards and guidelines set forth by the APA or the ASPPB as a guide.

(26) "Drug or substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

(27) "Electronic transmission" means the sending of information through the telephone lines, cable or internet, as in e-mail or facsimile (fax).

(28) "Ethno-pharmacology" means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

(29) "Filed with the board" means hand delivered or postal mail received during normal business hours by the board office in Santa Fe, New Mexico.

(30) "Geriatric" means all persons 65 years of age and over.

(31) "Good cause" means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause. The person asserting good cause shall have the burden to demonstrate good cause.

(32) "Governmental Conduct Act" 10-16-1 thru 10-16-18 NMSA 1978 is the statutory provision which sets forth standards of conduct and ethical principles for public service.

(33) "Health care practitioner" means a licensed physician, osteopathic physician or nurse practitioner with independent, licensed prescribing privilege.

(34) "Inactive status" means a procedure of the board to affirm that a licensee is not engaged in active practice.

(35) "Initial application" means the initial application for licensure filed with the board by an applicant not previous-

ly or currently licensed in any jurisdiction.

(36) "Inspection of Public Records Act", 14-2-1 thru 14-2-12 NMSA 1978 is the statutory provision acknowledging the fundamental right of access to public records afforded citizens and media in a democracy, and governing the administration of that right.

(37) "Licensed" means licensed or certified, registered, or any other term including temporary, provisional, emergency, unrestricted, active or inactive license or licensure, when such term identifies a person whose professional behavior is subject to regulation by the board by authority of the act.

(38) "Licensee" means a psychologist licensed pursuant to the provisions of the act and board regulations.

(39) "Licensee in good standing" means a licensed psychologist who is not the subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.

(40) "Medical supervision" means direct oversight of the psychologist trainee's psychopharmacological practice by a qualified supervising physician approved by the board. Supervision may be on-site or off-site as specified in the rule.

(41) "Medical supervisor" means a qualified supervising physician approved by the board.

(42) "Member of the family" means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

(43) "Member of the household" means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

(44) "National certification exam" means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

(45) "New Mexico administrative code" or "NMAC", Section 14-4-7.2 NMSA 1978 is the official compilation of current rules filed by state agencies in accordance with New Mexico statutes.

(46) "New Mexico statutes annotated 1978 or NMSA 1978" is the official compilation of state laws.

(47) "Non-licensed person" means a student, an applicant or postdoctoral person working under supervision in order to satisfy licensure requirements in psychology, and employees or staff of a licensed psychologist

(48) "Open Meetings Act , 10-15 NMSA 1978 is the statutory provision requiring that public business be conducted in full public view; providing guidelines governing both public and closed meetings, and regulating the notice, agenda and minutes of such meetings.

(49) "Outdated test" means a test for which a revision has been available for three (3) or more years.

(50) "Out-of-state psychologist" means a psychologist licensed in another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, the U.S. Virgin Islands, or a Canadian province who is in good standing in his or her licensing jurisdiction(s).

(51) "Patient" means a person who is treated, examined, assessed, or interviewed by a licensed psychologist or licensed psychologist associate or a non-licensed person working under supervision as provided in these regulations. In the case of minor patients or adult patients who are legally incompetent, the legal guardian shall represent the patient for decision-making purposes, except that the patient shall be directly consulted by the psychologist or psychologist associate for:

(a) issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships;

(b) issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship, and

(c) all matters specifically designated to individuals in the Mental Health and Developmental Disabilities Code (MHDDC), Section 43-1-19 NMSA 1978, and the Children's Code, Section 32A-1-1 thru 32A-1-20 NMSA 1978.

(52) "Physician" means an allopathic or osteopathic physician.

(53) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and live adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups, regardless of whether payment is received for

services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, psychopharmacotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability, and psycho-educational evaluation, therapy, remediation and consultation.

(54) "Practicum" means a period of supervised clinical training and practice in which specific scientific and clinical techniques and diagnoses are learned.

(55) "Prescribing applicant" means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

(56) "Prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate.

(57) "Prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription.

(58) "Prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the act.

(59) "Primary treating health care practitioner" means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

(60) "Professional relationship" means a mutually agreed-upon relationship between a psychologist and a patient(s) or client(s) for the purpose of the patient(s) or client(s) obtaining the psychologist's professional services.

(61) "Professional service" means all actions of the psychologist in the context of a professional relationship with a client or patient.

(62) "Properly made application" means a completed form for a psychologist or psychologist associate license filed with the board that is complete in all particulars and appears on its face to satisfy all mini-

mum age, educational, supervision, payment, and other requirements except examination requirements for licensure as required by the act and these regulations.

(63) "Psychologist" means a person who engages in the practice of psychology or holds himself or herself out to the public by any title or description of services representing himself or herself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself or herself as above and, under such title or description offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain.

(64) "Psychopharmacology" [aka RXP] means the basic and clinical science of drugs used to treat mental illnesses.

(65) "Psychopharmacotherapy" means the application of pharmacotherapeutics to psychological problems. A key principle is the assessment of a patient's history that helps establish the appropriate role of drug therapy. Essential steps include evaluation, physical assessment, recognizing the disorder, adequate understanding of efficacy safety, pharmaco-kinetics, pharmaco-dynamics and application in the clinical setting.

(66) "Psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription, whose indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service.

(67) "Public Health Act", 24-1-1 thru 24-1-30 NMSA 1978, governs the confidentiality of patient or client record.

(68) "Restricted license" means a psychologist who holds a temporary, provisional, emergency or inactive license.

(69) "Rule" means board regulations.

(70) "Socio-cultural" means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

(71) "School" means a college or a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved the American psychological association.

(72) "Sponsoring psychologist" means a licensed psychologist in New Mexico who agrees to provide adequate oversight of an out-of-state psychologist ordered by a court to perform an independent examination; the sponsoring psycholo-

gist remains responsible for the professional conduct of the out-of-state psychologist and the welfare of the patient or client.

(73) "State Rules Act", Sections 14-4-1 thru 14-4-5 NMSA 1978, is the statutory provision that ensures that state agencies file with the state records center and archives all rules and regulations including amendments or repeals.

(74) "Statute" means a law that governs conduct within its scope. A bill passed by the legislature becomes a statute; and "statutory authority" means the boundaries of the board's lawful responsibility as laid out by the statute that created it.

(75) "Substantial compliance" means sufficient compliance with the statutes or rules so as to carry out the intent for which the statutes or rules were adopted and in a manner that accomplishes the reasonable objectives of the statutes or rules.

(76) "Supervisee" means any person who functions under the authority of a licensed psychologist to provide psychological services as provided in the act or board regulations.

(77) "Supervisor" means a licensed psychologist who agrees to provide adequate supervision over a student, applicant, employee, staff, or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the patient.

(78) "Supervisory plan" means a written document signed by an applicant for psychology license or a conditional prescribing certificate and the supervisor of the applicant that describes the nature of the supervisory relationship including but not limited to the number of hours of supervision, population served, and credentials of supervisor, and is presented to the board for approval.

(79) "Uniform Licensing Act", Section 61-1-1 thru 61-1-33 NMSA 1978 is the statutory provision that governs the major duties of the board in areas of:

(a) procedures which must be followed to accord due process to applicants for licensure and to licensees if the board takes action against the licensee for acts of misconduct that would adversely affect public health, safety and welfare, and

(b) rule making procedures that the board shall follow in adopting valid regulations affecting psychologists and psychologist associates.

(80) "Unrestricted license" means a license in psychology with full privileges and responsibilities as described in these regulations but is renewed annually or biennially. It does not have a limitation of a provisional license, temporary license, emergency license or inactive license as described herein.

B. Definitions in Subsection B pertain to conditional prescribing and prescribing psychologists only.

(1) "Adults" mean all persons over 18 years of age through 65 years of age.

(2) "Board" means the New Mexico state board of psychologist examiners.

(3) "Children/adolescents" mean all persons through 18 years of age (children, 2-12 years; adolescents 12-18 years).

(4) "Collaborative relationship" means a cooperative working relationship between a conditional prescribing or prescribing psychologist and a health care practitioner in the provision of patient care, including cooperation in the management and delivery of physical and mental health care, to ensure optimal patient care.

(5) "Conditional prescribing psychologist" means a licensed psychologist who holds a valid conditional prescription certificate.

(6) "Conditional prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the Professional Psychologist Act.

(7) "Conflict of interest" means past or present familial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship that impairs or compromises or appears to impair or compromise the supervisor's neutrality, independence or objectivity. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationship. If a conflict of interest or dual relationship arises during the supervision, the supervisor shall immediately report the conflict of interest or dual relationship to the board and shall cease supervision of the supervised psychologist.

(8) "Controlled substance" means any drug, substance or immediate precursor enumerated in schedules I through V of the Controlled Substance Act.

(9) "Drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

(10) "Ethno-pharmacology" means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

(11) "Geriatric" means all persons over 65 years of age;

(12) "Health care practitioner"

means a licensed physician, osteopathic physician or nurse practitioner with independent, licensed prescribing privilege;

(13) "Log" means a written record of patient examination and treatment that contains elements specified in the regulations and which is required as a basis for evaluation of the applicant for licensure.

(14) "Member of the family" means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

(15) "Member of the household" means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

(16) "National certification exam" means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

(17) "Physician" means an allopathic or osteopathic physician.

(18) "Practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of any mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psycho-educational evaluation, therapy, remediation and consultation.

(19) "Practicum" means a period of supervised clinical training and practice in which specific scientific and clinical

techniques and diagnoses are learned.

(20) "Prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate.

(21) "Prescription" means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a practitioner shall prescribe or write a prescription.

(22) "Prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act.

(23) "Primary treating health care practitioner" means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

(24) "Psychologist" means a person who engages in the practice of psychology or holds himself out to the public by any title or description of services representing himself as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain.

(25) "Psychopharmacology" means the basic and clinical sciences of drugs used to treat mental illnesses.

(26) "Psychopharmacotherapy" means the application of pharmacotherapeutics to psychological problems. A key principle is the assessment of a patient's history that helps establish the appropriate role of drug therapy. Essential steps include recognition of the disorder, adequate understanding of efficacy safety, pharmacokinetics, pharmacodynamics and application in the clinical setting.

(27) "Psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription, whose indication for use has been approved by the federal food and drug administration for the treatment of mental disorders and is listed as a psychotherapeutic agent in drug facts and comparisons or in the American hospital formulary service.

(28) "School" means a college or

a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association.

(29) "Socio-cultural" means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

(30) "Supervision" means direct oversight of the psychologist trainee's psychopharmacological practice by qualified supervising physician approved by the board. Supervision may be on or off site as specified in the rule.

(31) "Applicant" means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

(32) "Supervisor" means a qualified supervising physician approved by the board.

[16.22.1.7 NMAC - Rp, 16.22.1.7 NMAC, 11/15/06]

16.22.1.8 ACRONYMS USED THROUGHOUT THESE REGULATIONS INCLUDE:

A. AUCC - Association of universities and colleges of Canada.

B. ASPPB - Association of state and provincial psychology boards.

C. CANA - Child Abuse and Neglect Act.

D. CMHDDA - Children's Mental Health and Development Disability Act.

E. CPE - continuing professional education.

F. CPQ - certification of professional qualification.

G. EPPP - examination for professional practice in psychology.

H. GCA - Governmental Code Act

I. HIPDB - healthcare integrity and protection data bank.

J. IPRA - Inspection of Public Records Act.

K. MHDDC - Mental Health and Development Disabilities Code.

L. NMIC - New Mexico administrative code.

M. NMSA - New Mexico statutes annotated

N. NCA - notice of contemplated action.

O. OMA - Open Meetings Act.

P. PES - professional examination service.

Q. RxP - psychopharmacology.

R. RANA - Resident Abuse and Neglect Act.

S. ULA - Uniform

Licensing Act.

[16.22.1.8 NMAC - N, 11/15/06]

16.22.1.9 BOARD MEMBERSHIP:

A. **Number.** Board members under the provisions of Subsection A of 61-9-5 NMSA 1978, the board of psychologist examiners consists of eight (8) members appointed by the governor who are bona fide residents of New Mexico and serve for three-year staggered terms.

B. **Appointments.** The members shall be appointed as follows:

(1) four (4) members shall be professional members who are psychologists licensed under the act, appointed by the governor from a list of names nominated by the New Mexico psychological association, the New Mexico school psychologist association and the New Mexico state psychologist association.

(2) one (1) member shall be an additional professional member who is licensed under the act as a psychologist or psychologist associate; and

(3) three (3) public members who are laymen and have no significant financial interest, direct or indirect, in the practice of psychology.

C. **Successive appointments.** Each member shall be appointed for a term of three (3) years and hold office until the expiration of his/her appointed term or until a successor is duly appointed. When the term of a member ends, the governor shall appoint that member's successor pursuant to Subsection B of 16.22.1.9 above, which was applicable to the expiring member's appointment.

D. **Unexpired vacancy.** Any vacancy occurring in the board membership other than by expiration of term shall be filled by appointment by the governor for the unexpired term of the member. [16.22.1.9 NMAC - Rp, 16.22.1.8 NMAC, 11/15/06]

16.22.1.10 BOARD OPERATIONS:

A. **Elections.** At its annual meeting in July, the board shall elect a chair, vice chair, and secretary treasurer.

B. **Duties of officers.** All board officers shall exercise authority subject to the act, board regulations, and specific directions of the board.

(1) The chair shall preside at board meetings and adjudicatory hearings unless another presiding officer is named by the board. At the direction of the board, the chair shall respond to inquiries and correspondence, execute orders of the board in any pending adjudicatory proceeding unless a hearing officer is appointed, sign, or designate another board member to sign decisions of the board, appoint board members

to formal committees, and provide direction to the board administrator on routine matters to facilitate the efficient operation of board functions between meetings.

(2) The vice chair shall preside at board meetings and adjudicatory hearings in the absence of the chair. If the office of chair becomes vacant, the vice chair shall serve as chair until a new chair is elected.

(3) The secretary-treasurer shall preside at board meetings and adjudicatory proceedings in the absence of the chair and vice chair.

C. Vacancy. If the office of board chair becomes vacant, the board shall elect a chair at the next meeting or any subsequent meeting. If the office of vice chair or secretary-treasurer becomes vacant, the board may hold elections as it deems necessary and advisable.

D. Duties of board administrator. The board administrator shall at all times perform those tasks directed by the board pursuant to and those duties prescribed by the act, board regulations, the ULA, Sections 61-1-1 thru 61-1-33 NMSA 1978, and other applicable state laws. In addition, the board administrator shall supervise other personnel, to ensure the responsiveness and efficiency of board operations, and assume the role of custodian of records.

E. Board office. The board office is located in Santa Fe, New Mexico.

F. Board meetings. The board shall conduct meetings in accordance with the Open Meetings Act (OMA), Sections 10-15-1 thru 10-15-4 NMSA 1978.

G. Annual meeting. The board shall hold an annual meeting in July and shall hold other meetings as it deems necessary and advisable.

H. Conduct of meetings. The board shall conduct its meetings in an orderly fashion, with due regard for each board member and the public. The board may refer to Robert's Rules of Order, Revised, when necessary and advisable.

I. Agenda. The board administrator shall prepare the meeting agenda in accordance with the OMA and board regulations, except that the board may change the order of agenda items during the meeting.

J. Quorum. The board shall transact official business only at a legally constituted meeting with a quorum present. A quorum shall consist of five (5) members. The board is in no way bound by any opinion, statement, or action of any board member, the board administrator, or other staff except when such action is pursuant to a lawful instruction or direction of the board.

K. Addressing the board.

Except for proceedings to adopt, amend, or repeal regulations in accordance with the ULA, Section 61-1-29 NMSA 1978, the board, at its sole discretion, may provide a reasonable opportunity for persons attending an open meeting to address the board on an agenda item. The request to speak shall be timely made and shall not delay or disrupt the board's meeting. No person shall be permitted to address the board on any pending or concluded application, complaint, investigation, adjudicatory proceeding, or matter in litigation, except to confer for the purpose of settlement or simplification of the issues. Any public comment to the board shall be brief, concise, and relevant to the agenda item. The board may limit the total time allotted for comments and the time allotted to any person.

L. Telephonic attendance. Pursuant to the OMA, Section 10-15-1 (C) NMSA 1978, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment when it is otherwise difficult or impossible for the member to attend the meeting in person, and shall give advance notice to the board administrator in ample time to arrange such accommodation.

M. Conflict of interest, recusal. Any board member who cannot be impartial in the determination of a matter before the board and who cannot judge a particular matter or controversy fairly on the basis of its own merits shall not participate in the any board deliberation or vote on the matter. A board member with a personal, social, family, financial, business, or pecuniary interest in a matter shall recuse himself or herself and shall not participate in a hearing, consideration, deliberation, or vote on the matter, except as provided by law.

N. Confidentiality. Board members shall not disclose to any non-member the content of any executive session discussion or deliberation, or any other confidential matters that may be the subject of an executive session or attorney-client privileged communications except as ordered by a court of competent jurisdiction or where the board knowingly and intentionally permits disclosure. Nothing herein shall preclude the board from including in executive session discussions or confidential committee meetings the board administrator or other persons the board deems necessary to assist the board in carrying out its operations. Such other persons shall be bound by the same rules of executive session as board members.

O. Code of conduct. Board members shall adhere to the standards set forth in the GCA, Chapter 10, Article 16 NMSA 1978, and shall sign a

code of conduct agreement as provided by the regulation and licensing department or its designee adopting provisions in the GCA.

[16.22.1.10 NMAC - Rp, 16.22.1.9 NMAC, 11/15/06]

16.22.1.11 BOARD RECORDS:

A. Inspection of Public Records Act (IPRA). Public records shall be available for inspection in accordance with the provisions of the IPRA, Section 14-2-1 through 14-2-12 NMSA 1978 and Section 61-9-5.1 NMSA 1978.

B. Copying charges. The custodian shall charge a copying charge of \$10.00 for the first ten (10) normal 8.5 x 11-inch paper copies and fifty (\$0.50) per page thereafter. The custodian shall charge \$3.00 per page for copying under/over sized documents or papers.

C. Creating records. The board shall not be required to create any document or compile data for an individual or private entity.

D. Reasonable access. Consistent with the IPRA and taking into account the available staff, space, and the needs of other legitimate public business, the custodian may determine the reasonable time, place, and conditions for access to public records.

E. Removal. Public records shall not be removed from the board office except by board members, board staff, or agents of the board for official public business.

[16.22.1.11 NMAC - Rp, 16.22.1.10 NMAC, 11/15/06]

16.22.1.12 BOARD RULES AND REGULATIONS 2000 (as revised).

Board regulations may be adopted, amended, repealed, or superseded by rulemaking proceedings pursuant to applicable provisions of the act, the ULA, and the State Rules Act. [16.22.1.12 NMAC - Rp, 16.22.1.11 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 2 CODE OF CONDUCT

16.22.2.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners.

[16.22.2.1 NMAC - Rp, 16.22.2.1 NMAC,

11/15/06]

16.22.2.2 SCOPE: The psychologist shall be governed by this code of conduct while providing psychological services in any context or whenever he is functioning in a professional capacity as a psychologist. This code shall not supersede state, federal, or provincial statutes. This code shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, supervision, training, and employment, which is required for licensure. The term "psychologist," as used within this code, shall apply to both licensee and applicant.

[16.22.2.2 NMAC - Rp, 16.22.2.2 NMAC, 11/15/06]

16.22.2.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologists Act, Section 61-9-6.

[16.22.2.3 NMAC - Rp, 16.22.2.3 NMAC, 11/15/06]

16.22.2.4 DURATION: Permanent.

[16.22.2.4 NMAC - Rp, 16.22.2.4 NMAC, 11/15/06]

16.22.2.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.2.5 NMAC - Rp, 16.22.2.5 NMAC, 11/15/06]

16.22.2.6 OBJECTIVE: This part establishes the standards against which the required professional conduct of a psychologist is measured. Each licensee and applicant will be governed by this part whenever providing psychological services. A violation of this part is sufficient reason for disciplinary action pursuant to the Act.

[16.22.2.6 NMAC - Rp, 16.22.2.6 NMAC, 11/15/06]

16.22.2.7 DEFINITIONS: [RESERVED.]

[Refer to 16.22.1.7 NMAC]

16.22.2.8 RULES OF COMPETENCE

A. Limits on practice.

The psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training, and experience.

B. Maintaining competency.

The psychologist shall maintain current competency in the areas in which he practices, through continuing professional education, consultation, and/or other procedures, in conformance with current standards of scientific and professional knowledge.

C. Psychologists with restricted and unrestricted licenses and psychologist associates shall complete cultural competence coursework promulgated by the board during the first year of licensure; and also shall take eight (8) additional hours in cultural competence, as deemed satisfactory to the board, every four (4) years as detailed in 16.22.9 NMAC.

D. Adding new services and techniques. The psychologist, when developing competency in a service or technique that is either new to the psychologist or new to the profession, shall engage in ongoing consultation with other psychologists or relevant professionals, and shall seek appropriate education and training in the new area. The psychologist shall inform clients or patients of the innovative nature and the known risks and benefits associated with the services, so that the client or patient can exercise freedom of choice concerning such services.

E. Referral. The psychologist shall make or recommend referral to professional, technical, or administrative, or public resources when such referral is clearly in the best interest of the clients or patient(s).

F. Sufficient professional information. A psychologist shall not render a formal professional opinion about a person or diagnose or treat a person without direct and substantial professional contact and a formal assessment of that person.

G. Maintenance and retention of records.

(1) The psychologist rendering professional services to a client or patient shall maintain professional records that include:

- (a) the presenting problem(s) or the reason the client(s) or patient(s) sought the psychologist's services;
- (b) diagnosis and/or clinical formulation;
- (c) the fee arrangement;
- (d) the date and substance of each billed contact or service;
- (e) any test results or other evaluative results obtained and any basic test data from which they were derived;
- (f) notation and results of formal consultations with other providers;
- (g) a copy of all test or other evaluative reports prepared as part of the professional relationship;
- (h) the date of termination of services.

(2) The psychologist shall ensure that all data entries in the professional records are maintained for a period of not less than five (5) years after the last date that service was rendered. The psychologist shall comply with other legal requirements for record retention, even if longer periods of retention are required for other purposes.

(3) The psychologist shall store and dispose of written, electronic, and other records in a manner that protects confidentiality.

(4) For each person professionally supervised, the psychologist shall maintain for a period of not less than five (5) years after the last date of supervision a record of the supervisory session that shall include, among other information, the type, place, and general content of the session.

(5) Upon request by the client, patient, or legal representative of the client or patient, the psychologist shall release records under his control, except as otherwise provided in these rules and regulations or state law. Lack of payment for services does not constitute grounds for refusing to release client or patient records.

H. Continuity of care.

The psychologist shall make arrangements for another appropriate professional or professionals to deal with emergency needs of his clients, as appropriate, during periods of his foreseeable absences from professional availability.

[16.22.2.8 NMAC - Rp, 16.22.2.8 NMAC, 11/15/06]

16.22.2.9 IMPAIRED OBJECTIVITY AND DUAL RELATIONSHIPS

A. Impaired psychologist. The psychologist shall not undertake or continue a professional relationship with a client when the psychologist is impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

B. Prohibited dual relationships.

(1) The psychologist shall not undertake or continue a professional relationship with a client or patient when the objectivity or competency of the psychologist is compromised because of the psychologist's present or previous familial, social, sexual, emotional, or legal relationship with the client or a relevant person associated with or related to the client.

(2) The psychologist, in interacting with a current or former client or patient to whom the psychologist has at any time within the previous twelve (12) months rendered counseling, psychotherapeutic, or other professional psychological services for treatment or amelioration of emotional distress or behavioral inadequacy, shall not:

- (a) engage in any verbal or physical behavior toward the client or patient which is sexually seductive, demeaning, or

harassing; or

(b) engage in sexual intercourse, or sexual contact or other sexual intimacies with the client or patient; or

(c) enter into a business or financial (other than fees for professional services) or other potentially exploitative relationship with the client or patient.

(3) The prohibitions set out in Paragraph (2) of Subsection B of 16.22.2.9 NMAC shall not be limited to the 12-month period but shall extend longer unless the psychologist can demonstrate that the client or patient is not vulnerable to exploitative influence by the psychologist. The psychologist who engages in such sexual or financial relationship after the twelve (12) months following cessation or termination of treatment bears the burden of proving that there has been no exploitation, in light of all relevant factors, including:

(a) the amount of time that has passed since the therapy terminated;

(b) the nature and duration of the therapy;

(c) the circumstances of termination;

(d) the client or patient's personal history;

(e) the client or patient's mental status;

(f) the likelihood of adverse impact on the client or patient and others; and

(g) any statements or actions made by the psychologist during the course of therapy suggesting or inviting the possibility of a post-termination sexual or other potentially exploitative relationship with the patient or client.

(4) The psychologist shall not serve in varied capacities that confuse the role of the psychologist. Such confusion is most likely when the psychologist changes from one role to another and fails to make clear who is the client or patient. The psychologist is responsible for taking appropriate precautions to avoid harmful dual relationships and is responsible for informing all affected individuals, preferably in writing, when such a change is necessary. Examples of situations requiring extra caution include:

(a) treating a person who is the family member of a current or former patient or client;

(b) treating a family as a unit after treating a family member or, conversely, treating a family member after treating the family as a unit;

(c) moving from a confidential role to a non-confidential one, such as from therapist or mediator to evaluator, arbitrator, or "wise-person; and"

(d) moving from a position of authority into a confidential role, such as

from court-appointed evaluator to the role of therapist.

(5) If one family member is a minor, the psychologist shall ensure that the child understands how the role of the psychologist is changing (for example, moving from therapist for the child to therapist for the family) and shall explain the limits of confidentiality that result from this changed role.

(6) When a psychologist agrees to provide services to several persons who have a relationship (such as husband and wife or parents and children), the psychologist shall clarify at the outset:

(a) which of the individuals are patients or clients and

(b) the relationship the psychologist will have with each person; this clarification includes the role of the psychologist and the possible uses of services provided or information obtained.

(7) As soon as it becomes apparent that the psychologist may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife and then witness for one party in a divorce proceeding), the psychologist shall clarify and withdraw from or adjust roles, as appropriate.

[16.22.2.9 NMAC - Rp, 16.22.2.9 NMAC, 11/15/06]

16.22.2.10 PATIENT WELFARE

A. Informed consent for therapy and evaluation.

(1) The psychologist shall appropriately document and obtain appropriate informed consent for therapy or related procedures or evaluation. Informed consent means that the person:

(a) has the capacity to consent;

(b) has been informed of significant information concerning the therapy or evaluation in language that is understandable; and

(c) has freely and without undue influence expressed consent.

(2) When persons are legally incapable of giving informed consent, the psychologist shall obtain informed consent from a legally authorized person, if such substitute consent is permitted by law.

(3) In addition, the psychologist shall:

(a) inform those persons who are legally incapable of giving informed consent about the proposed interventions or evaluations in a manner commensurate with the persons' psychological capacities;

(b) seek or obtain their assent to those interventions or evaluations; and

(c) consider such person's preferences and best interests.

B. Limits of confidentiality in forensic, court-ordered, or child

custody evaluations.

(1) The psychologist shall explain the limits of confidentiality to parties at the outset, before the evaluation begins, and the explanation should be documented. The psychologist shall also clarify how the information will be used and which parties or entities will have access to the evaluation. The procedures of the evaluation and their purpose should be described to the parties.

(2) In the case of child custody evaluations, the limits of confidentiality shall be explained at the initial meeting with each parent and the children.

C. Terminating the professional relationship.

(1) The psychologist shall not abandon his clients or patients.

(2) The psychologist shall terminate a professional relationship when it becomes clear that the patient no longer needs the service, is not benefiting from the service, is being harmed by continued service, or if the psychologist is acting outside of his or her area of competence.

(3) Prior to termination, for whatever reason, except where precluded by the patient's conduct (for example, the patient or client moves to another state without giving notice to the psychologist and the patient is not a danger to self or others), the psychologist shall discuss the patient's views and needs, provide appropriate pre-termination counseling, suggest alternative service providers as appropriate, and take other reasonable steps to facilitate transfer of responsibility to another provider, if the patient needs one immediately.

D. Stereotyping. The psychologist shall not impose any stereotypes, which would interfere with the psychologist's obligation to provide objective psychological services to the client or patient.

E. Sexual or other dual relationship. The psychologist shall not enter into a sexual or other dual relationship, as specified in Subsection B of 16.22.2.9 NMAC of this code of conduct.

F. Exploitative relationships.

(1) The psychologist shall not exploit persons over whom the psychologist has supervisory, evaluative, or other authority such as applicants, supervisees, employees, research participants, and clients or patients.

(2) The psychologist shall not engage in sexual relationships with applicants, supervisees in training over whom the psychologist has evaluative or direct authority.

G. Solicitation of business by patients. The psychologist shall not induce the patient to solicit business on behalf of the psychologist.

H. Referrals. The psychologist providing services to a client or patient shall make an appropriate referral of the client or patient to another professional when requested to do so by the client or patient, when such a referral is in the best interest of the client or patient or when the client or patient presents symptoms or behaviors that are outside the psychologist's area of practice.

I. Consultations. When consulting with colleagues, the psychologist:

(1) shall not share confidential information that could lead to the identification of a patient, client, research participant, or other person or organization without prior written consent; and

(2) shall share information only to the extent necessary to achieve the purposes of the consultation.

J. Avoiding harm. Psychologists take reasonable steps to avoid harming their patients, research participants, applicants and others with whom they work, and minimize harm where it is foreseeable and unavoidable.

[16.22.2.10 NMAC - Rp, 16.22.2.10 NMAC, 11/15/06]

16.22.2.11 WELFARE OF SUPERVISEE AND RESEARCH SUBJECTS

A. Welfare of supervisees. The psychologist shall not exploit a supervisee in any way sexually, financially, or otherwise.

B. Welfare of research subjects. The psychologist shall respect the dignity and protect the welfare of his research subjects, and shall comply with all relevant statutes and the board's regulations concerning treatment of research subjects.

[16.22.2.11 NMAC - Rp, 16.22.2.11 NMAC, 11/15/06]

16.22.2.12 PROTECTING CONFIDENTIALITY

A. Safeguarding confidential information. The psychologist shall safeguard confidential information obtained in the course of practice, teaching, research, or other professional services. The psychologist shall disclose confidential information to others only with the written informed consent of the patient or client in accordance with the Public Health Act, Section 24-1-20 NMSA 1978, except as provided in these regulations.

B. Discussing the limits of confidentiality.

(1) The psychologist shall discuss with persons and organizations with whom the psychologist establishes a professional or scientific relationship (including, to the extent feasible, minors and their legal representatives):

(a) the relevant limitations on confidentiality, including limitations where applicable in group, marital, and family therapy or in organizational consulting; and

(b) the foreseeable uses of the information generated through his services.

(2) Unless it is not feasible or is contraindicated, the psychologist shall discuss confidentiality at the outset of the relationship and thereafter as new circumstances warrant.

C. Disclosure without informed written consent. Except as otherwise permitted under the provisions of the MHDDC, Section 43-1-19 NMSA, 1978, and the CMHDDA, Sections 32A-6-1 thru 32A-6-22 NMSA 1978 and as amended, a psychologist may disclose confidential information without the informed written consent of the patient/client when the psychologist judges that disclosure is necessary to protect against a substantial and imminent risk of serious harm being inflicted by the patient on the patient or another person. In such case, the psychologist shall limit disclosure of the otherwise confidential information to only those persons and only that content necessary to address the imminent risk of harm. When the client is an organization, disclosure shall be made only after the psychologist has made a reasonable and unsuccessful attempt to have the problems corrected within the organization.

D. Services involving more than one interested party. In a situation in which more than one party has an appropriate interest in the professional services rendered by the psychologist to a patient(s) and client(s), the psychologist shall, to the extent possible, clarify to all parties prior to rendering the services the dimensions of confidentiality and professional responsibility that shall pertain in the rendering of services. The relevant limitations on confidentiality shall be clarified, including limitations where applicable in group, marital, or family therapy or in organizational consulting. Such clarification is specifically indicated, among other circumstances, when the patient or client is an organization. The psychologist shall also communicate the foreseeable uses of the information generated through his services.

E. Legally dependent patients. At the beginning of a professional relationship, to the extent that the patient or client can understand, the psychologist shall inform a patient or client who is below the age of majority or who has a legal guardian of the limit the law imposes on the right of confidentiality with respect to the patient or client's communications with the psychologist.

F. Limited access to client records. The psychologist shall limit access to patient or client records to preserve the patient or client's confidentiality

and shall make effort to ensure that all persons working under the psychologist's authority comply with the requirements for confidentiality of patient or client material.

G. Release of confidential information. The psychologist may release confidential information upon court order, or to conform to state or federal law, rules or regulations. The psychologist shall consult with others and take appropriate action if a court order appears to violate confidentiality rights under state or federal law, rules or regulations.

H. Reporting of abuse of children and vulnerable adults. The psychologist shall be familiar with the Child Abuse and Neglect Act (CANAA), Sections 32A-4-1 thru 32A-4-34 NMSA 1978, Resident Abuse and Neglect Act (RANA), Sections 30-47-1 thru 30-47-10 NMSA 1978, and any other relevant law concerning the reporting of abuse of children and vulnerable adults, and shall comply with the mandatory requirements of such laws.

I. Discussion of client information among professionals. When rendering professional services as part of a team or when interacting with other appropriate professionals concerning the welfare of the client, the psychologist may share confidential information about the client provided the psychologist ensures that all persons receiving the information are informed about the confidential nature of the information and abide by the rules of confidentiality.

J. Disguising confidential information. When a case report or other confidential information is used as the basis of teaching, research, or other published reports, the psychologist shall exercise reasonable care to ensure that the case report or information is appropriately disguised to prevent client identification.

K. Observation and electronic recording. The psychologist shall ensure that diagnostic interviews or therapeutic sessions with a patient are observed or electronically recorded only with the informed written consent of the patient or his legal guardian, if any. The patient may withdraw consent at any time verbally or in writing unless otherwise required by law.

L. Confidentiality after termination of a professional relationship. The psychologist shall continue to treat information regarding a patient as confidential after the professional relationship between the psychologist and the patient has ceased.

M. Confidentiality of electronic transmission. The psychologist shall ensure that confidential information is not transmitted in any way that compromises confidentiality.

[16.22.2.12 NMAC - Rp, 16.22.2.12 NMAC, 11/15/06]

16.22.2.13 DISCLOSURE AND MISREPRESENTATION OF SERVICES

A. Definition of public statements. Public statements include but are not limited to paid or unpaid advertising, brochures, printed matter, directory listings, personal resumes or curriculum vitae, interviews or comments for use in media, statements in legal proceedings, lectures, and public oral presentations.

B. Display of license. The psychologist shall display his current New Mexico license to practice psychology, on the premises of his primary professional office.

C. Misrepresentation of qualifications. The psychologist shall not misrepresent directly or by implication his professional qualifications such as type of licensure, education, experience, and areas of competence.

D. Misrepresentation of affiliations. The psychologist shall neither misrepresent nor permit the misrepresentation of his professional qualifications, affiliations, or purposes, or those of the institutions, organizations, products, and/or services with which he is associated.

E. False or misleading information regarding professional services. The psychologist shall not include false or misleading information in public statements concerning professional services offered.

(1) When announcing or advertising professional services and/or describing his professional qualifications, the psychologist may list the following:

(a) degrees obtained (Ph.D. or Psy.D.) and the area in which the degree is obtained (clinical, counseling, or school);

(b) the institutions from which the degrees were obtained;

(c) date, type, and level of certification or licensure;

(d) diploma status; membership status in professional organizations;

(e) address; telephone number; office hours;

(f) a brief listing of the type of psychological services offered;

(g) an appropriate presentation of fee information;

(h) foreign languages spoken; and

(i) policy with regard to third-party payments.

(2) Additional relevant or important consumer information may be included if not prohibited by other sections of the code. The psychologist must disclose and list whether his New Mexico license is regular, provisional, temporary, emergency or inactive, and include its expiration date.

(3) When announcing or advertising the availability of psychological prod-

ucts, publications, or services, the psychologist shall not display any affiliation with an organization in a manner that falsely implies the sponsorship or certification of that organization. In particular, the psychologist shall not offer professional organization or fellowship status in a way that implies specialized professional competence or qualifications. Public statements shall not contain:

(a) any statement likely to mislead or deceive because it makes only a partial disclosure of relevant facts;

(b) a statement of a patient's laudatory statements about the psychologist or his services or products;

(c) a statement intended or likely to create false or unjustified expectations of favorable results;

(d) a statement implying unusual, unique, or one-of-a-kind abilities;

(e) a statement intended or likely to appeal to a prospective patient's fears, anxieties; or emotions concerning the possible consequences of the prospective client's failure to obtain the offered services;

(f) a statement concerning the comparative desirability of offered service;

(g) a statement of direct solicitation of individual clients.

F. Promotion of psychological services and products. Psychologists associated with the development or promotion of psychological devices, books, or other products offered for sale must ensure that announcements and advertisements are presented in an accurate and truthful manner.

(1) The psychologist shall offer his/ her services, products, and publications in an accurate and truthful manner, avoiding statements or claims likely to deceive or mislead such as misrepresentation through sensationalism, exaggeration, or superficiality. The psychologist shall be guided by the primary obligation to aid the public in forming their own informed judgments, opinions, and choices.

(2) The psychologist shall make efforts to ensure that statements in catalogues, workshops, and seminar outlines are not false, misleading, or inaccurate. Announcements, brochures, or advertisements describing workshops, seminars, or other programs shall accurately represent the intended audience, eligibility requirements, educational objectives, and nature of the material to be covered, as well as the education, training, and experience of the persons presenting the programs. The psychologist shall make clear the nature of the services, costs, and other obligations to be accepted by research participants whenever fees or clinical or other professional services are offered as inducement.

G. Misrepresentation of

services or products. The psychologist shall not associate with or permit his name to be used in connection with any services or products in such a way as to misrepresent:

(1) the services or products;

(2) the degree of his responsibility for the services or products; or

(3) the nature of his association with the services or products.

H. In-person solicitation. The psychologist shall not engage, directly or through agents, uninvited, in-person solicitation of business from actual or potential psychotherapy patients, or other persons who, because of their particular circumstances, are vulnerable to undue influence.

[16.22.2.13 NMAC - Rp, 16.22.2.13 NMAC, 11/15/06]

16.22.2.14 FEES AND STATEMENTS

A. Disclosure of charges for services. The psychologist shall provide complete and accurate information about the charge of professional services to the client or patient, a prospective client or patient, or third-party payor.

B. Accuracy in reports to payors and funding sources. In reports to payors for services or sources of research funding, the psychologist shall accurately state the nature of the research or services provided, the fees or charges, and, where applicable, the identity of the provider, the findings, and the diagnosis.

C. Referrals and fees. When a psychologist pays, receives payment from, or divides fees with another professional other than in an employer-employee relationship, the payment to each shall be based on the services (clinical, consultative, administrative, or other) provided and shall not be based on the referral itself. Referral fees are prohibited.

D. Fees and financial arrangements. As early as is feasible in a professional or scientific relationship, the psychologist and the patient, or client, should reach an agreement specifying the compensation and the billing arrangements.

(1) The psychologist shall not misrepresent his fees.

(2) If limitations to services can be anticipated because of the client or patient's finances, the psychologist should discuss such anticipated limitations with the patient or client.

(3) If the patient or client does not pay for services as agreed, and if the psychologist wishes to use collection agencies or legal measures to collect the fees, the psychologist shall first inform the patient or client that such measures will be taken and provide an opportunity for the patient or

client to make prompt payment.

(4) Prior to conducting a custody evaluation, the psychologist shall clarify to the parties involved the charges, or estimation of costs, and the manner in which fees will be collected. A specific written fee agreement shall be signed by all parties.

(5) A psychologist's fee shall include indirect costs of conducting a private practice (for example, secretarial fees, office supplies, durable materials, etc.) A psychologist shall not bill the client or patient for additional indirect costs beyond those included in the psychologist's fee. [16.22.2.14 NMAC - Rp, 16.22.2.14 NMAC, 11/15/06]

16.22.2.15 ASSESSMENT PROCEDURES

A. Confidential information. The psychologist shall treat the results of a psychological assessment as confidential information subject to the same rules and regulations as other patient information.

B. Use of assessment in general and with special populations. Psychologists who administer, score, interpret, or use assessment techniques shall be familiar with reliability, validity, standardization, comparative, and outcome studies of the techniques they use and with the proper application and use of those techniques.

(1) The psychologist shall recognize limits of the confidence with which diagnoses, judgments, or predictions can be made about individuals.

(2) The psychologist shall identify situations in which particular assessment techniques or norms may not be applicable or may require adjustment in administration or interpretation because of factors such as an individual's gender, age, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

C. Communication of results. The psychologist shall communicate results of the assessment to the client or patient, parents, legal guardians, or other agents of the client or patient in as clear and understandable a manner as reasonably possible and with respect for the client or patient.

D. Reservations concerning results. The psychologist shall include in the assessment report the results of any limitations of the assessment procedures as may apply to the reliability or validity of the assessment techniques or the interpretation of results.

(1) Issues of individual differences, such as language, ethnicity, culture, socioeconomic, religion, disability, and lifestyle differences, should be carefully considered and addressed whenever relevant.

(2) Any limitations of results

derived from the factors in Paragraph (1) of Subsection D of 16.22.2.15 NMAC should be clearly stated in the psychological report. The psychological report of an individual on whom psychological tests are not normed or adequately normed should clearly indicate the limitations of the assessment and the need for caution in interpreting test results.

E. Information for professional users.

(1) The psychologist offering an assessment procedure or automated interpretation service to non-psychologist professionals shall accompany this offering with information that fully describes:

(a) the development of the assessment procedure or service;

(b) evidence of validity and reliability; and

(c) characteristics of the normative population.

(2) The psychologist shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. The psychologist shall ensure that advertisements for the assessment procedure or interpretive service are factual and accurately descriptive.

F. Opinions about individuals who are not directly evaluated. The psychologist shall not render public or professional opinions regarding the psychological functioning of any individual who has not been personally evaluated by that psychologist.

G. Assessing quality of parenting in child custody evaluations. There may be situations in which one parent is unavailable for direct evaluation due to geographic distance, severe pathology, or refusal to participate. While the psychologist can assess the quality of parenting of the available parent, no comparison can be made in terms of which parent is better; nor can conclusions be derived about the fitness or level of psychological functioning of the unavailable parent.

H. Collateral contacts in child custody evaluations. The identification, extent, and purpose of collateral contacts made in the course of an evaluation shall be clearly explained early, even within the referral process. Collateral contacts include people who represent a major presence in the children and parents' environment.

I. Test settings. Clients or patients should take standardized tests in a setting that will preserve the integrity of the tests and the information. When possible, all assessment procedures and techniques should be administered in a clinical setting.

J. Single-test assess-

ments. A single-test assessment should not be the sole basis for major opinions or decisions.

K. Outdated tests. The psychologist shall not base assessments, decisions, or recommendations on outdated tests or test data as defined in Paragraph (49) of Subsection A of 16.22.1.7 NMAC. [16.22.2.15 NMAC - Rp, 16.22.2.15 NMAC, 11/15/06]

16.22.2.16 TEST SECURITY

A. Limits of reproduction and description of test materials. The psychologist shall not reproduce or describe in public or in publications subject to general distribution any psychological tests or other assessment devices, the value of which depends in whole or in part on the naiveté of the subject, in ways that might invalidate the techniques. The psychologist shall limit access to such tests or devices to persons with professional interests who will safeguard their use.

B. Safeguarding test materials. The psychologist shall safeguard testing materials in accordance with the necessity to maintain test security. The psychologist should take all reasonable measures to protect test manuals, testing stimuli, and raw test data from disclosure to those who are not qualified to properly appraise those materials. The psychologist is required to release such materials only to those licensed and qualified in the use and interpretation of psychological tests and testing materials. If test materials are sought by subpoena or discovery request, the psychologist shall seek a protective order from a court of competent jurisdiction in order to maintain test security. Thereafter, the psychologist shall comply with the court order.

[16.22.2.16 NMAC - Rp, 16.22.2.16 NMAC, 11/15/06]

16.22.2.17 VIOLATIONS OF LAW

A. The psychologist shall not use fraud, misrepresentation, or deception in applying for or obtaining a psychologist license.

B. The psychologist shall not use fraud in:

(1) assisting another to obtain a psychologist license;

(2) billing clients or third-party payors;

(3) providing psychological service;

(4) reporting the results of psychological evaluations or services; or

(5) conducting any other activity related to the practice of psychology.

[16.22.2.17 NMAC - Rp, 16.22.2.17 NMAC, 11/15/06]

16.22.2.18 AIDING ILLEGAL PRACTICE

A. Aiding unauthorized practice. The psychologist shall not aid or abet another person in misrepresenting his professional credentials or illegally engaging in the practice of psychology.

B. Delegating professional responsibility. The psychologist shall not delegate responsibilities:

(1) to persons who are not appropriately licensed, credentialed, or otherwise qualified to provide assessment, diagnosis, or treatment; or

(2) to persons who are not psychology predoctoral or postdoctoral trainees.

C. Providing supervision. The psychologist shall exercise appropriate supervision over supervisees, as set forth in the board regulations. [16.22.2.18 NMAC - Rp, 16.22.2.18 NMAC, 11/15/06]

16.22.2.19 RESOLVING ETHICAL ISSUES

A. Improper complaints. The psychologist shall not file or encourage the filing of ethics complaints to the board that are frivolous.

B. Familiarity with this code. The psychologist has an obligation to be familiar with the code, other applicable ethics codes, and their application to psychologists' work. Lack of awareness or misunderstanding of the code is not a defense to a charge of unethical conduct.

C. Confronting ethical issues. When a psychologist is uncertain whether a particular situation or course of action would violate this code, the psychologist shall consult with other psychologists knowledgeable about ethical issues, with state or national psychology ethics committees, or with other appropriate authorities in order to choose a proper course of action. Such consultation is not a defense to a charge of unethical conduct.

D. Mandatory reporting. If a psychologist has reason to believe that another psychologist is engaged in a prohibited dual relationship with a client or patient, exhibits habitual or excessive use of drugs and alcohol that adversely affect professional practice or commits fraud or gross incompetence, he must report the suspected violation to the board.

E. Cooperating with complaint and ethics committees. The psychologist shall cooperate in investigations, proceedings, and requirements of this code, the ethical principles of psychologists and code of conduct of the American psychologist association, or any affiliated state psychological association to which he belongs. In doing so, the psychologist shall

make reasonable efforts to resolve any issues of confidentiality. Failure to cooperate is a separate violation of the code.

[16.22.2.19 NMAC - Rp, 16.22.2.19 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 3 NON-LICENSED PSYCHOLOGIST/APPLICANT WITH AN INDEPENDENT MENTAL HEALTH LICENSE**

16.22.3.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners.

[16.22.3.1 NMAC - Rp, 16.22.3.1 NMAC, 11/15/06]

16.22.3.2 SCOPE: This part applies to the board, licensees, applicants for licensure, non-licensed employees or agents of licensees, and the general public.

[16.22.3.2 NMAC - Rp, 16.22.3.2 NMAC, 11/15/06]

16.22.3.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist act, NMSA 1978 Section 61-9-6, 61-9-8, 61-9-16. Part 3 is authorized by NMSA 1978 Section 10-15-1.C (1993 Repl.)

[16.22.3.3 NMAC - Rp, 16.22.3.3 NMAC, 11/15/06]

16.22.3.4 DURATION: Permanent.

[16.22.3.4 NMAC - Rp, 16.22.3.4 NMAC, 11/15/06]

16.22.3.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.3.5 NMAC - Rp, 16.22.3.5 NMAC, 11/15/06]

16.22.3.6 OBJECTIVE: The objectives of this part are to:

A. set forth the limitations and conditions on the practice of psychology that apply to applicants while supervised in a course of study at a school or college, non-licensed persons who practice under supervision in order to satisfy the requirements for licensure, non-licensed staff or employees of licensees, and non-licensed persons licensed in another jurisdiction who perform court-ordered evaluations in New

Mexico, and

B. establish the extent that licensees who supervise or sponsor non-licensed persons are responsible for the conduct of the non-licensed person.

[16.22.3.6 NMAC - Rp, 16.22.3.6 NMAC, 11/15/06]

16.22.3.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.3.8 NON-LICENSED PERSONS

A. Limits of practice. Unless licensed by the board or exempted from licensure as provided in the act, no non-licensed person shall render, perform, or offer to render or perform psychological services except as provided under this part. The provisions of this part shall be strictly construed to ensure that the public is adequately protected from the practice of psychology by unqualified persons.

B. Required consent by patient or client. Except for normal office management, administrative, and secretarial support roles and functions, the patient or client shall be fully informed of the tasks and assignments performed by non-licensed persons. The supervisor shall obtain informed consent as appropriate when non-licensed persons will have access to confidential patient or client information or if other non-licensed persons are or will be performing or rendering psychological services under supervision.

C. Non-licensed Employees or staff.

(1) A licensed psychologist may employ office staff or agents to perform nonprofessional office management, administrative, and secretarial duties and functions. The licensee shall make every effort to ensure that the office staff is trained in a protect patient or client confidential information. The psychologist shall be responsible for any breach of confidentiality by his employees or staff.

(2) A licensed psychologist may employ qualified non-licensed persons to administer and score psychological tests or gather historical data from patients or clients. The employee shall work under the psychologist's direct supervision. The psychologist is ultimately responsible for the accuracy and competent administration, scoring and interpretation of tests and data. [16.22.3.8 NMAC - Rp, 16.22.3.8 NMAC, 11/15/06]

16.22.3.9 SUPERVISION OF NON LICENSED PERSONS

A. Responsibility of supervisors and violations. The supervisor shall not assist a non-licensed person in

the performance of any activity that constitutes the practice of psychology except as allowed by this part. A supervisor shall have functional authority over and professional responsibility for the work of the non-licensed person. A supervisor who assists a non-licensed person in the practice of psychology in violation of this part, by acts of omission or commission, or who provides inadequate supervision over a non-licensed person is subject to disciplinary action. The grounds for disciplinary action may include, without limitation, aiding and abetting the practice of psychology by a non-licensed person; incompetent practice of psychology; willful or negligent violation of the act; allowing the supervisor's name or license to be used in connection with a non-licensee who performs psychological services outside of the area of the non-licensed person's training, experience, or competency; or abandonment of the patient or client.

B. Qualifications of supervisors. The supervisor shall be a licensed psychologist. The supervisor shall have training or experience in the specific area of practice being supervised. The supervisor may assign non-licensed persons to other qualified specialists under the supervisor's authority for specific skill training. The other specialist shall have a clearly established practice and shall possess demonstrable teaching skills. The supervisor shall limit the number of non-licensed persons under supervision, taking into account the requirements of the supervisor's principal work or practice and clinical responsibilities, to ensure that the supervision provided and the practice are consistent with professional standards. The supervisor shall not supervise an applicant who is a member of the supervisor's immediate or extended family, who has a financial interest in the supervisor's business or practice, or with whom the supervisor has a dual relationship.

C. Duties of the supervisor. The supervisor has the following duties to his patients or clients, the non-licensed person, and the public.

(1) The supervisor has ultimate responsibility to the patient or client for all professional psychological services rendered, whether rendered by the supervisor or the non-licensed person.

(a) The supervisor shall ensure that the patient or client knows the supervisory status of the non-licensed person and that consent is obtained.

(b) The supervisor shall ensure that the patient or client understands the possibility that a third-party payor may not reimburse for services rendered by the non-licensed person.

(c) The supervisor shall ensure that the patient or client is aware of the non-

licensed person's qualifications and functions.

(d) The supervisor shall be available to patients or clients, shall be available to the non-licensed person for professional guidance and direction and intervention as needed, and shall be responsible for proper record-keeping and proper documentation in the patient's or client's case file, progress notes, or medical record.

(2) Unless the applicant holds an independent mental health license issued by the New Mexico counseling and therapy practice board or is an independent social worker licensed by the New Mexico board of social work examiners, the supervisor shall be responsible for billing for services and receipt or collection of payment. Bills, statements, invoices, or requests for payment in any form shall accurately and clearly identify the work performed and by whom.

(3) The supervisor maintains ultimate responsibility for and has an ongoing duty to actively supervise the non-licensed person's work performance and conduct to ensure adherence to the act and to board regulations.

(4) The supervisor shall ensure that a non-licensed person for whose work the supervisor is responsible does not engage in any activity, which, if engaged in by the supervisor, would constitute a violation of the act or the board regulations. The supervisor shall ensure, for example, that the non-licensed person:

(a) does not engage in a dual relationship;

(b) preserves the confidentiality of patient or client information;

(c) does not misrepresent his status, credentials, or qualifications to the patient or client or to others;

(d) does not mislead others or misrepresent his status to collect fees for services; and

(e) does not abuse drugs, substances, or alcohol to an extent or manner that endangers himself or another or impairs his ability to perform the duties required.

(5) The supervisor shall ensure that the non-licensed person works within his area of training, education, and competence.

(6) The supervisor shall adequately monitor the work of the non-licensed person to the extent necessary to protect the welfare of the patient or client. The supervisor shall ensure that the patient or client is properly evaluated and treated. The supervisor shall assess the skills and functioning of the non-licensed person on an ongoing basis to ensure that the non-licensed person is acting within his area of training, education, and competence. The supervisor shall prepare and document the plan of supervision, if applicable.

D. Students/applicants under supervision. Students/applicants enrolled in a graduate-level clinical counseling or school psychology training program who are rendering services under supervision and who have not applied for licensure are exempt from the act. Students/applicants shall not directly charge a patient or third-party payor a fee for the services performed. The supervisor shall accept only supervisory responsibility over students/applicants currently enrolled in a graduate-level program, who are under the auspices of a bona fide internship or externship program with a designated faculty advisor who shall be responsible for coordinating student/applicant services and training. Students/applicants shall not render any psychological services that are not supervised by a qualified supervisor as defined in this part.

[16.22.3.9 NMAC - Rp, 16.22.3.8 NMAC, 11/15/06]

16.22.3.10 LIMITED PERMISSION TO LICENSEES FROM OTHER JURISDICTIONS TO PERFORM COURT-ORDERED INDEPENDENT EXAMINATION.

A. A licensed or certified psychologist from another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico (an out-of-state psychologist) may conduct a court-ordered independent psychological examination, which shall be limited to performing psychological assessments, tests, or evaluations, only in accordance with the provisions of this Subsection.

B. The out-of-state psychologist shall file with the board in writing a request for permission to conduct a court-ordered independent examination at least thirty (30) days in advance of providing any professional psychological services in New Mexico. The out-of-state psychologist shall attach a copy of the court order, shall attach a copy of a current resume or curriculum vitae, and shall identify a New Mexico licensed psychologist in good standing who agrees to sponsor the out-of-state psychologist. The out-of-state psychologist shall be a licensee in good standing in each jurisdiction in which the psychologist holds a license. A \$150.00 fee will be assessed for the processing of the request.

C. The board will grant limited permission to conduct a court-ordered independent examination only if the out-of-state psychologist acknowledges and agrees to the following limitations and conditions.

(1) The psychologist shall agree to perform the court-ordered examination in accordance with applicable provisions of the act and board regulations.

(2) The psychologist shall agree that the psychological services shall be limited to only services reasonable and necessary to satisfy the requirements of a specific court-ordered examination in an individual cause of action. In no event shall the board grant permission to the out-of state psychologist to render services for the purpose of preventing, eliminating, or treating symptomatic, maladaptive, or undesired behavior or for the purpose of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health, or mental health.

(3) The psychologist shall agree to perform the services in New Mexico within the number of days specified by the board.

(4) The psychologist shall agree to claim no right, entitlement, or privilege to engage in the practice of psychology in the state of New Mexico except as allowed under the act and board regulations.

(5) The psychologist shall agree that the limited permission granted shall not be used or construed as a determination by the board that the psychologist qualifies for a license to practice psychology in New Mexico or that the psychologist is competent to perform the court-ordered examination.

(6) The board may impose other limitations or conditions as necessary to ensure compliance with the provisions of the act or board regulations.

(7) If the out-of-state psychologist violates the conditions imposed by the board or violates the act or board regulations, the board shall file an official complaint in any jurisdiction in which the psychologist is licensed or certified alleging that the psychologist has willfully or negligently violated the New Mexico professional psychologist act.

(8) The sponsoring psychologist shall agree in writing to sponsor an out-of-state psychologist as provided in this part. The sponsor shall certify that (a) the sponsor has made reasonable inquiry regarding the out-of-state psychologist's qualifications and reputation; (b) to the sponsor's knowledge, the out-of-state psychologist is a licensee in good standing qualified by skill, education, and experience to conduct the court-ordered examination; and (c) the out-of-state psychologist has not used fraud or deception in requesting or obtaining permission from the board to conduct the court-ordered examination. The sponsor shall agree that willful or negligent certification or a violation by the out-of-state psychologist of the conditions imposed by the board or of the act or board regulations may be grounds for the board to take disciplinary action against the sponsor for aiding or abetting the practice of psychology by a

person not licensed by the board.
[16.22.3.10 NMAC - Rp, 16.22.3.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 4 PSYCHOLOGISTS: EDUCATION REQUIREMENTS

16.22.4.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners.
[16.22.4.1 NMAC - Rp, 16.22.4.1 NMAC, 11/15/06]

16.22.4.2 SCOPE: The provisions of Part 4 apply to all applicants for licensure.
[16.22.4.2 NMAC - Rp, 16.22.4.2 NMAC, 11/15/06]

16.22.4.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, Section NMSA 61-9-4.1, 61-9-6, 61-9-10 61-9-11, 61-9-11.1.
[16.22.4.3 NMAC - Rp, 16.22.4.3 NMAC, 11/15/06]

16.22.4.4 DURATION: Permanent.
[16.22.4.4 NMAC - Rp, 16.22.4.4 NMAC, 11/15/06]

16.22.4.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section.
[16.22.4.5 NMAC - Rp, 16.22.4.5 NMAC, 11/15/06]

16.22.4.6 OBJECTIVE: This part establishes the minimum educational requirements for applicants applying for licensure.
[16.22.4.6 NMAC - Rp, 16.22.4.6 NMAC, 11/15/06]

16.22.4.7 DEFINITIONS: [RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.4.8 EDUCATIONAL REQUIREMENTS

A. The board shall issue a license as a psychologist to an applicant, otherwise qualified, who furnishes evidence satisfactory to the board that the applicant is a graduate of a doctoral program that is designated as a doctoral program in psycholo-

gy by a nationally recognized designation system or that is accredited by a nationally recognized accreditation body and hold a degree with a major in clinical, counseling or school psychology from a university offering a full-time course of study in psychology.

B. It is the responsibility of the prospective applicant to provide evidence, at the time of application that the program from which he or she graduated is in substantial compliance with the requirements of the Professional Psychology Act.
[16.22.4.8 NMAC - Rp, 16.22.4.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 5 PSYCHOLOGISTS: APPLICATION REQUIREMENTS; PROCEDURES

16.22.5.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners.
[16.22.5.1 NMAC - Rp, 16.22.5.1 NMAC, 11/15/06]

16.22.5.2 SCOPE: The provisions of Part 5 apply to all applicants for licensure.
[16.22.5.2 NMAC - Rp, 16.22.5.2 NMAC, 11/15/06]

16.22.5.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist act, Section NMSA 61-9-4.1, 61-9-6, 61-9-10 61-9-11, 61-9-11.1.
[16.22.5.3 NMAC - Rp, 16.22.5.3 NMAC, 11/15/06]

16.22.5.4 DURATION: Permanent.
[16.22.5.4 NMAC - Rp, 16.22.5.4 NMAC, 11/15/06]

16.22.5.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section.
[16.22.5.5 NMAC - Rp, 16.22.5.5 NMAC, 11/15/06]

16.22.5.6 OBJECTIVE: This part establishes requirements for eligibility to apply and establishes application procedures and supervisory requirements.
[16.22.5.6 NMAC - Rp, 16.22.5.6 NMAC,

11/15/06]

16.22.5.7 DEFINITIONS:
[RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.5.8 APPLICATION; EXAMINATION; PROCESS

A. A non-refundable application fee set by the board is due at the time of each initial application. Additional fees may be charged and will be collected by the board, as necessary, for the administration of examinations.

B. The applicant may be considered for licensure if he fulfills conditions of 16.22.5.9, 16.22.5.10, 16.22.5.11, 16.22.5.12, 16.22.5.13, 16.22.5.14 or 16.22.5.15 NMAC.
[16.22.5.8 NMAC - Rp, 16.22.5.9 NMAC, 11/15/06]

16.22.5.9 APPLICATIONS NOT PREVIOUSLY LICENSED IN ANY JURISDICTION

A. Initial application procedure. To open an initial application file, the applicant shall submit the following:

- (1) a completed and signed application;
- (2) verification of predoctoral internship and supervision as described in this part;
- (3) the application fee as required by the board;
- (4) official transcripts directly from the institution's office of the registrar;
- (5) if the applicant chooses, a notarized letter from the graduate office of the degree-granting institution that documents the date of the doctoral degree; indicating (a) the date of completion of all requirements for the doctoral degree, and (b) the specific psychology program that the applicant completed; and
- (6) three (3) letters of reference.

B. The application process shall be completed within sixty (60) days of the receipt at the board office of all materials listed in Subsection A of 16.22.5.9 NMAC. The applicant must have all documents in the board office at least sixty (60) days prior to taking the examination for professional practice in psychology (EPPP).

C. When the initial application has been submitted, and is reviewed and approved by the board, a notification of approval will be issued to the applicant.

D. The written examination for licensure is the EPPP, developed by the Association of state and provincial psychology boards (ASPPB) and administered by the Professional examination service (PES). An applicant shall be eligible to take the EPPP three (3) times within the next eighteen (18) months following the date the applicant was notified of the board's

approval of their application:

(1) If the applicant does not pass the EPPP any of the three (3) times it is administered within eighteen (18) months, the applicant shall submit a new initial application;

(2) Upon the submission of the new application, the rules and regulations in effect at the time the new initial application is received will be used to determine whether an applicant meets the requirements for licensure.

(3) If the initial application is not approved, the applicant will be notified of all deficiencies within thirty (30) days of the board's review

E. The applicant shall take and pass an online jurisprudence examination after the board had received his EPPP score from the ASPPB reporting service, indicating that the applicant received a passing score pursuant to the act.

F. When the applicant fulfills all the requirements of this section, he will be issued an 18-month provisional license. This is not subject to renewal or extension. During the time an applicant holds a provisional license, he may apply for an unrestricted license when the applicant has met the New Mexico regulations for supervision under 16.22.6.8 NMAC.

G. The applicant may request an additional twelve (12) months to complete necessary supervisory hours in accordance with the act, but the applicant will be practicing under supervision and under the supervisor's license and can no longer hold a provisional license. This request will only be honored one (1) time.
[16.22.5.9 NMAC - Rp, 16.22.5.10 NMAC, 11/15/06]

16.22.5.10 APPLICANTS HOLDING A VALID LICENSE IN ANOTHER STATE FOR TEN YEARS OR MORE SEEKING LICENSURE UNDER SECTION 61-9-10 - RECIPROCITY

A. An applicant seeking licensure under this section may obtain a license pursuant to Section 61-9-10 of the act if the applicant fulfills the following conditions.

(1) At the time of application, the applicant shall possess a current license to practice psychology in another state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or other country.

(2) The applicant shall possess a doctoral degree in psychology or a related field.

(3) The applicant shall have no pending disciplinary actions, no formal disciplinary actions issued against his license in the last five (5) years and no past suspensions or revocations.

(4) The applicant shall have been licensed for a minimum of ten (10) years.

B. Application under this board regulation shall be made on a form provided by the board. The applicant shall submit official college or university transcripts, three (3) current letters of reference, and a non-refundable application fee of three hundred dollars (\$300). (For fee schedule, see 16.22.13.8 NMAC). Applicants under this section are not required to submit verification of postgraduate experience.

C. Upon approval by the board, an applicant must take and pass an online jurisprudence examination.
[16.22.5.10 NMAC - Rp, 16.22.5.11 NMAC, 11/15/06]

16.22.5.11 APPLICANTS HOLDING AN ASPPB CERTIFICATION OF PROFESSIONAL QUALIFICATION OR A NATIONAL REGISTER HEALTH SERVICE PROVIDER IN PSYCHOLOGY CREDENTIAL: RECIPROCITY

A. Eligibility. A licensee in good standing for a minimum of five (5) years in another jurisdiction is eligible for licensure pursuant to Section 61-9-10 of the act if the applicant:

(1) holds a current certification of professional qualification (CPQ) awarded by the ASPPB, completes the application procedure required by the board, and takes and passes an online jurisprudence examination; to qualify for CPQ, the applicant shall, at a minimum, be a licensee in good standing in another jurisdiction for at least five (5) years, shall have no disciplinary actions within five (5) years immediately preceding the award of the CPQ, and shall have no prior license suspensions or revocations in any jurisdiction in which the applicant is or has been licensed; or,

(2) holds a current national register (HSPP) credential at the doctoral level, pursuant to Subsection A of 16.22.4.8 NMAC, for a minimum of five (5) continuous years immediately preceding the date of application, completes the application procedure required by the board, and takes and passes an online jurisprudence examination; in addition, the applicant shall have passed the EPPP with a minimum score required for licensure as set forth in Paragraph (6) of Subsection A of Section 61-9-11 of the act, have no disciplinary actions within five (5) years immediately preceding the date of application, and shall have no prior license suspensions or revocations in any jurisdiction in which the applicant is or has been licensed.

B. Application procedure. The applicant shall submit the following:

- (1) a verified or certified copy of

the applicant's CPQ or national register HSPP credential or other evidence satisfactory to the board that the applicant holds a CPQ or national register HSPP credential;

(2) a completed application on a form provided by the board; and

(3) the non-refundable application fee established by the board.

C. Examination. The applicant shall take and pass an online jurisprudence examination.

D. Applicability of other provisions. The provisions of Section 61-9-13 of the act shall apply to applications filed under this section. A psychologist licensed pursuant to this Section is subject to all requirements and obligations applicable to licensees under the act and board regulations.

[16.22.5.11 NMAC - Rp, 16.22.5.13 NMAC, 11/15/06]

16.22.5.12 APPLICANTS LICENSED IN ANOTHER JURISDICTION WHO DO NOT QUALIFY UNDER SECTION 16.22.5.10, 16.22.5.11, 16.22.5.12, 16.22.5.13, 16.22.5.14 OR 16.22.5.15 NMAC

A. Application procedure. To open an application file, the applicant shall submit the following:

(1) a completed and signed application;

(2) the application fee as required by the board;

(3) official transcripts sent directly from the institution's office of the registrar;

(4) if the applicant chooses, a notarized letter from the graduate office of the degree-granting institution that documents the date of the doctoral degree; the letter shall indicate (a) the date of completion of all requirements for the doctoral degree, and (b) the specific psychology program the applicant completed;

(5) three letters of reference;

(6) verification of predoctoral internship and supervision;

(7) verification of postdoctoral supervised experience;

B. Postdoctoral supervised experience.

(1) The postdoctoral supervised experience shall have involved clinical work within the scope of practice as defined in the act and shall have primarily involved services to clients or patients. Such services can include assessment, diagnosis, intervention, and consultation with or to clients or patients. Postdoctoral research involving clinical services and direct client or patient contact can be counted as part of this experience, provided that other requirements are met.

(2) The postdoctoral experience

shall have been provided by a primary supervisor who was a licensed psychologist. In addition, the following requirements shall be met.

(a) At a minimum, postdoctoral supervision by the primary supervisor shall have been provided on a one-to-one basis for one (1) hour a week and should total at least forty-six (46) hours of one-to-one supervision a year.

(b) The primary supervisor who provided supervision for the applicant for licensure must have had clinical and professional responsibility for the work of the applicant and have met the other requirements in Part 3. This means that the supervisor must have been available to the applicant whenever critical decisions about a client or patient were made.

(c) The primary supervisor shall not have been a member of the applicant's extended or immediate family or been involved in a dual relationship with the applicant at the time of the supervision.

(d) The supervision shall not have been delivered in an agency or business in which the applicant has a financial interest. [16.22.5.12 NMAC - Rp, 16.22.5.12 NMAC, 11/15/06]

16.22.5.13 APPLICANTS SEEKING A SIX-MONTH TEMPORARY LICENSE

A. A temporary six (6) month license may be issued to a psychologist who meets the following conditions:

(1) the applicant is licensed in another jurisdiction and in good standing, and the out-of-state license meets current licensing criteria for New Mexico;

(2) the applicant qualifies under 16.22.5.10, 16.22.5.11, 16.22.5.12 or 16.22.5.15 NMAC of this part;

(3) the applicant completes a form provided by the board that includes required information and the appropriate fees set by the board;

(4) the temporary license will expire in six (6) months and is not subject to extension or renewal; and

B. Nothing in this section should be construed to prevent an applicant with a temporary license from applying for an unrestricted license. The applicant may apply for an unrestricted license by completing a form provided by the board, remitting appropriate fees, and taking and passing the online jurisprudence examination. [16.22.5.13 NMAC - N, 11/15/06]

16.22.5.14 APPLICANTS FROM FEDERAL DISASTER AREAS SEEKING A FOUR-MONTH EMERGENCY LICENSE- RECIPROCITY

A. An emergency license may be issued to a psychologist who is from

a state in which a federal disaster has been declared, holds that state's active unrestricted license, and is in good standing or otherwise meets requirements for New Mexico licensure. This applicant may obtain a New Mexico license for a period of four (4) months following the declared disaster, at no cost and upon satisfying the following requirements:

(1) the board received a completed, signed and notarized application accompanied by proof of identity in the form of a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) the applicant qualifies for a license as set forth in 16.22.5.10, 16.22.5.11, 16.22.5.12 or 16.22.5.15 NMAC of this part;

(3) the board may waive the specific forms required under the immediately preceding Section if the applicant is unable to obtain documentation from the federally declared disaster area;

(4) nothing in this paragraph shall constitute a waiver of licensure requirements set forth in 16.22.5.8 NMAC above; and

(5) a license issued under this emergency provision shall expire four (4) months after issuance, unless a renewal application is received and approved the board or its designee in a timely fashion; a renewal application shall commence no later than three (3) months after the issuance date in order to allow at least one month for renewal process a avoid a late renewal fee set by the board (see fee schedule in 16.22.13.8 NMAC of these regulations); the board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving emergency license renewal.

B. The emergency license shall terminate upon:

(1) four (4) months from issuance date, if not renewed;

(2) the issuance of an unrestricted license as set forth in 16.22.5.8 NMAC above;

(3) proof that the emergency license holder has not engaged in fraud, deceit or misrepresentation in procuring or attempting to procure a license under 16.22.5.14 NMAC, and

(4) termination of an emergency license shall not preclude application for unrestricted licensure.

[16.22.5.14 NMAC - N, 11/15/06]

16.22.5.15 APPLICANTS WHO ARE GRADUATES FROM PROGRAMS OUTSIDE THE UNITED STATES AND CANADA- RECIPROCITY

A. Graduates of programs outside the United States and Canada shall be evaluated according to the following criteria for New Mexico licensure:

(1) applicants shall meet the requirements set forth in Subsection A of 16.22.4.8 NMAC of these regulations; "substantial equivalencies" of professional schools in the United States, Canada, or any other jurisdiction under ASPPB shall meet the requirements set forth in 16.22.4 NMAC;

(2) applicants for licensure whose applications are based on graduation from universities outside the United States and Canada shall provide the board with such documents and evidence to establish that their formal education is equivalent to a doctoral program in psychology granted by a United States university that is regionally accredited; such documents and evidence include:

(a) an original diploma or other certificate of graduation which will be returned, and a photocopy of such a document which will be retained;

(b) an official transcript or comparable document of all course work completed;

(c) a certified translation of all documents submitted in a language other than English;

(d) satisfactory evidence of supervised experience; and

(e) a statement prepared by the applicant listing studies and research based on documents referenced in this section in a format as comparable as possible to a transcript issued by a United States university.

B. After evaluation and acceptance by the board, the applicant shall take and pass the EPPP and an online jurisprudence examination to obtain licensure.

[16.22.5.15 NMAC - N, 11/15/06]

**NEW MEXICO BOARD OF
PSYCHOLOGIST
EXAMINERS**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS
AND PSYCHOLOGIST ASSOCIATES
PART 6 PSYCHOLOGISTS:
PREDOCTORAL AND POSTDOC-
TORAL SUPERVISED EXPERIENCE**

16.22.6.1 ISSUING AGENCY: Regulation and Licensing Department, New Mexico State Board of Psychologist Examiners

[16.22.6.1 NMAC - Rp, 16.22.6.1 NMAC, 11/15/06]

16.22.6.2 SCOPE: The provi-

sions of Part 6 apply to all applicants for licensure.

[16.22.6.2 NMAC - Rp, 16.22.6.2 NMAC, 11/15/06]

16.22.6.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act Section NMSA 61-9-4.1, 61-9-6, 61-9-10 61-9-11, 61-9-11.1.

[16.22.6.3 NMAC - Rp, 16.22.6.3 NMAC, 11/15/06]

16.22.6.4 DURATION: Permanent.

[16.22.6.4 NMAC - Rp, 16.22.6.4 NMAC, 11/15/06]

16.22.6.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.6.5 NMAC - Rp, 16.22.6.5 NMAC, 11/15/06]

16.22.6.6 OBJECTIVE: This part establishes supervisory requirements for applicants applying for licensure and establishes application procedures.

[16.22.6.6 NMAC - Rp, 16.22.6.6 NMAC, 11/15/06]

16.22.6.7 DEFINITIONS: [RESERVED.]

[Refer to 16.22.1.7 NMAC]

16.22.6.8 PREDOCTORAL/POSTDOCTORAL SUPERVISED EXPERIENCE

A. Supervised experience leading toward licensure:

(1) two (2) years (3,000 hours) of supervised experience are required for licensure; a predoctoral APA approved internship will count for 1,500 hours while other internships will count for 750 hours of the 3,000 hours, as explained in 16.22.6.8 NMAC below;

(2) postdoctoral experience shall be completed within three (3) consecutive years; and

(3) predoctoral and postdoctoral experience from all supervisors shall be documented on forms provided by the board.

B. No predoctoral internship. If the applicant did not complete one (1) year of predoctoral internship, the applicant shall complete 3,000 hours in postdoctoral supervised experience.

C. Internship or fellowship accredited by the APA. If the predoctoral or postdoctoral experience is obtained in an internship or fellowship accredited by the APA, a board form completed by the director of training will satisfy the requirement of certifying all supervision received during the internship or fel-

lowship.

D. Internship not accredited by the APA. If the predoctoral experience is obtained in an internship that is not accredited by the APA, it will be counted for 750 hours of the required 3,000 hours if it meets the following criteria:

(1) the agency or institution offers internship education and training in psychology, one goal of which is to prepare applicants for the practice of professional psychology;

(2) the internship program is sponsored by an institution or agency, which has among its primary functions the provision of service to a population of recipients sufficient in number and variability to provide interns with adequate experiential exposure to meet its training purposes, goals, and objectives;

(3) the internship is completed within twenty-four (24) consecutive months at a minimum of twenty (20) hours per week.

(a) An internship that involves more than one agency, organization, or institution will be accepted if the primary supervisor and the applicant can demonstrate that the internship program is organized under a unifying or coordinating structure (e.g. a consortium with a core clinical faculty) and central leadership (e.g., one director of training or central supervisor overseeing the entire internship program and the supervision of the intern).

(b) Internships consisting of less than twenty (20) hours per week will not be accepted.

E. The internship makes available to all interested parties formal brochures describing the internship program and adheres to and makes available formal written policies and procedures that govern intern selection, practicum academic preparation requirements, administrative and financial assistance; and intern performance evaluations.

F. Postdoctoral supervised practice leading toward licensure.

(1) The applicant may complete a predoctoral internship before completing the doctorate. Depending on the number of hours of predoctoral supervised experience, the applicant shall complete the remaining of the 3,000 hours through postdoctoral supervision.

(2) If the applicant chooses, the applicant may submit a postdoctoral supervisory plan to the board for review before beginning supervised practice. Once a plan for supervision is submitted to the board, the board or a designated board member will respond in writing to the acceptability of such a plan within sixty (60) days. If the plan is found unacceptable, the board or a designated board member will specify the areas of deficiency based on the guidelines

specified in Part 3. If the board approves the plan, the applicant will be assured that postdoctoral experience, if completed according to the plan, will meet the postdoctoral requirements.

(3) If the applicant does not obtain a board-approved postdoctoral supervisory plan, the applicant shall submit documentation of the postdoctoral supervised practice after its completion. However, if the board does not approve this experience, part or all of the postdoctoral supervised experience shall be repeated. In this case, the board will require the applicant to submit a supervisory plan, and the supervisory plan must be approved by the board before the applicant's supervised practice begins.

[16.22.6.8 NMAC - Rp, 16.22.6.8 NMAC, 11/15/06]

16.22.6.9 CONDITIONS OF SUPERVISION

A. Primary supervisors.

(1) The licensed psychologist who serves as a primary supervisor shall be responsible for the overall supervision of the supervisee's professional growth. Specific skill training may be assigned to other licensed specialists, under the authority of the supervising psychologist. The other licensed specialists shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the primary supervisor and the supervisee.

(2) The primary supervisor shall limit the number of applicants supervised to the number that the supervisor's work position and clinical responsibilities reasonably permit, so as to maintain a level of supervision and practice consistent with professional standards and ensure the welfare of the supervisees and their clients or patients.

(3) The supervisor shall not be a member of the supervisee's immediate family or in a dual relationship that would compromise the supervisor's objectivity.

B. Supervisory contact.

(1) The applicant shall have on-site supervision. The on-site supervisor may be either the primary supervisor or a licensed specialist designated by the primary supervisor.

(2) At a minimum, supervision by the primary supervisor shall be provided on a one-to-one basis for one (1) hour per week for a total at least forty-six (46) hours of one-to-one supervision per year. If there is not a licensed psychologist available who can serve as a primary supervisor and the closest licensed psychologist is 100 miles or more away, face-to-face supervision by a primary supervisor shall be at least two (2) hours per month and telephone supervision may be substituted for the rest of this supervision requirement. However, the applicant

and supervisor must arrange on-site supervision by a licensed psychiatrist, social worker, professional clinical mental health counselor, or marriage and family therapist. The on-site licensed mental health professional shall provide supervision to the applicant on a one-to-one basis for one (1) hour per week and shall be available to the applicant whenever decisions about patients are made.

C. Conduct of supervision.

(1) The board recognizes that variability in preparation for practice of the applicant will require individually tailored supervision. The specific content of the supervision procedures shall be worked out between the primary supervisor and the applicant.

(2) The primary supervisor who provides supervision for the applicant for licensure shall have clinical and professional responsibility for the work of the applicant.

(3) A supervisor, either primary or designated, shall be available to the applicant whenever decisions about clients or patients are made.

(4) The primary supervisor shall be responsible for the delivery of services, the representation to the public of services, and the supervisor/applicant relationship. This responsibility includes, but is not limited to, the following requirements.

(a) All clients or patients shall be informed of the availability or possible necessity of meetings with the primary supervisor at the request of the client or patient, the applicant, or the psychologist. The supervisor shall be available for emergency consultation or intervention.

(b) All written communication shall clearly identify the primary supervisor as clinically and professionally responsible for all psychological services provided. Public announcement of services and fees and contact with the public or professional community shall be offered in the name of the primary supervisor, business, or agency. Both the primary supervisor and the applicant shall inform the client or patient, to whatever extent is necessary for the client or patient to understand, of the supervisory status and other specific information as to the applicant's qualifications and functions.

(c) The primary supervisor shall oversee the maintenance of information and files relevant to the client or patient during the supervisory period.

(d) The primary supervisor shall not be a member of the applicant's extended or immediate family or be involved in a dual relationship.

(e) The supervision shall not be delivered in an agency or business in which the applicant has a financial interest.

D. Inappropriate representation. In the event the applicant publicly represents himself inappropriately, or supervision is not conducted according to Subsection C of 16.22.6.9 NMAC, conduct of supervision, any experience gained under such circumstances does not comply with these rules and regulations and will not be accepted as experience toward licensure. Any psychologist providing supervision under such circumstances is in violation of these rules and regulations and may be subject to disciplinary action.

[16.22.6.9 NMAC - Rp, 16.22.6.9 NMAC, 11/15/06]

16.22.6.10 POSTDOCTORAL SUPERVISORY PLAN

A. Evaluation of the supervisory plan. The supervisory plan shall include the following information and shall be signed by both the primary supervisor and the applicant:

- (1) name of applicant;
- (2) name of primary supervisor, address, license number, and state in which the license was granted; area of specialization;
- (3) names of additional licensed specialists, if applicable;
- (4) dates of practice covered by the plan;
- (5) number of practice hours during the period covered by the plan;
- (6) number of one-on-one supervisory hour per week;
- (7) the setting(s) in which the applicant will practice and the hours per week worked at each setting;
- (8) the applicant's duties;
- (9) the clinical and professional responsibilities of the applicant;
- (10) the location where the supervision will take place;
- (11) the areas in which the primary supervisor has specialized skills to render competent supervision and, if applicable, whether specific training will be assigned to other specialists; if non-psychologist specialists are assigned, their practice and teaching skills as they pertain to supervision of the applicant and their degrees and licenses;
- (12) the number of applicants the primary supervisor will supervise during this time period;
- (13) the way in which the primary supervisor will demonstrate clinical and professional responsibility for the applicant's work;
- (14) the way in which the applicant will be represented to the public, and the way in which all written communications and public announcements will identify the primary supervisor as clinically and professionally responsible for all psycho-

logical services;

(15) other information necessary to clarify the nature and scope of supervision.

B. As listed in this part, the board or a designated board member will respond in writing to the acceptability of such plan within sixty 60 days.

[16.22.6.10 NMAC - Rp, 16.22.6.10 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 7 EXAMINATION REQUIREMENTS

16.22.7.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologist Examiners.
[16.22.7.1 NMAC - Rp, 16.22.7.1 NMAC, 11/15/06]

16.22.7.2 SCOPE: The provisions of Part 7 apply to all applicants for licensure.
[16.22.7.2 NMAC - Rp, 16.22.7.2 NMAC, 11/15/06]

16.22.7.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, Section NMSA 61-9-4.1, 61-9-6, 61-9-10 61-9-11, 61-9-11.1.
[16.22.7.3 NMAC - Rp, 16.22.7.3 NMAC, 11/15/06]

16.22.7.4 DURATION: Permanent.
[16.22.7.4 NMAC - Rp, 16.22.7.4 NMAC, 11/15/06]

16.22.7.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.
[16.22.7.5 NMAC - Rp, 16.22.7.5 NMAC, 11/15/06]

16.22.7.6 OBJECTIVE: This part establishes the examination requirements for all licensure applicants.
[16.22.7.6 NMAC - Rp, 16.22.7.6 NMAC, 11/15/06]

16.22.7.7 DEFINITIONS: [RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.7.8 DEMONSTRATION OF COMPETENCE

A. Examinations.

(1) To qualify for licensure, an applicant must demonstrate professional competence by taking and passing a written examination called the EPPP, promulgated by ASPPB. The passing score on the EPPP taken before January 1, 1993 is 140 (70%) or taken after January 1, 1993 is the score equal to or greater than the passing score recommended by ASPPB.

(2) All persons applying for licensure shall take and pass an online jurisprudence examination on ethical standards, New Mexico laws, and board regulations as they apply to psychologists and their clients or patients. The passing score will be determined by the board.

(3) If the score of either the EPPP or jurisprudence examination meets the requirements for licensure as a psychologist but the other score does not, the examination passed will not have to be retaken.

(4) Re-examination. An applicant may retake the EPPP or jurisprudence examination at each scheduled examination date and pay the appropriate examination fee as required by the board. Such fee is non-refundable and due at the time of the request.

B. An applicant shall furnish evidence to the board that demonstrates an awareness and knowledge of New Mexico cultures.

[16.22.7.8 NMAC - Rp, 16.22.7.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 8 LICENSE EXPIRATION AND RENEWAL

16.22.8.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologists Examiners.
[16.22.8.1 NMAC - Rp, 16.22.8.1 NMAC, 11/15/06]

16.22.8.2 SCOPE: The provisions of Part 8 apply to all psychologists and psychologist associates with a license to practice in New Mexico.
[16.22.8.2 NMAC - Rp, 16.22.8.2 NMAC, 11/15/06]

16.22.8.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act Section 61-9-6, 61-9-7.
[16.22.8.3 NMAC - Rp, 16.22.8.3 NMAC, 11/15/06]

16.22.8.4 DURATION: Permanent.
[16.22.8.4 NMAC - Rp, 16.22.8.4 NMAC, 11/15/06]

16.22.8.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section.
[16.22.8.5 NMAC - Rp, 16.22.8.5 NMAC, 11/15/06]

16.22.8.6 OBJECTIVE: This part establishes the procedures for license expiration and license renewal.
[16.22.8.6 NMAC - Rp, 16.22.8.6 NMAC, 11/15/06]

16.22.8.7 DEFINITIONS: [RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.8.8 LICENSE RENEWAL: Licensees shall renew their licenses to practice psychology biennially on or before July 1 of alternate years by remitting to the board office a renewal fee of six hundred dollars (\$600) with the renewal application form provided by the board. Continuing education hours shall be documented every four (4) years as described in Part 9.
[16.22.8.8 NMAC - Rp, 16.22.8.8 NMAC, 11/15/06]

16.22.8.9 LICENSE RENEWAL DEADLINE: Licenses shall be renewed biennially before July 1.
[16.22.8.9 NMAC - Rp, 16.22.8.9 NMAC, 11/15/06]

16.22.8.10 LICENSE RENEWAL NOTICES: Renewal application notices will be mailed to each current licensee prior to the expiration date of the license.
[16.22.8.10 NMAC - Rp, 16.22.8.10 NMAC, 11/15/06]

16.22.8.11 LICENSE RESPONSIBILITY: Renewal application notices will be mailed to the last known address on file with the board. It is the responsibility of the licensee to keep the board informed of any changes in address and phone numbers. Failure to receive the renewal application notice shall not relieve the licensee of the responsibility of renewing his license before the expiration date.
[16.22.8.11 NMAC - Rp, 16.22.8.11 NMAC, 11/15/06]

16.22.8.12 RENEWAL AFTER JULY 1

A. The board shall initiate license suspension proceedings and thereafter shall suspend a license for failure to renew if the licensee failed to renew his license by July 1 of the appropriate year.

Any person who renders or offers to render psychological services while his license is suspended is subject to disciplinary action.

B. A license suspended for failure to renew may be renewed within a period of one (1) year after the suspension upon payment of the renewal fee plus a late fee and proof of continuing education satisfactory to the board.

C. The license shall be revoked if the license has not renewed within one (1) year of the suspension for failure to renew. Any licensee whose license is revoked for failure to renew shall be required to make a new application and shall satisfy all requirements for licensure in effect at the time the application is filed.

D. Unless currently licensed to practice psychology under the act, no person shall:

(1) engage in the practice of psychology;

(2) use the title or represent himself as a psychologist or psychologist associate; or

(3) use any other title, abbreviation, letters, signs or devices that indicate the person is a psychologist or psychologists associate.

E. It is a misdemeanor:

(1) for any person not licensed under the act to practice psychology or represent himself as a psychologist or a psychologist associate;

(2) for any person to practice psychology during the time that his license as a psychologist or psychologist associate is suspended, revoked, or lapsed.

[16.22.8.12 NMAC - Rp, 16.22.8.12 NMAC, 11/15/06]

16.22.8.13 APPROVAL OF RENEWAL APPLICATION: Upon approval of the licensee's renewal application, the board will issue a renewal to the licensee.

[16.22.8.13 NMAC - Rp, 16.22.8.13 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES
PART 9 CONTINUING PROFESSIONAL EDUCATION REQUIREMENTS**

16.22.9.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologist Examiners
[16.22.9.1 NMAC - Rp, 16.22.9.1 NMAC,

11/15/06]

16.22.9.2 SCOPE: The provisions of Part 9 apply to psychologists and psychologist associates licensed to practice in New Mexico.

[16.22.9.2 NMAC - Rp, 16.22.9.2 NMAC, 11/15/06]

16.22.9.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Examiners Act, Section 61-9-6, 61-9-7.

[16.22.9.3 NMAC - Rp, 16.22.9.3 NMAC, 11/15/06]

16.22.9.4 DURATION: Permanent.

[16.22.9.4 NMAC - Rp, 16.22.9.4 NMAC, 11/15/06]

16.22.9.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section.

[16.22.9.5 NMAC - Rp, 16.22.9.5 NMAC, 11/15/06]

16.22.9.6 OBJECTIVE: This part establishes criteria for continuing professional education for psychologists and psychologist associates licensed in New Mexico.

[16.22.9.6 NMAC - Rp, 16.22.9.6 NMAC, 11/15/06]

16.22.9.7 DEFINITIONS: [RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.9.8 CPE PROGRAM CATEGORIES

A. Category I shall consist of the following types of programs:

(1) Formally organized workshops, seminars, grand rounds or classes which maintain an attendance roster and are approved by or under the auspices of an accredited institution of higher education offering graduate instruction.

(2) Workshops, seminars, or classes which maintain an attendance roster and are certified or recognized by a national or international accrediting organization, including:

(a) the American psychological association;

(b) the American psychiatric association;

(c) the American medical association;

(d) the American association for marriage and family therapy;

(e) the American counseling association;

(f) the international congress of psychology;

(g) the national association of social workers;

(h) the New Mexico psychological association; or

(i) the national association of school psychologists.

(3) Formal college or university-level courses relevant to professional psychological activities, including but not limited to neuropsychology, forensic psychology, development, language skills, statistics, and cultural competence, as deemed satisfactory to the board, in mental health services, will be granted five (5) CPE credit hours for a one-semester credit course and ten (10) CPE credit hours for a three-semester credit course.

(4) Participation in the board will be granted hour-for-hour CPE credit up to twenty (20) hours.

B. Category II shall consist of the following types of programs:

(1) Non-supervised independent study or home study programs conducted by accrediting agencies listed in Paragraph (2) of Subsection A of 16.22.9.8 NMSA will be granted hour-for-hour CPE credit.

(2) Symposia or presentations (except for poster sessions) at annual conventions of national or regional professional organizations in psychology (for example, American psychological association, and Rocky Mountain psychological association) or a closely related discipline may be claimed for CPE credit. Four (4) hours may be claimed for the first time each scientific or professional presentation was made.

(3) Publications related to the practice of psychology: CPE hours may be claimed for each publication of an article in a professional journal or book chapter authored by the licensee according to author listing:

(a) eight (8) hours for the first author;

(b) six (6) hours for the second author;

(c) four (4) hours for the third author; and

(d) two (2) hours for any subsequent author.

(4) Books related to the practice of psychology: An authored book may be claimed for fifteen (15) hours. Editorships cannot be considered for CPE credit.

(5) A presenter providing continuing education in psychology or in a related field in this or another state may claim hour per hour credit up to eight (8) CPE credit hours per year for the first time the presentation is made. The presentation must be approved by one of the nine organizations listed in Paragraph (2) of Subsection A of 16.22.9.8 NMAC.

C. Category III shall consist of the following types of programs:

(1) Attendance at symposia or presentations (except for poster sessions) at annual conventions of national or regional professional organizations in psychology (for example, American psychological association, Rocky Mountain psychological association) or a closely related discipline for which the licensee documents attendance, title of symposia and presentations, and presenters shall be granted hour-for-hour CPE credit.

(2) Participation in the New Mexico psychological association executive board, or formal offices or committees established by the board, the New Mexico psychological association, the American psychological association, or other professional organizations, if the tasks are clearly related to issues of ethics, professional standards, or practice-related skills shall be granted CPE credit of one (1) hour for every three (3) hours of participation. The licensee must document dates of participation and number of hours of each participation.

[16.22.9.8 NMAC - Rp, 16.22.9.8 NMAC, 11/15/06]

16.22.9.9 REQUIRED HOURS: CULTURAL COMPETENCE

A. Purpose. The purpose of CPE requirements for psychologists is to ensure that licensees update and advance their skills such that the public shall benefit from the most current and effective standards of professional practice. To further the goal of public benefit, all psychologists are encouraged to fulfill a portion of their continuing professional education requirements in the areas of ethics, professional conduct, and treatment and evaluation of culturally diverse populations.

B. Required hours. The board requires eighty (80) hours of CPE for licensed psychologists and psychologist associates during every four (4) years. Credits in category I may be used to fulfill requirements in categories II and III. Credits in category II may be used to fulfill requirements in category III. The required hours shall be as follows:

(1) Category I: a minimum of twenty (20) hours and a maximum of eighty (80) hours;

(2) Category II: a maximum of fifty (50) hours.

(3) Category III: A maximum of thirty (30) hours.

(4) It is acceptable for psychologists to obtain different combinations of hours in each category, even to the exclusion of categories II and/or III, provided that minimum and maximum requirements for the categories are met.

C. Cultural competence. Eight (8) CPE credit hours in any of the three categories shall include attention to cultural diversity, as specifically noted in

the title, description of objectives, or curriculum of the presentation, symposium, workshop, seminar, or course. The topic of the presentation, symposium, workshop, seminar, or course need not be on cultural competence; however one of the objectives or the description of topics covered must clearly indicate attention to cultural competence, as deemed satisfactory to the board.

[16.22.9.9 NMAC - Rp, 16.22.9.8 NMAC, 11/15/06]

16.22.9.10 CARRY-OVER HOURS; EXEMPTIONS; TIME EXTENSIONS

A. Carry-over hours. No hours shall be carried over from one compliance-reporting period to another compliance reporting period.

B. Exemptions and extensions of time.

(1) Licenses on retirement or inactive status as provided in Part 10 are not exempt from CPE requirements of this Part 9.

(2) Extensions of time for completing and reporting CPE requirements shall be granted for good cause only upon a written request filed with the board by the licensee prior to the date for compliance. Unless extenuating circumstances beyond the control of the licensee cause extraordinary hardship, the extension of time for completing and reporting CPE requirements shall not exceed one (1) year. The board may grant one extension of time of up to sixty (60) calendar days for filing a request for the extension of time upon a finding of good cause

[16.22.9.10 NMAC - Rp, 16.22.9.8 NMAC, 11/15/06]

16.22.9.11 COMPLIANCE: FAILURE TO COMPLY AND LICENSE RENEWAL

A. Compliance reporting requirements. Every four (4) years during the designated annual renewal period, each licensee shall submit an attestation that he has completed the CPE requirements. The board reserves the right to audit any licensee to submit evidence or documentation of the CPE credits (e.g. course or program certificate of training, transcript, course or workshop brochures or published descriptions, copies of registration forms, payment invoices or receipts, specific evidence of attendance, etc.). Therefore, it is the responsibility of each licensee to establish and maintain detailed records of CPE compliance for four (4) years after the reporting period.

B. Failure to comply. Failure to complete or report continuing professional education requirements as provided in this part is grounds for withholding renewal of a license or for suspension or

revocation of a license as provided in the act. Fraud or deception in reporting CPE credit is a separate violation of the code and is grounds for withholding renewal of a license or for suspension or revocation of a license as provided in the act.

[16.22.9.11 NMAC - Rp, 16.22.9.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 10 INACTIVE STATUS AND REINSTATEMENT

16.22.10.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologist Examiners

[16.22.10.1 NMAC - Rp, 16.22.10.1 NMAC, 11/15/06]

16.22.10.2 SCOPE: The provisions of Part 10 apply to all licensed psychologists who plan to place their license on inactive status, or reinstate their inactive license to active status.

[16.22.10.2 NMAC - Rp, 16.22.10.2 NMAC, 11/15/06]

16.22.10.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-6.

[16.22.10.3 NMAC - Rp, 16.22.10.3 NMAC, 11/15/06]

16.22.10.4 DURATION: Permanent.

[16.22.10.4 NMAC - Rp, 16.22.10.4 NMAC, 11/15/06]

16.22.10.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.10.5 NMAC - Rp, 16.22.10.5 NMAC, 11/15/06]

16.22.10.6 OBJECTIVE: This part establishes the requirements and procedures to place an active license in inactive status or to reinstate the license to active status.

[16.22.10.6 NMAC - Rp, 16.22.10.6 NMAC, 11/15/06]

16.22.10.7 DEFINITIONS: [RESERVED.]

[Refer to 16.22.1.7 NMAC]

16.22.10.8 INACTIVE STATUS
A. The following criteria

must be met for inactive status eligibility:

- (1) the licensee must be in good standing; and
- (2) his license must be current; a licensee who failed to renew a license by July 1 of any year shall renew the license in accordance with Part 8 before the license can be considered for inactive status.

B. A licensee who wishes to be placed on inactive status shall:

- (1) notify the board administrator in writing before his current license expires and the board administrator will acknowledge receipt of the notification; and
- (2) pay the fees established by the board to be placed on inactive status.

C. A licensee on inactive status shall not practice psychology in New Mexico as defined in the act.

D. Rendering or offering to render psychological services or engaging in the practice of psychology while on inactive status shall be considered sufficient grounds for disciplinary action by the board.

E. When a psychologist holds an inactive license and represents himself in public statements that include but are not limited to, paid or unpaid advertising, brochures, printed matter, directory listings, personal resumes or curricula vitae, interviews or comments for use in media, statements in legal proceedings, lectures, and public oral presentations, he must disclose that with an inactive license, he shall not provide psychotherapy.

F. A licensee on inactive status shall at all times comply with the provisions of Part 2, including, without limitation, Subsection B of 16.22.2.10 NMAC and 16.22.2.12 NMAC.

[16.22.10.8 NMAC - Rp, 16.22.10.8 NMAC, 11/15/06]

16.22.10.9 REINSTATEMENT FROM INACTIVE STATUS

A. If the inactive licensee requests reinstatement to active status within three (3) years, he shall:

- (1) complete an application for reinstatement form provided by the board;
- (2) provide satisfactory proof of completion of the continuing education requirements described in Part 9;
- (3) not have violated any rule of the Professional Psychologist Act or the rules and regulations of the board;
- (4) pay the appropriate renewal fee established by the board.

B. If the inactive licensee requests reinstatement to active status after three (3) years, he shall:

- (1) complete an application for reinstatement form provided by the board;
- (2) provide satisfactory proof of completion of the continuing education requirements described in Part 9;

- (3) take and pass the oral examination;
- (4) not have violated any rule of the Professional Psychologist Act or the rules and regulations of the board;
- (5) pay the appropriate renewal fee established by the board.

C. A licensee on inactive status shall not render or offer to render psychological services or otherwise engage in the practice of psychology until he receives a new license issued by the board.

[16.22.10.9 NMAC - Rp, 16.22.10.9 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES:
PART 11 COMPLAINT PROCEDURES; ADJUDICATORY PROCEEDINGS**

16.22.11.1 ISSUING AGENCY: Regulation and Licensing Department State Board of Psychologist Examiners
[16.22.11.1 NMAC - Rp, 16.22.11.1 NMAC, 11/15/06]

16.22.11.2 SCOPE: The provisions of Part 11 shall apply to all licensees and applicants for license entitled to notice and hearing under the Uniform Licensing Act, (ULA) Section 61-1-1 through 61-1-33 NMSA 1978 and to any interested person who may file a complaint against a licensee or applicant.

[16.22.11.2 NMAC - Rp, 16.22.11.2 NMAC, 11/15/06]

16.22.11.3 STATUTORY AUTHORITY: Part 11 is adopted pursuant to the Professional Psychologist Act Section 61-9-6, 61-9-13, and 61-9-14 NMSA 1978
[16.22.11.3 NMAC - Rp, 16.22.11.3 NMAC, 11/15/06]

16.22.11.4 DURATION: Permanent.
[16.22.11.4 NMAC - Rp, 16.22.11.4 NMAC, 11/15/06]

16.22.11.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section.
[16.22.11.5 NMAC - Rp, 16.22.11.5 NMAC, 11/15/06]

16.22.11.6 OBJECTIVE: This part establishes procedures for filing, processing, and investigating complaints against licensees and applicants and estab-

lishes procedures for the conduct of adjudicatory proceedings.

[16.22.11.6 NMAC - Rp, 16.22.11.6 NMAC, 11/15/06]

16.22.11.7 DEFINITIONS: [RESERVED.]
[Refer to 16.22.1.7 NMAC]

16.22.11.8 COMPLAINT PROCEDURES

A. Inquiries regarding filing of complaints.

(1) Inquiries made to the board or to a board member regarding a potential complaint will be referred to the board administrator for a response.

(2) Upon receipt of an inquiry, the board administrator shall forward to the potential complainant a statement regarding the board's jurisdiction, the conduct or grounds for possible action by the board against a licensee or applicant, and a complaint form with instructions on how to file the complaint. Complaints should be submitted in writing on the prescribed form, signed and notarized, and state the facts upon which the complaint is based, however, oral complaints may be received and investigated. An oral complaint submitted to the board administrator shall be in an audio or audiovisual format. After the complaint committee reviews the complaint facts and determines there is cause for further investigation, the complainant shall resubmit the complaint in writing on a form provided by the board, signed, notarized and submitted to the board administrator. Anonymous complaints will not be investigated, unless the board determines an exception is valid due to unusual circumstances.

(3) Once a complaint, is made, it will come under the provisions of this section and cannot be withdrawn.

B. Procedures for processing complaints. The board administrator shall:

- (1) log in the date the complaint is received;
- (2) determine if the subject of the complaint is a licensed psychologist, psychologist associate or an applicant or person otherwise within the jurisdiction of the board;
- (3) assign an individual file with a complaint number, which numbering sequence shall begin each new calendar year;
- (4) forward the complaint file to the chair of the complaint committee and the complaint manager or designee; and
- (5) send a letter to the complainant confirming receipt of the complaint.

C. Review by the com-

plaint committee.

(1) The chair of the complaint committee is appointed by the board chair and shall consist of a board member and may include liaison(s) from the compliance section of the regulation and licensing department

(2) The complaint manager, if assigned, or his designee shall review the complaint and meet with the administrative prosecutor and complaint committee chair, as needed.

(3) If allegations in the complaint when substantiated, constitutes grounds for disciplinary action, the complaint committee will recommend a course of action in accordance with the attorney general's guide to administrative discipline and Uniform Licensing Act, Sections 61-1-1 thru 61-1-33 NMSA 1978.

(4) Upon completion of an investigation and review, the complaint manager shall submit a case summary containing alleged violations of the code, board regulations or the act and recommendations for disposition, to the full board. Throughout this process, confidentiality of interested parties will be maintained

(5) Unless the complaint committee determines that it will impede an investigation or interfere with the acquisition of documents or relevant papers or the development of the case, the complaint committee shall inform the licensee or applicant of the complaint and request a response to the allegations. Disclosure of data, communications, and information relating to actual or potential disciplinary action shall be made in accordance with Section 61-9-5.1 NMSA 1978 or superseding statute.

(6) The complaint committee or its designee may employ experts, consultants, or private investigators to assist in investigations of complaints.

(7) The complaint committee, or its designee, on behalf of the board, may issue investigative subpoenas, pursuant to Section 61-1-4(A) NMSA 1978.

D. Review by the full board.

(1) Any board member or any member of the complaint committee who is partial or who believes he is not capable of judging a particular controversy fairly on the basis of its own circumstances shall not participate in the decision whether to issue a notice of contemplated action and shall not participate in the hearing, deliberation, or decision of the board.

(2) The board shall review the case summary presented by the complaint committee, relevant documents, witness statements, and other pertinent information regarding the complaint. If the board has sufficient evidence that a violation may have occurred, the board shall forward the evidence to the administrative prosecutor

for issuance of an notice of contemplated action.

(3) Following the issuance of a notice of contemplated action, the board may at its option authorize a board member, the hearing officer, or the administrative prosecutor to confer with the applicant or the licensee for the purpose of settlement of the complaint. Such settlement must be approved by the board, must be with the consent of the applicant or licensee, and shall include a knowing and intentional waiver by the applicant or the licensee of his rights to hearing under the Uniform Licensing Act.

(4) The board may refer a complaint to the attorney general for injunctive proceedings or to the district attorney for criminal prosecution.

[16.22.11.8 NMAC - Rp, 16.22.11.8 NMAC, 11/15/06]

16.22.11.9 ADJUDICATORY PROCEEDINGS**A. General provisions and pre-hearing and preliminary matters.**

(1) All hearings shall be conducted either by the board or, at the election of the board, by a hearing officer.

(2) If the board appoints a hearing officer, the hearing officer shall have authority to decide pre-hearing matters, preside over the hearing, and direct post-hearing matters in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case. Except as otherwise limited in this part, the hearing officer shall have the authority to rule on all non-dispositive motions. If the board does not appoint a hearing officer or if the hearing officer is unavailable or unable to proceed, the board chair or other board member designated by the board shall have the authority to decide pre-hearing or preliminary matters on behalf of the board. This authority shall be in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case, including, without limitation.

(a) Unopposed or stipulated motions to change venue.

(b) Motions for continuance of a hearing date. A motion to vacate the hearing must contain an affirmative statement that the licensee or applicant waives his right to a hearing held not more than sixty (60) days from the date of service of the notice hearing.

(c) The granting of one notice of pre-emptory excusal to each party if the notice is timely and if the pre-emptory excusal does not result in a loss of a quorum of the board.

(d) Motions regarding discovery.

(3) The original of any papers and pleadings shall be filed with the board. Copies shall be sent to the hearing officer and attorneys or parties of record.

(4) The hearing officer or designated board member shall issue appropriate orders to control the course of the proceedings.

(5) Consistent with provisions of the Uniform Licensing Act and to the extent practicable, the rules of civil procedure for the district courts shall apply unless the hearing officer or designated board member orders otherwise.

(6) A request for an order shall be made by a motion filed with the board. Except for motions made during the course of the hearing, a motion shall be in writing. A motion shall state with particularity the grounds for the motion and shall set forth the relief and order sought.

(7) A motion shall be accompanied by a memorandum brief in support of the motion. The brief shall state with particularity the grounds for the motion and shall contain citation to authorities, statutes, and references to the pleadings on file. If matters outside of the pleadings are considered, a copy of the referenced material shall be attached to the brief. Responsive briefs shall be permitted in accordance with the rules of civil procedure for the district courts to the extent practicable unless the hearing officer or designated board member orders otherwise.

(8) The hearing officer or the designated board member may order the filing of briefs or other documents and may set oral argument on any matter.

(9) No more than two (2) continuances of the hearing date will be granted without the approval of the board for good cause shown.

(10) All dispositive motions shall be decided by the board.

(11) No proposed settlement, consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall be effective unless approved by the board and executed by the board and the licensee or applicant. The board or hearing officer may seek information from the administrative prosecutor and the licensee or applicant concerning circumstances of the case relevant to a consideration of the proposed settlement or clarification of the proposed terms and conditions. No board member is presumed to be biased and shall not be excused based solely on the reason that the member considered a proposed settlement, consent agreement, or other proposal for the resolution of a pending disciplinary case. The board may submit a counterproposal for the settlement or resolution of the case.

(12) Any proposed settlement,

consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall contain at least the following:

(a) an admission of all jurisdictional facts; an acknowledgment of the rights contained in the Uniform Licensing Act and an express waiver of those rights and of all rights to hearing and judicial review or any other opportunity to contest the validity of the board order in any other proceeding or forum;

(b) a statement that the proposal resolves only the violations alleged in the notice of contemplated action and a statement that the board reserves the right to initiate other proceedings for any other violations of the act or board regulations;

(c) a general nature of the evidence underlying each alleged violation;

(d) if appropriate, a list of provisions of the acts or practices from which the licensee or applicant will refrain in the future;

(e) a statement of the type, terms, and conditions of the proposed disciplinary action of the board;

(f) a statement that the licensee will be responsible for all costs of disciplinary proceedings or a statement setting forth the reason why the licensee should be excused from paying costs; the affidavit of the board administrator concerning the costs incurred to date shall accompany the proposal;

(g) a statement that the decision and order of the board shall be a public record and reported, as required by law. If the proposed settlement involves an action of the type specified in the Uniform Licensing Act Subsections D-(i) thru 61-1-3 K(n), NMSA 1978 or voluntary surrender of a license in lieu of prosecution, the decision and order shall be reported by the board to the ASPPB disciplinary data report, health-care integrity and protection data bank (HIPDB), and to other appropriate entities;

(h) other provisions necessary to ensure the complete and final resolution of the proceedings.

(13) A proposal to settle a matter shall not stay the proceedings or vacate the hearing date unless otherwise ordered by the hearing officer or presiding officer upon the filing of a timely motion.

B. Duties of the board administrator. The board administrator shall:

(1) after consultation with the board or hearing officer, issue a notice of hearing stating the date, time, and place of the hearing;

(2) execute on behalf of the hearing officer or board notices, scheduling orders, subpoenas, and subpoenas duces

tecum, and other routine procedural documents that facilitate the efficient conduct of adjudicatory proceedings;

(3) maintain the official record of all papers and pleadings filed with the board in any matter;

(4) prepare an affidavit as to costs of any disciplinary proceeding at the conclusion of any hearing or upon request by a party submitting a proposed settlement, consent agreement, or voluntary surrender of a license in lieu of prosecution;

(5) prepare, certify, and file with the district court the record of the case on appeal or review;

(6) unless the board orders otherwise, have the authority to sign the decision of the board to grant or refuse a request to reopen the case.

C. Conduct of hearings.

(1) The hearing officer, or presiding officer if the case is heard by the board, shall ensure the fair, efficient, and orderly conduct of the hearing in accordance with the Uniform Licensing Act.

(2) Unless the board orders otherwise, a board member hearing officer, the board chair, or presiding officer shall have the authority to sign the written decision of the board.

(3) The board administrator shall serve the decision of the board on the licensee or applicant in accordance with law.

(4) A motion for an order staying the operation of a board decision shall be decided by the board.

[16.22.11.9 NMAC - Rp, 16.22.11.9 NMAC, 11/15/06]

16.22.11.10 SURRENDER OF LICENSE

A. If a license is restricted, suspended, or revoked by the board for any reason specified in the rules and regulations of the board or in the act, the licensee shall immediately surrender his license in person or by registered mail to the board.

B. If the licensee's scope of practice is restricted or limited or otherwise subject to conditions, the license may reflect the restriction, limitations, or condition.

[16.22.11.10 NMAC - Rp, 16.22.11.10 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 12 PSYCHOLOGIST ASSOCIATES: EDUCATION

REQUIREMENTS AND CONDITIONS OF PRACTICE

16.22.12.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologist Examiners.

[16.22.12.1 NMAC - Rp, 16.22.12.1 NMAC, 11/15/06]

16.22.12.2 SCOPE: The provisions of Part 12 apply to all applicants and licensees who apply or are licensed as psychologist associates in New Mexico.

[16.22.12.2 NMAC - Rp, 16.22.12.2 NMAC, 11/15/06]

16.22.12.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act Section 61-9-6, 61-9-11-1.

[16.22.12.3 NMAC - Rp, 16.22.12.3 NMAC, 11/15/06]

16.22.12.4 DURATION: Permanent.

[16.22.12.4 NMAC - Rp, 16.22.12.4 NMAC, 11/15/06]

16.22.12.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of a section.

[16.22.12.5 NMAC - Rp, 16.22.12.5 NMAC, 11/15/06]

16.22.12.6 OBJECTIVE: This part sets forth the conditions of practice for psychologist associates and defines the professional relationship with doctoral-level supervision.

[16.22.12.6 NMAC - Rp, 16.22.12.6 NMAC, 11/15/06]

16.22.12.7 DEFINITIONS: [RESERVED.] [Refer to 16.22.1.7 NMAC]

16.22.12.8 CONDITIONS OF PRACTICE FOR PSYCHOLOGIST ASSOCIATES

A. Supervision by a licensed psychologist or board-certified psychiatrist.

(1) Psychologist associates who engage in the practice of psychology shall be supervised by a licensed psychologist or a board-certified psychiatrist, except in the area of psychological or cognitive testing. If the psychologist associate conducts psychological and/or cognitive testing, the psychologist associate shall be supervised in this area of practice by a licensed psychologist. The psychologist shall explicitly agree to supervise the psychologist associate.

(2) The supervisor shall assume professional and ethical responsibility for the work of the psychologist associate per-

formed in the course of their professional relationship.

(3) The supervisor shall provide supervision only in those areas of practice in which he/she is qualified to render services.

(4) The supervisor shall not provide supervision to one who is his/her administrative superior(s) or is a member of his or her family.

(5) The supervisor shall keep records of supervision. Such records shall be kept separately from the client's records and shall include dates of supervision, without reference to the client's name. Such records shall be submitted to the board on an annual basis as a condition of the renewal process.

(6) The supervisor shall not exploit the psychologist associate for financial gain or with excessive work demands. The supervisor shall make every effort to avoid exploitation of the psychologist associate by an agency with which the supervisor and psychologist associate are affiliated.

(7) Financial arrangements between the supervisor and the psychologist associate shall be clear and shall not interfere with or compromise the ethical, professional, and legal responsibilities each party has to the client or patient and to each other. Psychologist associates may bill clients or patients independently from the supervisor, provided that this arrangement does not interfere with or compromise those responsibilities.

B. Nature of supervision from licensed supervisor.

(1) Supervision of a psychologist associate shall cover all aspects of the psychologist associate's work and shall include at least two (2) hours a month of one-to-one supervision between the psychologist associate and the supervisor. If the psychologist associate who is supervised by a board-certified psychiatrist also conducts psychological or cognitive testing in his practice, the psychologist associate must be supervised by a licensed psychologist at least two (2) additional hours per month in this area of practice.

(2) The client or patient shall always be informed about the nature of the professional relationship that exists between the supervisor and the psychologist associate. The client shall be informed of his/her right to meet with the supervisor upon request and that the supervision of the psychologist associate by the supervisor may involve a review of the content of the evaluation documents and intervention plans.

C. Supervisory agreement with licensed supervision.

(1) The psychologist associate and his supervisor shall file a notarized letter of agreement signed by all parties setting

forth the terms of the supervisory arrangements. This agreement shall be updated and provided to the board as a condition of the yearly renewal of the psychologist associate's license. If there is no change in the agreement, a letter informing the board that there is no change, signed by both parties, shall accompany the yearly renewal of the psychologist associate's license.

(2) Both the supervisor and the psychologist associate shall notify the board in writing within thirty (30) days of termination if the supervisory agreement is terminated or the supervisory relationship ends for any reason. Most importantly, termination of the supervisory relationship shall be accomplished in a context of primary concern for the clients receiving care.

D. Ethical responsibilities of psychologist associates.

(1) The psychologist associate shall assume legal, ethical, and professional responsibility for the welfare of the client or patient, including client or patient diagnosis, intervention, and outcome of intervention.

(2) The psychologist associate shall provide services only in those areas of practice for which he is qualified.

E. Disclosure requirements. Any person licensed as a psychologist associate who advertises or solicits services to the general public shall specifically state: "Licensed psychologist associate - supervised practice."

[16.22.12.8 NMAC - Rp, 16.22.12.8 NMAC, 11/15/06]

16.22.12.9 EDUCATION REQUIREMENTS

A. An applicant who received a master's degree prior to July 1, 1985, shall hold a master's degree from a department of psychology in a school or college as defined in the Professional Psychologist Act or a master's degree which is primarily psychological in nature from a school or college whose program had substantially equivalent requirements as those set forth in this rule.

B. An applicant who received a master's degree after July 1, 1985, shall hold a master's degree from a department of psychology, counseling psychology, or school psychology in a school or college as defined in the Professional Psychologist Act.

C. The applicant shall show that his program of graduate studies included a minimum of three (3) graduate semester hours (six (6) graduate quarter hours) directly related to psychological theory in three of the nine following content areas (no course may be counted for more than two areas):

(1) biological aspects of behavior: physiological psychology, comparative psy-

chology, neuropsychology, sensation and perception, psychopharmacology, biological bases of development;

(2) cognitive and affective aspects of behavior: learning, thinking, motivation, emotion, and cognitive development;

(3) social aspects of behavior: social psychology, group processes, community psychology, social development, organizational and systems theory;

(4) human development: developmental psychology, human development, lifespan development, and developmental psychopathology;

(5) individual differences: personality theory, human development, and abnormal psychology;

(6) professional and scientific ethics and standards: professional and ethical problems in clinical, counseling, or school psychology, legal, ethical, and professional issues in psychotherapy or counseling;

(7) research design, methodology, statistics, and data analysis: research methods in clinical, counseling, or school psychology; research design in psychology; statistical analysis in psychology; multivariate statistical methods;

(8) cultural competence, as deemed satisfactory to the board, multicultural counseling, counseling the culturally different, feminist psychology, counseling gay and lesbian populations, treating persons with disabilities;

(9) methods of assessment and diagnosis: psychological assessment, clinical diagnosis, and intellectual and personal-ity assessment.

D. The applicant shall have completed at least two (2) semesters (or four (4) quarter hours) of clinical, counseling, or school psychology practicum.

[16.22.12.9 NMAC - Rp, 16.22.12.9 NMAC, 11/15/06]

16.22.12.10 [RESERVED]

[16.22.12.10 NMAC - Rp, 16.22.12.10 NMAC, 11/15/06]

16.22.12.11 DEMONSTRATION OF COMPETENCE

A. Description of examination and general information. All persons applying for licensure shall be examined by the board. The examination consists of two parts:

(1) a written examination, called the EPPP, that demonstrates professional competence;

(2) an online jurisprudence examination constructed, administered, and graded by the board and its designees, which assesses knowledge, ethical standards, New Mexico laws, and the board regulations as they apply to psychologists and their clients or patients.

B. Passing scores.

(1) The passing score on the EPPP taken before January 1, 1993 is 140 (70%) or taken after January 1, 1993 is the score equal to or greater than the passing score recommended by ASPPB.

(2) The passing score for the jurisprudence examination will be as determined by the board. Applicants will be notified within thirty (30) days following the jurisprudence examination of their test results.

(3) If the score of either the EPPP or the jurisprudence examination meets the requirement for licensure as a psychologist associate but the other score does not, the examination passed will not have to be retaken.

[16.22.12.11 NMAC - Rp, 16.22.8.11 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 13 FEES

16.22.13.1 ISSUING AGENCY: Regulation and Licensing Department, State Board of Psychologist Examiners. [16.22.13.1 NMAC - Rp, 16.22.13.1 NMAC, 11/15/06]

16.22.13.2 SCOPE: The provisions of Part 13 apply to all applicants for licensure and the general public. [16.22.13.2 NMAC - Rp, 16.22.13.2 NMAC, 11/15/06]

16.22.13.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologists Act, NMSA 1978, Sections 61-9-7, 61-9-10, 61-9-11 and 61-9-11(1) and the Inspection of Public Records Act, Section 14-2-9(B). [16.22.13.3 NMAC - Rp, 16.22.13.3 NMAC, 11/15/06]

16.22.13.4 DURATION: Permanent. [16.22.13.4 NMAC - Rp, 16.22.13.4 NMAC, 11/15/06]

16.22.13.5 EFFECTIVE DATE: November 15, 2006 unless a later date is cited at the end of a section. [16.22.13.5 NMAC - Rp, 16.22.13.5 NMAC, 11/15/06]

16.22.13.6 OBJECTIVE: To establish fees within statutory limitations to

generate revenue adequate to fund the cost of program administration.

[16.22.13.6 NMAC - Rp, 16.22.13.6 NMAC, 11/15/06]

16.22.13.7 DEFINITIONS: [RESERVED.]

[Refer to 16.22.1.7 NMAC]

16.22.13.8 FEE SCHEDULE:

A. All fees payable to the board are non-refundable. Cancellation of the examination by the applicant shall result in loss of the initial application fee. The fees for the (EPPP), jurisprudence examination, and the (PEP) are in addition to the fees described below, and determined by the professional examination service offering the examination on behalf of the board.

B. Application fees. (psychologists, psychologist associates, conditional prescribing and prescribing psychologists):

(1) initial application fee- [initial application fee expires 24 months from the date application is received in the board office] \$300.00

(2) online jurisprudence examination 75.00

(3) re-examination application fee 300.00

(4) re-examination fee for jurisprudence exam 75.00

(5) application for an out of state psychologist to conduct court-ordered independent examination (per case) 150.00

(6) initial conditional prescription certificate 75.00

(7) 60 day extension of conditional prescription 100.00

(8) second-year conditional prescription certificate 75.00

(9) prescription certificate 75.00

C. Biennial/annual renewal fees psychologists, psychologist associates, conditional prescribing and prescribing psychologists

(1) one-time annual renewal by psychologists and psychologist associates meeting first-year New Mexico licensure requirements 300.00

(2) biennial renewal active status psychologists and psychologist associates 600.00

(3) biennial renewal active status (conditional prescribing and prescribing psychologists) 150.00

(4) annual renewal inactive status 150.00

(5) late fee (received after July 1 and within 1 year of suspension): active status (psychologists, psychologist associates, conditional prescribing and prescribing psychologist). 100.00

(6) reinstatement fee from inactive

to active status 300.00

D. Other miscellaneous charges

(1) duplicate/replacement wall certificate 25.00

(2) licensee lists 100.00

(3) licensee labels 150.00

(4) flat fee copying charge for first 10 (8.5 x 11) pages 10.00

(5) per page charge for all 8.5 x 11 copies after the first 10 pages .50

(6) per page fee for copying over-size or undersize copies 3.00

(7) license verification fee 15.00

[16.22.13.8 NMAC - Rp, 16.22.13.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 20 CONDITIONAL PRESCRIPTION CERTIFICATE; PRESCRIPTION CERTIFICATE; HEALTH CARE PRACTITIONER COLLABORATION GUIDELINES

16.22.20.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners. [16.22.20.1 NMAC - Rp, 16.22.20.1 NMAC, 11/15/06]

16.22.20.2 SCOPE: This part applies to psychologists with conditional prescription certificate, and the general public. [16.22.20.2 NMAC - Rp, 16.22.20.2 NMAC, 11/15/06]

16.22.20.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.2 [16.22.20.3 NMAC - Rp, 16.22.20.3 NMAC, 11/15/06]

16.22.20.4 DURATION: Permanent. [16.22.20.4 NMAC - Rp, 16.22.20.4 NMAC, 11/15/06]

16.22.20.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section. [16.22.20.5 NMAC - Rp, 16.22.20.5 NMAC, 11/15/06]

16.22.20.6 OBJECTIVE: The objective of Part 20 is to set forth the provi-

sions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.20.6 NMAC - Rp, 16.22.20.6 NMAC, 11/15/06]

16.22.20.7 DEFINITIONS:

[RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.20.8 CONDITIONAL PRESCRIPTION CERTIFICATE OR PRESCRIPTION CERTIFICATE HEALTH CARE PRACTITIONER COLLABORATION GUIDELINES:

A. A conditional prescribing or prescribing psychologist shall obtain a release of information from the patient or the patient's legal guardian authorizing the psychologist to contact the patient's primary treating health care practitioner, as required by law.

B. If a patient or the patient's legal guardian refuses to sign a release of information for the patient's primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall inform the patient or the patient's legal guardian that the psychologist cannot treat the patient pharmacologically without an ongoing collaborative relationship with the primary treating health care practitioner. The psychologist shall refer the patient to another mental health care provider who is not required to maintain an ongoing collaborative relationship with a health care practitioner.

C. A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner prior to prescribing medication to the patient.

(1) The conditional prescribing or prescribing psychologist shall inform the primary treating health care practitioner the medications the psychologist intends to prescribe for mental illness and any laboratory tests that the psychologist ordered or reviewed and shall discuss the relevant indications and contraindications to the patient of prescribing these medications.

(2) The conditional prescribing or prescribing psychologist shall document the date and time of contacts with the primary treating health care practitioner, a summary of what was discussed, and the outcome of the discussions or decisions reached.

(3) If the primary treating health care practitioner and the conditional prescribing or prescribing psychologist do not agree about a particular psychopharmacological treatment strategy, the psychologist shall document the reasons for recommending the psychopharmacological treatment strategy that is in disagreement and shall inform the primary treating health care practitioner of that recommendation. If the

primary treating health care practitioner believes the medication is contraindicated because of a patient's medical condition, the conditional prescribing or prescribing psychologist shall defer to the judgment of the primary treating health care practitioner and shall not prescribe.

(4) If a conditional prescribing or prescribing psychologist determines that an emergency exists that may jeopardize the health or well being of the patient, the psychologist may, without prior consultation with the patient's primary treating health care practitioner, prescribe psychotropic medications or modify an existing prescription for psychotropic medication previously written for that patient by that psychologist. The conditional prescribing or prescribing psychologist shall consult with the primary treating health care practitioner as required herein as soon as possible. The conditional prescribing or prescribing psychologist shall document in the patient's psychological evaluation/treatment file the nature and extent of the emergency and the attempt(s) made to contact the primary treating health care practitioner prior to prescribing or other reason why contact could not be made.

(5) If a conditional prescribing psychologist or prescribing psychologist is working in a declared emergency/disaster area, the on-site medical staff can serve as the evaluating primary care physician.

D. If a patient does not have a primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall refer the patient to a health care practitioner prior to psychopharmacological treatment. The psychologist must receive the results of the health care practitioner's assessment and shall contact the health care practitioner as required herein prior to prescribing.

E. Once the collaborative relationship is established with the primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall maintain and document the collaborative relationship to ensure that relevant information is exchanged accurately and in a timely manner. The ongoing collaborative relationship shall be maintained pursuant to the following guidelines.

(1) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner for any changes in medication not previously discussed with the primary treating health care practitioner.

(2) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner if and when the patient experiences adverse effects from medications prescribed by the psychologist that may be related to the patient's medical condition for which he or

she is being treated by a health care practitioner.

(3) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner regarding results of laboratory tests related to the medical care of the patient that have been ordered by the psychologist in conjunction with psychopharmacological treatment.

(4) The patient's treating health care practitioner shall inform a conditional prescribing or prescribing psychologist of any new medical diagnosis or changes in the patient's medical condition that may affect the treatment being provided by the psychologist.

(5) A conditional prescribing or prescribing psychologist shall inform a treating health care practitioner as soon as possible of any change in the patient's psychological condition that may affect the medical treatment being provided by the health care practitioner.

(6) The patient's primary treating or other health care practitioner shall inform the conditional prescribing or prescribing psychologist of any psychotropic medications prescribed or discontinued by the primary or other treating health care practitioner, the dates of any subsequent changes in psychotropic medications prescribed by the primary or other treating health care practitioner, and the efforts to coordinate the mental health care of the patient as soon as possible.

[16.22.20.8 NMAC - Rp, 16.22.20.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 21 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: LIMITS OF PRACTICE

16.22.21.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.21.1 NMAC - Rp, 16.22.21.1 NMAC, 11/15/06]

16.22.21.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.21.2 NMAC - Rp, 16.22.21.2 NMAC, 11/15/06]

16.22.21.3 STATUTORY

AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.2

[16.22.21.3 NMAC - Rp, 16.22.21.3 NMAC, 11/15/06]

16.22.21.4 DURATION: Permanent.

[16.22.21.4 NMAC - Rp, 16.22.21.4 NMAC, 11/15/06]

16.22.21.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.

[16.22.21.5 NMAC - Rp, 16.22.21.5 NMAC, 11/15/06]

16.22.21.6 OBJECTIVE: The objective of Part 21 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.21.6 NMAC - Rp, 16.22.21.6 NMAC, 11/15/06]

16.22.21.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.21.8 LIMITS OF PRACTICE:

A. A conditional prescribing/prescribing psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training and experience.

B. As defined in the collaboration guidelines of 16.22.20.8 NMAC, unless specifically agreed to by the primary treating health care practitioner, a conditional prescribing or prescribing psychologist shall not prescribe medications for patients with the following conditions:

(1) patients with a serious comorbid disease of the central nervous system;

(2) patients with cardiac arrhythmia;

(3) patients who are being pharmacologically treated for coronary vascular disease;

(4) patients with blood dyscrasia;

(5) patients who are hospitalized for an acute medical condition; or

(6) women who are pregnant or breast feeding.

C. A conditional prescribing or prescribing psychologist shall not prescribe a drug, substance or controlled substance that is not contained in the formulary described in 16.22.27 NMAC, of these regulations.

D. A conditional prescribing or prescribing psychologist may order and review laboratory tests that are necessary to maximize the psychopharmacologi-

cal effectiveness and to minimize the potential untoward effects of medications that are prescribed. In consultation with the PCP, the psychologist may also order neurovascular imaging procedures that use contrast media; neuro imaging that require the use of radioactive material; roentgenological procedures (x-rays) or other appropriate tests. The psychologist shall not:

(1) perform medical procedures such as spinal taps, intramuscular or intravenous administration of medication, or phlebotomy; or

(2) perform amytal interviews.

E. A conditional prescribing or prescribing psychologist shall not self-prescribe medication and shall not prescribe medication to any person who is a member of the psychologist's family or household, or with whom the psychologist has a conflict of interest, including a prohibited dual relationship, as defined in 16.22.1 NMAC, of these regulations and the code of conduct adopted by the board.

F. A conditional prescribing or prescribing psychologist is subject to provisions of the Professional Psychologist Act and board regulations. A psychologist who violates the Professional Psychologist Act or board regulations is subject to disciplinary action by the board, which may include denial, suspension, or revocation of a conditional prescription certificate or prescription certificate or suspension or revocation of a license to practice psychology.

G. A conditional prescribing or prescribing psychologist must comply with all other state and federal laws regulating the administering and prescribing of controlled substances.

[16.22.21.8 NMAC - Rp, 16.22.21.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 22 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: APPLICATION COMMITTEE

16.22.22.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.22.1 NMAC - Rp, 16.22.22.1 NMAC, 11/15/06]

16.22.22.2 SCOPE: This part applies to the board, licensees, applicants for licensure, and the general public.

[16.22.22.2 NMAC - Rp, 16.22.22.2

NMAC, 11/15/06]

16.22.22.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1

[16.22.22.3 NMAC - Rp, 16.22.22.3 NMAC, 11/15/06]

16.22.22.4 DURATION: Permanent.

[16.22.22.4 NMAC - Rp, 16.22.22.4 NMAC, 11/15/06]

16.22.22.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.

[16.22.22.5 NMAC - Rp, 16.22.22.5 NMAC, 11/15/06]

16.22.22.6 OBJECTIVE: The objective of Part 22 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.22.6 NMAC - Rp, 16.22.22.6 NMAC, 11/15/06]

16.22.22.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.22.8 PSYCHOPHARMACOLOGY (RxP) APPLICATION COMMITTEE:

A. The chair of the board may appoint one or more RxP application committee(s) to review application(s) for conditional prescription and prescription certificates and to make recommendations to the board.

B. The RxP application committee will consist of a minimum of three (3) members who shall reside in New Mexico and who shall hold active, unrestricted New Mexico licenses in their respective profession. The committee shall consist of:

(1) one person appointed by the chair of the board who is experienced in psychopharmacology;

(2) one person appointed by the chair of the board, in collaboration with the New Mexico medical board, who is an allopathic or osteopathic physician or a nurse practitioner or physicians assistant with clinical experience in mental health or psychopharmacology; and

(3) a public member appointed by the chair of the board.

C. The professional members appointed by the chair of the board to the committee may include:

(1) a psychologist with a conditional prescribing certificate or a prescription certificate;

(2) a physician or osteopathic physician with clinical experience in mental health or psychopharmacology;

(3) a pharmacist clinician, or certified, or certified nurse practitioner, RNCS or physician's assistant with specialized training in psychopharmacology; or

(4) a licensed psychologist.

D. Members of the RxP application committee shall not be in a psychopharmacology training program, and shall not be seeking licensure as a psychologist.

E. Members of the RxP application committee shall not participate in the review, deliberation, or decision of an application if the applicant is a member of the member's family or household or if the member has a conflict of interest as defined in 16.22.25 NMAC, of these regulations.

F. The New Mexico medical board or its designee shall be available upon request to consult with the RxP application committee or the board regarding the applicability of the regulations adopted pursuant to Section 61-9-17.1 NMSA 1978 of the act to a particular application.

G. The RxP application committee shall provide the board a recommendation to accept or reject an application for a conditional prescription or prescription certificate. A recommendation to reject an application shall state the reasons for the recommendation.

[16.22.22.8 NMAC - Rp, 16.22.22.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 23 REQUIREMENTS FOR EDUCATION AND CONDITIONAL PRESCRIPTION CERTIFICATE

16.22.23.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.23.1 NMAC - Rp, 16.22.23.1 NMAC, 11/15/06]

16.22.23.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.23.2 NMAC - Rp, 16.22.23.2 NMAC, 11/15/06]

16.22.23.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1

[16.22.23.3 NMAC - Rp, 16.22.23.3 NMAC, 11/15/06]

16.22.23.4 DURATION: Permanent.

[16.22.23.4 NMAC - Rp, 16.22.23.4 NMAC, 11/15/06]

16.22.23.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.

[16.22.23.5 NMAC - Rp, 16.22.23.5 NMAC, 11/15/06]

16.22.23.6 OBJECTIVE: The objective of Part 23 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.23.6 NMAC - Rp, 16.22.23.6 NMAC, 11/15/06]

16.22.23.7 DEFINITIONS: [RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.23.8 QUALIFICATIONS AND EDUCATION REQUIREMENTS FOR CONDITIONAL PRESCRIPTIVE CERTIFICATE:

A. Qualifications of applicant. The board shall issue a conditional prescription certificate pursuant to 16.22.24.8 NMAC, of these regulations to each applicant who submits evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in psychology from an accredited institution of higher education or professional school or, if the program was not accredited at the time of the applicant graduation, that the program meets professional standards determined acceptable by the board;

(2) holds an active unrestricted license to practice psychology in New Mexico;

(3) has successfully completed psychopharmacological training that meets the standards set forth in Subsection B below from either:

(a) an institution of higher education that has a postdoctoral program of psychopharmacology education for psychologists and that is accredited by a regional body recognized by the U.S. department of education or the council for higher education accreditation; or

(b) a continuing education provider approved by the American psychological association that offers a program of psychopharmacology education for psychologists; or

(c) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school

and that is a formal and organized program of study leading to a credential in psychopharmacology from that school; or

(d) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school if the applicant successfully completed the four-hundred-fifty (450) classroom hours of didactic study referred to in 16.22.23.8 NMAC, of these regulations below prior to January 1, 2004.

B. RxP training program. The psychopharmacology training program referred in Subparagraph (c) above, shall meet the following criteria.

(1) The program shall be an integrated and organized program of study.

(2) The program shall have an identifiable body of students at different levels of matriculation.

(3) The program shall be clearly identified and labeled as a psychopharmacology program and shall specify in pertinent institutional catalogues and brochures its intent to educate and train psychologists to prescribe psychotropic medication.

(4) The program shall have a formally designated training director who is a psychiatrist or a doctoral psychologist, trained in the area of psychopharmacology, and licensed to practice in the jurisdiction in which the program resides.

(5) The training director shall be primarily responsible for directing the training program and shall have administrative authority commensurate with those responsibilities.

(6) The training director's credentials and expertise shall be consistent with the program's mission and goals to train psychologists to prescribe psychotropic medication.

(7) The program shall provide information regarding the minimal level of achievement required for postdoctoral trainees to satisfactorily progress through and complete the psychopharmacological training program, as well as evidence that it adheres to the minimum levels of achievement.

(8) The program shall have formally designated instructors and supervisors in sufficient number to accomplish the program's education and training.

(9) Supervisors shall hold an active, unrestricted license in their field of practice in the jurisdiction in which the program resides or where the supervision is being provided.

(10) The program instructors and supervisors shall have sufficient expertise, competence, and credentials in the areas in which they teach or supervise.

(11) The program instructors and supervisors shall participate actively in the program's planning, implementation and

evaluation.

(12) The program, with appropriate involvement from its training supervisors, instructors, and trainees, shall engage in a self-study process that addresses:

(a) expectations for the quality and quantity of the trainees' preparation and performance in the program;

(b) training goals and objectives for the trainees and the trainees' views regarding the quality of the training experiences and the program;

(c) procedures to maintain current achievements or to make changes as necessary; and

(d) goals, objectives, and outcomes in relation to local, regional, and national changes in the knowledge base of psychopharmacology training.

(13) The program shall follow the guidelines for psychopharmacology training of post-doctoral psychologists established by the American psychological association.

(14) As part of the admission and training process, the training program shall evaluate and assure that every student completes necessary prerequisite training in basic science (e.g. physiology, chemistry, and biochemistry), the biological bases of behavior, and psychopharmacology.

(15) When students are not in residence, the program provides on-line access to a library of sufficient diversity and level to support the advanced study of the psychopharmacological treatment of mental disorders from wherever the student resides. This access shall remain available throughout all didactic and clinical phases of the training program. Frequent face-to-face evaluation and discussions shall be included in the didactic training.

(16) The program provides formal, written measurement of the mastery of course content.

(17) The program demonstrates in its written materials or course syllabi that it integrates into the training the following areas; socio-cultural issues in psychopharmacological treatment, ethno-pharmacology, use of translators, the cultural context of compliance and noncompliance with prescribed medication, creating a culturally appropriate environment to meet patient care treatment and language needs, and working collaboratively with traditional healers.

C. Didactic instruction.

(1) Within the five (5) years immediately preceding the date of application for a conditional prescription certificate, the applicant shall have successfully completed didactic instruction of no fewer than four-hundred-fifty (450) classroom hours in at least the following core areas of instruction:

- (a) neuroscience;
- (b) pharmacology;
- (c) psychopharmacology;
- (d) physiology;
- (e) pathophysiology;
- (f) appropriate and relevant physical and laboratory assessment; and
- (g) clinical pharmacotherapeutics.

(2) At least three-fourths (3/4) of the four-hundred-fifty (450) classroom hours of didactic instruction shall be awarded by one certification or degree-granting institution or continuing education program.

D. Eighty (80) hour practicum in clinical assessment and pathophysiology.

(1) The 80 hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification or degree.

(2) The 80 hour practicum shall provide the opportunity for the applicant to observe and demonstrate competence in physical and health assessment techniques within a medical setting under the supervision of a physician.

(3) The 80 hour practicum shall be completed in a timeframe of full-time over two (2) weeks to thirty (30) weeks.

(4) If the applicant cannot complete the 80 hour practicum within the time frame designated in Paragraph (3) of Subsection D of 16.22.20.8 NMAC, because of illness or other extenuating circumstances, the applicant may request an extension from the board explaining in writing the extenuating circumstances and the additional time requested.

(5) The supervising physician and the training director of the psychopharmacology training program shall certify in writing that the applicant:

- (a) assessed a diverse and significantly medically ill patient population;
- (b) observed the progression of illness and continuity of care of individual patients;
- (c) adequately assessed vital signs;
- (d) demonstrated competent laboratory assessment; and
- (e) successfully completed the 80-hour practicum.

E. Four-hundred hour practicum. Requirements for the general 400 hour practicum treating a minimum of 100 patients with mental disorders include:

(1) The 400 hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification, degree or certification of completion.

(2) One-hundred (100) patients shall mean 100 separate patients.

(3) The four-hundred hours shall

refer to four-hundred (400) face-to-face hours. The four-hundred (400) face-to-face hours shall include only time spent with patients to provide evaluation and treatment for medical psychopharmacotherapy of patients and time spent in collaboration with the patient's treating health care practitioner(s).

(4) The applicant must have supervised experience in the evaluation and treatment of 100 patients, representing as diverse a patient population as possible, including diversity in the patients:

- (a) gender;
- (b) different ages throughout the life cycle, including adults, children/adolescents, and geriatrics; as possible and appropriate.

(c) range of disorders listed in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and acute and chronic disorders;

- (d) ethnicity;
- (e) socio-cultural background;

and

- (f) economic background.

(5) The applicant and the training program shall maintain a log on patient seen, which shall include: a coded identification number for the patient, patient's age, gender, diagnosis, date and time seen, amount of time seen for psychopharmacotherapy. The log shall be available to the RxP application committee or the board upon request. The log shall contain the name and signature of the supervisor.

(6) The applicant and the training program shall keep records of the time spent during this practicum. The records shall be available to the psychopharmacology application committee or the board upon request. The records shall not contain patient identifying information.

(7) A psychiatrist or other appropriately trained physician, licensed in good standing in the jurisdiction in which the psychiatrist or other physician rendered supervision shall be the primary supervising physician of the practicum. The primary supervising physician shall be responsible for the overall supervision of the applicant; however, training may be assigned to other licensed physicians, i.e., secondary supervisors, as designated by the primary supervising physician and the training director of the program.

(8) The primary or secondary supervisor shall be on site. The applicant shall consult with the primary or secondary supervising physician as appropriate, before the applicant makes a decision about the psychopharmacological treatment of the patient.

(9) The primary or secondary supervising physician shall review the

charts and records of any patient seen by the applicant during the practicum while under the supervision of the primary or secondary supervising physician.

(10) The practicum shall be completed in a period of time of not less than six (6) months and not more than three (3) years.

(11) If the applicant cannot complete the 400 hour practicum within the timeframe designated in Subsection E of 16.22.23.8 because of illness or other extenuating circumstances, the applicant may request an extension from the board explaining in writing the extenuating circumstances and the additional time requested. The applicant shall receive a minimum of one hour of supervision for every eight (8) hours of patient time. The applicant is responsible to keep a log of the dates and time of supervision. The supervisor may meet with the applicant for additional education at his or her discretion.

(12) The practicum shall be completed within the five years immediately preceding the date of application for a conditional prescription certificate.

(13) Upon request of the RxP application committee or the board, the primary supervising physician shall provide an affidavit stating that:

(a) the supervisor does not have conflict of interest and is not a member of the applicant's family or household as defined in 16.22.26 NMAC, of these regulations;

(b) the supervisor or a designated secondary supervisor reviewed and discussed with the applicant the charts and records of patients seen by the applicant during the practicum;

(c) the practicum included a diverse group of patients, as defined in these regulations; and

(d) the applicant did not write any prescriptions without the primary or secondary supervisor's supervision and signature or authorization.

(14) The primary supervising physician shall conduct a formal, written evaluation on at least two occasions, at the midpoint and at the end of the practicum. The evaluation shall assess the applicant's progress and competencies and shall describe any deficiencies or areas where competency has not been achieved. The primary supervisor shall submit copies of the evaluations to the applicant and the training director.

(15) In the event of documented deficiencies the training director of the psychopharmacology program shall specify in writing:

(a) the areas in need of remediation;

(b) the process and procedures by which these areas are to be re-mediated; and

(c) the method by which the training director and supervisor shall determine that the applicant has achieved the competencies necessary to successfully complete the practicum.

(16) The psychologist in practicum training or the conditional prescribing psychologist is responsible for informing the patient of the patient's legal guardian, when appropriate, or explain to the patient through the recommendation system at an institution if the institution itself generally handles such informed consent. The name and role of the supervisor and sufficient information of the expectation and requirements of the practicum shall be provided to the patient or the patient's legal guardian at the initial contact necessary to obtain informed consent and appropriate releases. The applicant shall provide additional information requested by the patient or the patient's legal guardian concerning the applicant's education, training and experience.

(17) The primary supervising physician and the training director of the psychopharmacology program from which the applicant obtained a certification of successful completion or a degree in psychopharmacology shall certify to the board in writing that the applicant has successfully completed the practicum.

F. National examination.

To qualify for a conditional prescription or prescription certificate, the applicant must demonstrate competency by passing a national examination.

(1) Applicant must pass the psychopharmacology examination for psychologists (PEP), developed by the American psychological association practice organization's college of professional psychology and its contractor, the professional examination service.

(2) Applicant must be eligible to take the PEP after the applicant successfully completes the didactic portion of the postdoctoral program of education in psychopharmacology.

(3) The passing score shall be the passing score recommended by the American psychological association's practice organization college of professional psychology for the occasion.

(4) If the applicant fails the examination, the applicant may take the examination a second time after a mandatory 90-day waiting period.

(5) If the applicant fails the examination on the second attempt, the applicant will be required to wait one year before repeating the examination.

(6) If the applicant fails the examination on the third attempt, the applicant is required to take the remedial didactic program recommended by the psychopharmacology application committee and approved

by the board before the applicant is allowed to repeat the examination.

G. An applicant who has successfully completed a psychopharmacology educational program, an eighty (80) hour practicum in clinical assessment and pathophysiology, a four-hundred (400) hour/100 patient practicum treating patients with mental disorders or the national certification examination prior to the effective date of these regulations may include the completed portion(s) of the training in the application for a conditional prescription certificate. The applicant who has completed the four-hundred (400) hour practicum shall include certification in writing from the primary supervising physician that the applicant has successfully completed the practicum and is trained to competently treat a diverse patient population as defined in these regulations. The board shall approve the prior training program(s) that satisfy the requirements as listed in 16.22.23 NMAC, of these regulations.

[16.22.23.8 NMAC - Rp, 16.22.23.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 24 APPLICATION PROCEDURES: TWO-YEAR SUPER- VISED PRACTICE

16.22.24.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.24.1 NMAC - Rp, 16.22.24.1 NMAC, 11/15/06]

16.22.24.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.24.2 NMAC - Rp, 16.22.24.2 NMAC, 11/15/06]

16.22.24.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1

[16.22.24.3 NMAC - Rp, 16.22.24.3 NMAC, 11/15/06]

16.22.24.4 DURATION: Permanent.

[16.22.24.4 NMAC - Rp, 16.22.24.4 NMAC, 11/15/06]

16.22.24.5 EFFECTIVE DATE:

November 15, 2006, unless a later date is cited at the end of the section.

[16.22.24.5 NMAC - Rp, 16.22.24.5 NMAC, 11/15/06]

16.22.24.6 OBJECTIVE: The objective of Part 24 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.24.6 NMAC - Rp, 16.22.24.6 NMAC, 11/15/06]

16.22.24.7 DEFINITIONS:
[RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.24.8 APPLICATION PROCEDURES AND PRESCRIBING PRACTICES FOR CONDITIONAL PRESCRIPTION CERTIFICATE; TWO-YEAR SUPERVISED PRACTICE

A. An applicant for a conditional prescription certificate shall submit a completed application on the form provided by the board. The applicant is responsible to ensure that the application is complete and that all application fees are paid.

B. Application procedure, the applicant shall submit the following:

(1) a copy of the degree, certificate or certification of completion of a post-doctoral psychopharmacology training program;

(2) certification by the supervising physician and program training director of successful completion of the eighty (80) hour practicum in clinical assessment and pathophysiology;

(3) certification by the primary supervising physician and the program-training director of successful completion of the general (400) hour practicum treating a minimum of 100 patients with mental disorders;

(4) evidence of passing the psychopharmacology examination for psychologists(PEP);

(5) a proposed supervisory plan; on a form provided by the board that is signed by the psychologist and the supervising physician;

(6) evidence of proof of insurance or insurance binder as described in 16.22.24.9 NMAC, of these regulations; and

(7) a non-refundable application fee.

C. Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information contained in the application.

D. The applicant will be notified in writing within sixty (60) days

whether the application, including the supervisory plan, is accepted or rejected. If the application is rejected, the notice shall state the reason for rejection.

[16.22.24.8 NMAC - Rp, 16.22.24.8 NMAC, 11/15/06]

16.22.24.9 CONDITIONS OF PRACTICE; MALPRACTICE INSURANCE

A. The conditional prescribing psychologist shall maintain malpractice insurance covering claims for personal injury arising out of his or her performance of professional services and claims arising out of his or her act, errors or omissions in providing professional services, including prescribing psychotropic medication. Such malpractice insurance coverage shall be no less than one (1) million dollars per occurrence with an aggregate limit of three (3) million dollars.

B. The conditional prescribing psychologist shall submit to the board the declaration page of his or her malpractice insurance policy, when instituted, and thereafter on the policy renewal date, as proof of this required insurance upon making application for the conditional prescription certificate, and proof that the policy covers the prescribing of psychotropic drugs.

[16.22.24.9 NMAC - Rp, 16.22.24.8 NMAC, 11/15/06]

16.22.24.10 TWO YEAR SUPERVISED PRACTICE

A. The conditional prescribing psychologist shall be supervised by a licensed physician(s) knowledgeable of the administration of psychotropic medication. If more than one supervisor is selected, one supervisor shall be designated the primary supervising physician.

B. The board shall approve the supervisory plan before the conditional prescription certificate is issued. The proposed supervisory plan shall include the information contained in 16.22.24 NMAC, and shall be signed by the primary supervising physician.

C. After the board approves the supervisory plan, the conditional prescribing psychologist shall within thirty (30) days submit to the New Mexico medical board the name, address and phone number of the conditional prescribing psychologist and the name(s), address(s) and phone number(s) of the primary supervising physician and secondary supervising physicians, if any. During the period of supervised practice, the conditional prescribing psychologist shall provide to the New Mexico medical board the name(s), address(s) and phone number(s) of any supervising physician or physician serving

as a substitute or replacement for primary or secondary supervisor(s).

D. Each supervisor shall have clinical expertise or training with the patient population that the psychologist with a conditional prescription certificate is evaluating and treating.

E. During the initial contact between the patient or the patient's legal guardian, if any, and the conditional prescribing psychologist, the patient or the patient's legal guardian shall be informed that the psychologist has received specialized training in the prescription of psychotropic medication, that the psychologist is transitioning to independent psychopharmacological practice, and that the psychologist is practicing under supervision with respect to the prescribing of psychotropic medication. The name and role of the supervisor shall be provided to the patient or the patient's legal guardian and informed consent and appropriate releases shall be obtained. The conditional prescribing psychologist shall provide additional information requested by the patient or the patient's legal guardian concerning the psychologist's education, training, and experience.

F. Supervision by the primary supervising physician shall be provided on a one-to-one basis for at least four hours a month and should total at least forty-six (46) hours of one-to-one supervision per year, unless altered, in accordance with Subsection K of 16.22.24.10 NMAC of these regulations.

G. Each supervising physician is responsible to review only the cases he or she is supervising. The supervising physician at all times shall have access to and shall review records relating to the treatment of patients under his or her supervision. The supervising physician may require face-to-face consultation(s) with the conditional prescribing psychologist.

H. If there is more than one supervisor, each supervisor shall inform the other supervisor of any concerns about a conditional prescribing psychologist whom he or she is supervising.

I. The primary supervising physician shall contact any secondary supervisor(s) at least every six (6) months to obtain written or verbal progress reports concerning how the conditional prescribing psychologist is performing.

J. One-to-one supervision must be provided either face-to-face, telephonically, or by tele-video live communication.

K. At any time during the two-year conditional prescribing periods the supervising physician, after consultation with the conditional prescribing psychologist, may amend the supervisory plan, to increase or decrease the hours of supervi-

sion. The board shall approve amendments to the supervisory plan set forth in Subsection M below.

L. At any time during the two-year conditional prescribing period a primary supervising physician shall not supervise more than three (3) conditional prescribing psychologists.

M. The supervisory plan described in Paragraph (5) of Subsection B of 16.22.24.8 NMAC shall include the following information and shall be signed by the primary supervising physician:

(1) name of the applicant;
 (2) name, address, license number, and area of specialization of the primary supervising physician and the secondary supervisor(s), if any;
 (3) beginning and ending dates of the two-year supervised practice covered by the plan;

(4) number of one-on-one supervisory hours per month and by whom;

(5) setting(s) where supervision will occur and with whom;

(6) duties and clinical responsibilities of the conditional prescribing psychologist;

(7) location(s) where supervision will occur and with whom;

(8) areas in which the primary and secondary supervisor(s), if any, have specialized skills to render competent supervision;

(9) number of psychologists with conditional prescription certificates that the primary supervising physician will supervise during this time period;

(10) the manner in which the conditional prescribing psychologist will be represented to the public including, all written communications and public announcements;

(11) any direct or indirect financial agreements between or among the conditional prescribing psychologist and the primary and secondary supervisor(s), if any;

(12) other information necessary to clarify the nature and scope of supervision; and

(13) a statement specifying the manner in which supervision and clinical and professional responsibility will be provided during the supervisor's absence (during vacations or unexpected events that require the supervisor to be absent for any period of time),

N. The board or its designee shall notify the applicant in writing within sixty (60) days of application date, whether the application and the proposed supervisory plan are accepted or rejected. The board or its designee shall notify a conditional prescribing psychologist within thirty (30) days whether a proposed amendment to an approved supervisory plan is accepted or rejected. If reject-

ed, the notice shall state the reasons for rejection.

O. Each supervising physician shall maintain a supervision log containing the dates, duration, and place or method of supervision, the same identification code for patients as used by the psychologist with a conditional prescribing certificate in the summary reports, and a brief description of the content of supervision. The log shall be submitted to the board upon request.

P. The primary supervising physician shall also maintain a log of the contacts with the secondary supervisor(s) that includes the dates of contact, and a brief description of the outcome of this contact, including a statement stating whether the conditional prescribing psychologist is progressing satisfactorily.

Q. The supervisor shall review the results of laboratory tests as appropriate and shall be skilled and experienced in such interpretation.

R. The supervising physician(s) shall hold an active unrestricted license in good standing and appropriate drug enforcement administration certificate and shall be experienced and skilled in the prescription of psychopharmacological drugs.

S. The conditional prescribing psychologist shall see a minimum of fifty (50) separate patients within the two-year period who are seen for the purpose of evaluation and treatment with psychotropic medication. The duration of the two-year supervisory period shall not be accelerated or reduced.

T. At the end of the two-year period, the primary supervising physician shall provide an affidavit on a form provided by the board certifying that:

(1) the supervising physician has not received any financial payments from the applicant except appropriate fees for supervisory services, the supervising physician is not a member of the applicant's family or household, the supervising physician is not in a prohibited dual relationship with the applicant or a member of the applicant's family or household, and that the supervising physician has not had an interest that conflicts with the supervising physician's duties as supervisor;

(2) each supervising physician discussed with the psychologist the charts and records of patients seen by the psychologist under that physician's supervision during the two-year period or any extension; and

(3) the psychologist has successfully completed two years of evaluating for or prescribing psychotropic medication to at least 50 patients.

U. The primary supervising physician in consultation with any sec-

ondary supervisor shall evaluate and describe any deficiencies at the end of the two-year period. In the event of documented deficiencies, the primary supervising physician(s) shall specify in writing the areas in need of remediation and the process and procedures by which these areas are to be remediated.

V. The supervisory period and the conditional prescriptive certificate may be extended with approval of the board if the conditional prescribing psychologist does not successfully complete the two-year conditional period of supervision. A supervisory plan shall be submitted to the board for the proposed extended period of practice under supervision. The conditional prescribing psychologist shall continue to maintain malpractice insurance.

W. At the end of the extended two-year period, the primary supervising physician shall provide to the board an affidavit on a form provided by the board certifying: the method by which the supervisor(s) determined that the conditional prescribing psychologist obtained the competencies necessary to prescribe psychotropic medication, supported by a written evaluation addressing areas of remediation.

[16.22.24.10 NMAC - Rp, 16.22.24.8 NMAC, 11/15/06]

16.22.24.11 EXPIRED PRACTICE OR CERTIFICATE

A. The conditional prescribing psychologist shall notify the board in writing if a supervising physician fails to meet any of the supervisory requirements as set forth in this section and the supervisory plan approved by the board. The notification shall include a clear and detailed description of the supervisor's failure(s) to perform.

B. The conditional prescribing psychologist shall notify the board within fourteen (14) days of discovery of any event or circumstance that requires the psychologist to interrupt or cease prescribing practices for any period of time that exceeds sixty (60) days. In no event shall the conditional prescribing psychologist continue prescribing psychotropic medications without an active, responsible supervising physician and valid malpractice insurance.

C. The conditional prescribing certificate shall expire two years after issuance, unless extended in writing as provided in 16.22.24.8 NMAC. A psychologist shall not administer or prescribe drugs or medicines unless the psychologist holds a valid conditional prescription certificate or prescription certificate issued by the board. The board may extend the conditional prescribing certificate up to sixty (60) days pending peer review if the board has

received at the board office a complete application for a prescription certificate no later than ten (10) days before the expiration of the conditional prescription certificate.

D. The psychologist shall not administer or prescribe drugs or medicines after the expiration of the conditional prescription certificate. The psychologist shall notify the board in writing if the psychologist decides not to immediately apply for a prescription certificate upon expiration of the conditional prescription certificate. A psychologist who successfully completes all of the requirements of conditional prescription certificate may apply for a prescription certificate after the expiration of the conditional prescription certificate, so long as the psychologist satisfies all the education, training, and supervision criteria within the time limits established by NMSA 1978, Section 61-9-17.1 and 16.22.23.8 NMAC, of these regulations. The psychologist is solely responsible to obtain patient records for peer review and all other evidence of satisfactory completion of practice under supervision, including supervising physician affidavit(s).

[16.22.24.11 NMAC - Rp, 16.22.24.8 NMAC 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 25 PRESCRIPTION CERTIFICATE: APPLICATION; PEER REVIEW; EVALUATION OUTCOME

16.22.25.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.25.1 NMAC - Rp, 16.22.25.1 NMAC, 11/15/06]

16.22.25.2 SCOPE: This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.25.2 NMAC - Rp, 16.22.25.2 NMAC, 11/15/06]

16.22.25.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1

[16.22.25.3 NMAC - Rp, 16.22.25.3 NMAC, 11/15/06]

16.22.25.4 DURATION: Permanent.

[16.22.25.4 NMAC - Rp, 16.22.25.4 NMAC, 11/15/06]

16.22.25.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.

[16.22.25.5 NMAC - Rp, 16.22.25.5 NMAC, 11/15/06]

16.22.25.6 OBJECTIVE: The objective of Part 25 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.25.6 NMAC - Rp, 16.22.25.6 NMAC, 11/15/06]

16.22.25.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.25.8 APPLICATION FOR PRESCRIPTION CERTIFICATE:

A. An applicant for a prescription certificate shall submit a complete application on a form approved by the board. The applicant is responsible to ensure that the application is complete and timely and that all application fees are paid.

B. The application procedure, shall commence no sooner than sixty (60) days and no later than ten (10) days prior to expiration of the conditional prescription certificate, whereby the applicant shall submit a non-refundable fee (see fee schedule at 16.22.13.8 of these regulations) established by the board and shall submit evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed or anticipates successfully completing two (2) years of prescribing psychotropic medication, as certified by the primary supervising physician pursuant to 16.22.24 NMAC of these regulations;

(2) holds an active and unrestricted license to practice psychology in New Mexico;

(3) has malpractice insurance as required in 16.22.24 NMAC, of these regulations; the psychologist shall submit to the board a copy of the declaration page of his malpractice insurance policy with the application.

C. Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information in the application.

[16.22.25.8 NMAC - Rp, 16.22.25.8 NMAC, 11/15/06]

16.22.25.9 PEER REVIEW:

A. Panel membership. The applicant for a prescription certificate shall successfully complete a process of independent peer review that meets the require-

ments set forth below before the board shall issue a prescription certificate.

(1) One or more peer review panel(s) shall be appointed by the chair of the board. Peer review panels shall consist of three (3) members from at least two (2) of the following professions and categories:

(a) conditional prescribing psychologists, prescribing psychologists or licensed psychologists with specialized training and experience in psychopharmacology;

(b) licensed, board-certified psychiatrists, other physicians, nurse practitioners or physician assistants with specialized training and experience in psychopharmacology;

(c) doctoral level licensed pharmacists or pharmacist clinicians with specialized training and experience in psychopharmacology.

(2) A panel member shall not be a member of the applicant's family or household, shall not be in a prohibited dual relationship with the applicant or a member of the applicant's family or household, shall not have supervised the applicant, and shall not have a conflict of interest as defined in 16.22.1 NMAC, of these regulations.

(3) No panel member may be a psychologist enrolled in a psychopharmacology training program.

B. Review process.

(1) A panel shall examine at least ten (10) randomly selected charts of patients treated by the conditional prescribing psychologist during the two-year supervised period and any approved extensions. The applicant shall be solely responsible for obtaining the patient charts for peer review. The charts shall be reviewed to determine whether the following information is timely, accurately, and properly recorded:

(a) a full medical history and family history;

(b) a mental status examination and complete differential diagnosis of the patient by the conditional prescribing psychologist;

(c) risk factors for the diagnostic condition were identified, including absence of drug, alcohol, suicide and homicide;

(d) drug and food allergies;

(e) patient medications;

(f) patient education on prescription, including evidence of informed consent to treatment;

(g) appropriate laboratory tests ordered and reviewed;

(h) the patient's diagnosis;

(i) adequate dosing requirements for prescription;

(j) treatment, including psychopharmacotherapy and psychotherapy, adverse affects from prescriptions, docu-

mentation of outcome measures for prescriptions;

(k) progress notes;

(l) a follow-up plan, including a discharge plan, and

(m) documentation of collaboration with the patient's treating health care practitioner as required pursuant to 16.22.20 NMAC, of these regulations;

(2) The peer review panel shall complete an evaluation form approved by the psychopharmacology application committee, which shall certify whether the charts reviewed are in compliance and are satisfactory, and shall forward the evaluation form to the board.

[16.22.25.9 NMAC - Rp, 16.22.25.8 NMAC, 11/15/06]

16.22.25.10 EVALUATION OUTCOME:

A. Board action. Within sixty (60) days, the board shall issue an unrestricted prescription certificate to the applicant or inform the applicant of deficiencies.

B. Remedial period. If the peer review panel documents deficiencies in the patient charts or the applicant otherwise does not demonstrate competency to prescribe independently, the panel shall specify in writing:

(1) the areas in need of remediation;

(2) the process and procedures by which these areas are to be remediated; and

(3) the time period, not to exceed six (6) months, allowed for remediation of deficiencies or demonstration of competency before the applicant can undergo another peer review.

C. Additional peer review(s).

(1) Another peer review shall be conducted at the end of the remedial period. The applicant may have a total of three (3) peer reviews, after which the applicant shall re-enroll in psychopharmacology program meeting all criteria in 16.22.23.8 NMAC, and apply for another conditional prescription certificate prior to applying for a prescription certificate.

(2) The evaluation or results of any deficient peer review shall be forwarded to the board and the New Mexico medical board. The board, in consultation with the medical board or its designee, shall have the discretion to extend a conditional prescription certificate pursuant to Subsection V of 16.22.24.10 NMAC, pending the outcome of the second or subsequent peer review process.

[16.22.25.10 NMAC - Rp, 16.22.25.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 26 GRADUATES OF THE DEPARTMENT OF DEFENSE PSYCHOPHARMACOLOGY DEMONSTRATION PROJECT

16.22.26.1 ISSUING AGENCY:

Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.26.1 NMAC - Rp, 16.22.26.1 NMAC, 11/15/06]

16.22.26.2 SCOPE:

This part applies to the board, licensees, applicants for licensure seeking licenses under prescriptive authority, and the general public.

[16.22.26.2 NMAC - Rp, 16.22.26.2 NMAC, 11/15/06]

16.22.26.3 STATUTORY AUTHORITY:

This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1 and 61-9-10

[16.22.26.3 NMAC - Rp, 16.22.26.3 NMAC, 11/15/06]

16.22.26.4 DURATION:

Permanent.

[16.22.26.4 NMAC - Rp, 16.22.26.4 NMAC, 11/15/06]

16.22.26.5 EFFECTIVE DATE:

November 15, 2006, unless a later date is cited at the end of the section.

[16.22.26.5 NMAC - Rp, 16.22.26.5 NMAC, 11/15/06]

16.22.26.6 OBJECTIVE:

The objective of Part 26 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.26.6 NMAC - Rp, 16.22.26.6 NMAC, 11/15/06]

16.22.26.7 DEFINITIONS:

[RESERVED]

[Refer 16.22.1.7 NMAC]

16.22.26.8 GRADUATES OF THE DEPARTMENT OF DEFENSE PSYCHOPHARMACOLOGY DEMONSTRATION PROJECT: REQUIREMENTS

A. Conditional prescription certificate. Graduates of the department of defense psychopharmacology demonstration project who have been actively engaged in prescribing psychotrop-

ic medication for at least two (2) of the last five (5) years immediately preceding the date of application may apply for a conditional prescription certificate and shall meet these requirements:

(1) Additional supervision training. The RxP application committee shall make recommendations to the board concerning additional supervision and training that may be required. The board shall review the committee recommendations and determine the additional supervision and training required of the applicant in order to qualify for a prescription certificate.

(2) Supervision plan. The period of supervised practice shall be determined by the board based on the applicant's education, training, and experience and shall not be less than three (3) months or more than two (2) years. The applicant shall submit to the psychopharmacology application committee a supervisory plan as outlined in Subsection H of 16.22.24.10 NMAC, of these regulations. The same requirements set forth in 16.22.24.10 NMAC, shall apply to the supervisory period.

(3) Issuance of prescription certificate. The RxP application committee shall recommend to the board issuance of a prescription certificate to a graduate of the department of defense psychopharmacology demonstration project who qualifies in accordance with these regulations.

B. Prescription certificate. Graduates of the department of defense psychopharmacology demonstration project shall be issued a prescription certificate if they hold an active unrestricted New Mexico license as a psychologist and present to the board evidence that they hold a valid certificate as a department of defense prescribing psychologist.

[16.22.26.8 NMAC - Rp, 16.22.26.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 27 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: FORMULARY

16.22.27.1 ISSUING AGENCY:

Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.27.1 NMAC - Rp, 16.22.27.1 NMAC, 11/15/06]

16.22.27.2 SCOPE:

This part applies to the board, licensees, applicants

for licensure seeking licenses under prescriptive authority, and the general public.
[16.22.27.2 NMAC - Rp, 16.22.27.2 NMAC, 11/15/06]

16.22.27.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.2 and 61-9-3
[16.22.27.3 NMAC - Rp, 16.22.27.3 NMAC, 11/15/06]

16.22.27.4 DURATION: Permanent.
[16.22.27.4 NMAC - Rp, 16.22.27.4 NMAC, 11/15/06]

16.22.27.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.
[16.22.27.5 NMAC - Rp, 16.22.27.5 NMAC, 11/15/06]

16.22.27.6 OBJECTIVE: The objective of Part 27 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
[16.22.27.6 NMAC - Rp, 16.22.27.6 NMAC, 11/15/06]

16.22.27.7 DEFINITIONS: [RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.27.8 FORMULARY:
A. Conditional prescribing or prescribing psychologists shall exercise prescriptive authority using psychotropic medications, as defined in 16.22.1 NMAC, of these regulations, within the recognized scope of practice for the treatment of mental disorders and for which the psychologist has been properly educated and trained.

B. As provided by Section 61-9-17.2, of the act, when prescribing psychotropic medication for a patient, a conditional prescribing psychologist or a psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with a health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed. The collaborative relationship shall be utilized to coordinate the patient's ongoing care, including, determining whether non-psychotropic medications should be prescribed to provide the patient with optimized care. In such cases, all non-psychotropic medications shall be prescribed by the health care practitioner who oversees the patient's general

medical care, or by other health care practitioners involved in the patient's care who are authorized by law to prescribe such medications.

C. Unless specifically agreed to by a primary healthcare practitioner, a conditional prescribing or prescribing psychologist shall not prescribe psychotropic medication to treat patients for the following conditions:

- (1) chronic pain;
- (2) endocrine, cardiovascular, orthopedic, neurological, and gynecological illness or disorders;
- (3) allergies; or
- (4) other non-psychiatric illnesses, disorders, or illnesses causing mental disorders.

D. A conditional prescribing or prescribing psychologist shall be allowed to treat patients psychopharmacologically with the medical conditions in 16.22.27.8 NMAC, if those conditions are under treatment of a health care practitioner licensed in New Mexico.

E. A conditional prescribing or prescribing psychologist shall treat psychopharmacologically only mental disorders listed in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

F. A conditional prescribing psychologist or prescribing psychologist who prescribes outside the scope of practice specified in the act and these regulations is subject to disciplinary action by the board.

[16.22.27.8 NMAC - Rp, 16.22.27.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 28 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: COMPLAINT PROCEDURES

16.22.28.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.

[16.22.28.1 NMAC - Rp, 16.22.28.1 NMAC, 11/15/06]

16.22.28.2 SCOPE: The provisions of Part 28 shall apply to all licensees and applicants for licensure, and the general public.

[16.22.28.2 NMAC - Rp, 16.22.28.2 NMAC, 11/15/06]

16.22.28.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1

[16.22.28.3 NMAC - Rp, 16.22.28.3 NMAC, 11/15/06]

16.22.28.4 DURATION: Permanent.

[16.22.28.4 NMAC - Rp, 16.22.28.4 NMAC, 11/15/06]

16.22.28.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.

[16.22.28.5 NMAC - Rp, 16.22.28.5 NMAC, 11/15/06]

16.22.28.6 OBJECTIVE: The objective of Part 28 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.

[16.22.28.6 NMAC - Rp, 16.22.28.6 NMAC, 11/15/06]

16.22.28.7 DEFINITIONS: [RESERVED]

[Refer to 16.22.1.7 NMAC]

16.22.28.8 COMPLAINT PROCEDURES:

A. Any complaint against a conditional prescribing or prescribing psychologist shall be made according to the complaint procedures described in 16.22.11 NMAC of these board regulations.

B. The board shall notify the New Mexico medical board, the board of osteopathic medical examiners, or the board of nursing in writing upon receipt of any complaint that implicates the collaborative relationship between a conditional prescribing or prescribing psychologist and a physician, an osteopathic physician, a nurse practitioner, or a physician's assistant respectively.

C. A joint board complaint committee shall be appointed to evaluate any complaint arising out of the collaboration between a conditional prescribing or prescribing psychologist and a health care practitioner. The committee shall evaluate compliance with provisions of the collaboration guidelines as set forth in 16.22.20.8 NMAC. If the committee determines that the complaint does not involve the collaboration guidelines, the committee shall return the complaint to the board for appropriate action.

D. A joint board complaint committee will consist of a minimum of the following members, appointed as follows:

(1) one person appointed by the board who has experience in the field of psychopharmacology;

(2) one person appointed by the appropriate board of the health care practitioner having a collaborative relationship with the conditional prescribing or prescribing psychologist; and

(3) a public member appointed by the board.

E. Members of a joint board complaint committee shall not be in a pharmacological training program or seeking a prescription certificate, shall not be seeking licensure as a psychologist, physician, or nurse, and shall be a licensee in good standing in his or her respective profession.

F. Members of a joint board complaint committee shall not participate in any complaint review involving the member's family, household or a conflict of interest as defined in 16.22.1.7 NMAC, of these regulations.

G. The professional members of a joint board complaint committee may include:

(1) a psychologist with specialized training and experience in psychopharmacology;

(2) a licensed physician or osteopathic physician with clinical experience in mental health or psychopharmacology;

(3) a licensed pharmacist or pharmacist clinician with specialized training and experience in psychopharmacology;

(4) a licensed psychologist with a prescription certificate;

(5) a nurse practitioner, or physicians assistant with specialized training and experience in psychopharmacology; or

(6) a licensed psychologist.

H. Upon receipt and review of a complaint, a joint board complaint committee shall attempt an informal resolution of a complaint between a treating health care practitioner and a conditional prescribing or prescribing psychologist, consistent with the collaboration guidelines, in order to optimize patient care.

I. If an informal resolution cannot be achieved, a joint board complaint committee shall report its findings to the board and to the health care practitioner's licensing board. The report shall specify the area of alleged non-compliance with the collaboration guidelines and shall provide recommendations to each board for each board's appropriate action.

[16.22.28.8 NMAC - Rp, 16.22.28.8 NMAC, 11/15/06]

NEW MEXICO BOARD OF PSYCHOLOGIST EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 22 PSYCHOLOGISTS AND PSYCHOLOGIST ASSOCIATES PART 29 CONDITIONAL PRESCRIBING OR PRESCRIBING PSYCHOLOGISTS: CONTINUING PROFESSIONAL EDUCATION AND CERTIFICATE RENEWAL

16.22.29.1 ISSUING AGENCY: Regulation and Licensing Department Board of Psychologist Examiners.
[16.22.29.1 NMAC - Rp, 16.22.29.1 NMAC, 11/15/06]

16.22.29.2 SCOPE: This part applies to the board, conditional prescribing and prescribing psychologists.
[16.22.29.2 NMAC - Rp, 16.22.29.2 NMAC, 11/15/06]

16.22.29.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Professional Psychologist Act, NMSA 1978 Section 61-9-17.1
[16.22.29.3 NMAC - Rp, 16.22.29.3 NMAC, 11/15/06]

16.22.29.4 DURATION: Permanent.
[16.22.29.4 NMAC - Rp, 16.22.29.4 NMAC, 11/15/06]

16.22.29.5 EFFECTIVE DATE: November 15, 2006, unless a later date is cited at the end of the section.
[16.22.29.5 NMAC - Rp, 16.22.29.5 NMAC, 11/15/06]

16.22.29.6 OBJECTIVE: The objective of Part 29 is to set forth the provisions, which apply to all of Chapter 22, and all persons affected or regulated by Chapter 22 of Title 16.
[16.22.29.6 NMAC - Rp, 16.22.29.6 NMAC, 11/15/06]

16.22.29.7 DEFINITIONS: [RESERVED]
[Refer to 16.22.1.7 NMAC]

16.22.29.8 REQUIREMENTS:
A. Conditional prescribing and prescribing psychologists shall complete CPE requirements as specified 16.22.9 NMAC.

B. A conditional prescribing or prescribing psychologist shall complete at least twenty (20) CPE hours in psychopharmacology or psychopharmacotherapy each year. A conditional prescribing or

prescribing psychologist shall maintain a complete, accurate, and current record of additional CPE hours earned annually. This record shall include the date, title, sponsor, and program category of each program attended, the number of hours earned, and a certificate or other evidence of attendance or completion provided by the program sponsor. The record shall be available to the board upon request.

C. Psychopharmacology or psychopharmacotherapy CPE hours may be earned in any program category described in 16.22.9 NMAC, of these regulations. The additional CPE hours earned in categories I and II may be used to fulfill the minimum/maximum number of hours for categories I and II required for license renewal, provided that the minimum/maximum requirements for each category are met as well as the aggregate minimum total number of hours.

[16.22.29.8 NMAC - Rp, 16.22.29.8 NMAC, 11/15/06]

16.22.29.9 CERTIFICATE RENEWAL:

A. Concurrent renewal of certificate and license. The prescription certificate shall be renewed concurrently with the active unrestricted license. The conditional prescribing or prescribing psychologist shall submit the certificate renewal application on forms approved by the board. The conditional prescribing or prescribing psychologist shall provide evidence of malpractice insurance and additional CPE required by the board, and shall pay a certificate renewal fee established by the board.

B. Voluntary surrender. A licensee in good standing may voluntarily surrender a conditional prescription certificate or prescription certificate.

[16.22.29.9 NMAC - Rp, 16.22.29.8 NMAC, 11/15/06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.2.4 NMAC, Section 2, effective 10-31-06.

6.2.4.2 SCOPE: This rule governs the issuance of an alternative license by means of a portfolio assessment through January 31, 2007, which is only available to those individuals who have passed all sections of the current public education department-required New Mexico teacher test. In order to accomplish such a review, the rule creates an alternative licensure review panel.

[12-31-98; 6.2.4.2 NMAC - Rn, 6 NMAC 4.2.2.4.2 & A, 10-13-00; A, 10-14-04; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.60.3 NMAC, Sections 2, and 6 through 11, effective 10-31-06.

6.60.3.2 SCOPE: ~~[A] This rule establishes a path to teacher licensure for persons who have earned at least a baccalaureate degree but have [not completed educator preparation programs and seek alternative routes to] never completed an educator preparation program and seek an alternative route to level 1 teacher licensure in early childhood education, elementary education, middle level education, pre K-12 specialty area education, secondary education, or special education. The procedures in this rule may also be used by teachers employed in New Mexico public schools, charter schools or accredited private schools who hold standard teaching licensure, to obtain additional licensure in early childhood education, elementary education, middle level education, pre k-12 specialty area education, secondary education, or special education at the same level as their existing license or licenses.~~

[07-01-00; 6.60.3.2 NMAC - Rn, 6 NMAC 4.2.2.1.2 & A, 06-14-01; A, 04-29-05; A, 10-31-06]

6.60.3.6 OBJECTIVE: Through this ~~[regulation] rule~~ the New Mexico public education department ~~[(hereinafter the "department")] PED~~ implements a state law that provides alternative routes to New Mexico teacher licensure for persons who hold at least a baccalaureate degree but have not completed a traditional educator preparation program.

[07-01-00; 6.60.3.6 NMAC - Rn, 6 NMAC 4.2.2.1.6, 06-14-01; A, 08-31-04; A, 10-31-06]

6.60.3.7 DEFINITIONS:

A. "Particular field" means the license and/or endorsement area being sought.

B. "Appertains and corresponds to the subject area of instruction and level of instruction" means:

(1) that for early childhood licensure, the degree, including the credit hours, shall be related to early childhood education, birth through grade 3;

(2) that for elementary licensure, the degree, including the credit hours, shall include completed course work in any combination of the subject areas of language arts, mathematics, science, social studies, history, fine or performing arts and foreign language;

(3) that for middle level, secondary, and pre K-12 specialty area licensure the degree, including the credit hours, shall be in the license and/or endorsement area being sought; and,

(4) that for special education licensure, the degree, including the credit hours, shall include completed course work in any combination of the subject areas of language arts, mathematics, science, social studies, history, fine or performing arts and foreign language, or shall be related to special education (such as general elementary or secondary education, special education, psychology, child development, reading education).

C. "A program approved by the ~~[department] PED~~" means that the same program approval standards and procedures used by the ~~[department] PED~~ for approving university preparatory programs shall be applied to alternative programs.

D. "Core academic subjects" means English, language arts, reading, mathematics, science, the arts, including music and visual arts, and social studies, which includes civics, government, economics, history, and geography, and modern and classical languages, except for the modern and classical Native American languages and cultures of New Mexico tribes or pueblos.

E. "A highly qualified, beginning early childhood, elementary, middle level, secondary, pre K-12 specialty area" teacher, under this rule, means a teacher who is fully qualified to teach the core academic subjects, who is new to the profession, who has pursued an alternative route to licensure and who:

(1) meets the requirements for alternative licensure in 6.60.3.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher testing requirements for the level of licensure under 6.60.5.8 NMAC.

F. "A highly qualified beginning middle or junior high school teacher holding alternative elementary K-8 licensure", under this rule, means a teacher who is fully qualified to teach the core academic subjects in a public middle or junior high school, and who is new to the profession and has pursued an alternative route to licensure, and who:

(1) meets the requirements for alternative elementary K-8 licensure in 6.60.3.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher testing requirements for elementary

K-8 licensure in 6.60.5.8 NMAC, and

(4) if the teacher is new to the profession after June 30, 2006, or if the teacher was hired after the first day of school of the 2002-2003 school year and assigned to work in a title I targeted assistance program or a title I school-wide program:

(a) has passed the content knowledge test(s) of the New Mexico teacher assessments or comparable licensure tests from another state in each subject area the teacher teaches, or

(b) has successfully completed an undergraduate academic major or coursework equivalent to an undergraduate major, or a graduate degree, in each core academic subject the teacher teaches.

G. "A highly qualified beginning pre K-12 special education teacher," under this rule, means a teacher who is new to the profession and who has pursued an alternative route to licensure and who is fully qualified to teach special education students by either providing access for those students to a regular education classroom where instruction in the core academic subjects is delivered by a highly qualified regular education teacher, by being fully qualified to teach each core academic subject the special education teacher teaches, or by being fully qualified to teach either language arts or mathematics or science and becoming fully qualified to teach any other core academic subjects which the teacher teaches within two years after the date of initial employment and who:

(1) meets the requirements for pre K-12 special education licensure in Subsections A or B in 6.61.6.8 NMAC, and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason, and

(3) has passed all applicable teacher testing requirements for licensure in 6.60.5.8 NMAC.

H. "A highly qualified teacher candidate for level ~~[#] 1~~ alternative licensure" means a person participating in an alternative route to licensure, who meets all of the following requirements:

(1) has fulfilled the degree requirements set forth in Subsection A of 6.60.3.8 NMAC; and

(2) receives high-quality professional development that is sustained, intensive, and classroom-focused, and includes classroom management and lesson planning for teaching New Mexico's diverse student population, both before and while teaching; and

(3) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; and

(4) assumes duties as a teacher only for a period of time not to exceed three years; and

(5) demonstrates satisfactory progress toward full alternative licensure by completing at least nine semester hours per year in his/her alternative licensure program or successfully demonstrates competency by way of portfolio assessment or by way of local evaluations for two full school years.

I. "Internship license" means a three-year non-renewable certificate or license issued by the [department] PED authorizing a candidate to teach where he/she does not yet meet the requirements for a level [one] 1 alternative license but is satisfactorily participating in an alternative route to licensure under 6.60.3 NMAC.

J. "Undergraduate academic major", under this rule, means thirty (30) semester hours in a subject area.

K. "Full school year", for purposes of this rule, means a minimum of 160 instructional days in a school year or 320 instructional days over multiple school years of full-time or part-time teaching during which the teacher is the teacher of record in at least one class each school year while holding an internship teaching license. Instructional days may include teaching in summer school or similar educational setting.

[07-01-00; 6.60.3.7 NMAC - Rn, 6 NMAC 4.2.2.1.7, 06-14-01; A, 06-30-03; A, 04-29-05; A, 10-31-06]

6.60.3.8 REQUIREMENTS FOR ALTERNATIVE LICENSURE: To receive a level 1, three-year alternative license, an applicant must meet the following requirements:

A. Degree requirements - An applicant for alternative licensure must meet the provisions of Subsection A, Paragraphs (1), (2) or (3).

(1) must possess a bachelor of arts or science degree from a regionally accredited college or university including completion of a minimum of thirty semester hours of graduate or undergraduate credit in a particular field that pertains and corresponds to the subject area of instruction and level of instruction that will enable the applicant to teach in a competent manner as determined by the [department] PED; or

(2) must possess a master of arts or science degree from a regionally accredited college or university including completion of a minimum of twelve graduate credit hours in a particular field that appertains and corresponds to the subject area of instruction and level of instruction that will enable the applicant to teach in a competent manner as determined by the [department] PED; or

(3) must possess a doctor's degree from a regionally accredited college or uni-

versity; the degree shall correspond to the subject area of instruction and particular grade level that will enable the applicant to teach in a competent manner as determined by the [department] PED.

B. Professional teacher education requirements - An applicant for alternative licensure must meet the provisions of Paragraphs (1), (2), or (3) or (4) of this Subsection.

(1) Persons seeking either early childhood B-3, elementary K-8, or special education pre K-12 licensure, must complete various semester hours of credit earned through a regionally accredited college or university that has a [department-approved] PED-approved alternative licensure program containing no less than twelve (12) nor more than twenty-one (21) semester hours of credit and meeting the following criteria:

(a) the credits must include six (6) semester hours of coursework in the teaching of reading; and

(b) the credits must include the [department's] PED competencies for entry level teachers that correspond to the license being sought; and

(c) the credits must be in a program approved by the [department] PED; and

(d) the program must include a student teaching or field-based component.

(2) Persons seeking either middle level 5-9, or secondary 7-12 licensure, must complete various semester hours of credit earned through a regionally accredited college or university that has [department-approved] PED-approved alternative licensure program containing no less than twelve (12) nor more than eighteen (18) semester hours of credit and meeting the following criteria:

(a) the credits must include three (3) semester hours of coursework in the teaching of reading; and

(b) the credits must include the state board's competencies for entry level teachers that correspond to the license being sought; and

(c) the credits must be in a program approved by the [department] PED; and

(d) the program must include a student teaching or field-based component.

(3) ~~[Must successfully demonstrate the departments]~~ Beginning February 1, 2007, successfully demonstrate the PED's approved competencies for entry level teachers that correspond to the license being sought by [way of a portfolio assessment pursuant to 6.2.4 NMAC] presenting for assessment by trained reviewers an internet web-based online portfolio which contains all of the components and fulfills all of the requirements described in Paragraph (3) of Subsection B of 6.60.3.8

NMAC. Such applicants shall also complete the reading courses set forth at Paragraphs (1) or (2) of this Subsection prior to being granted a portfolio review. ~~[Pursuant to 6.2.4 NMAC, under]~~ Under no circumstance shall an individual be granted a portfolio review unless that person has passed all sections of the current ~~[department required New Mexico teacher test]~~ PED required New Mexico teacher licensure tests in 6.60.5 NMAC. Teachers employed in New Mexico public schools, charter schools or accredited private schools who already hold standard teaching licensure at levels 1, 2, or 3-A, may obtain additional licensure in early childhood education, elementary education, middle level education, pre K-12 specialty area education, secondary education, or special education by submitting an alternative licensure portfolio as long as they demonstrate the teaching competencies in 6.69.12 NMAC for the new license at the same level as their existing license or licenses.

(a) The portfolio shall include evidence of teaching competence that is collected from actual teaching experience with pre K to grade 12 students while the candidate is employed or works in a New Mexico public, charter or private school or other early childhood, elementary, middle level or secondary educational setting. The portfolio shall be organized in the following five strands, with strands a, b and c presented together for review:

(i) an instruction strand that demonstrates knowledge of academic content, curriculum development, instructional planning, student assessment and appropriate use of technology and which includes specific evidence of: student achievement; and assessment techniques and procedures; and instructional plans and materials; and examples of student work and performance; and evidence of effective classroom management strategies and procedures; and evidence of implementation of state curriculum standards; and

(ii) a student learning stand that demonstrates knowledge of child or adolescent growth and development, classroom management techniques, communication skills and addressing the needs of diverse student needs and inclusion and which includes specific evidence of: adaptations/modifications for diverse learners; and classroom observation reports; and evidence of communication with students and parents;

(iii) a professional learning strand that demonstrate knowledge of professional growth and development and how the candidate works productively with parents, community and colleagues and which includes specific evidence of: collaboration with professional community; or research undertaken to improve class-

room practice; and

(iv) verification by the superintendent of a public school district or other education employer or supervisor, that the work product in the portfolio is that of the candidate and that the data submitted is reasonable and accurate; and

(v) the recommendation of a public school superintendent or other education employer or supervisor, based on local evaluations that the candidate be granted a level 1 alternative license.

(b) Unless special accommodations are requested in writing to PED 30 days in advance of portfolio submission, the portfolio and associated fees in Subsection E of 6.60.7.8 NMAC shall be submitted electronically through the online portfolio submission system following procedures established by the PED.

(c) The portfolio shall be assessed for authenticity by the superintendent of the candidate's school district or equivalent administrative officer of a school and shall be reviewed for demonstration of entry level teacher competencies two independent reviewers, as follows:

(i) The superintendent or equivalent school administrator shall complete the verification and recommendation strands in items (i) - (v) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC and the independent reviewers will rate the three competency strands in items (i) - (iii) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC as "meets" or "does not meet" the competencies.

(ii) The three competency strands of a candidate's portfolio must be rated as "meets" by the two reviewers and the verification and recommendation strands completed by the superintendent or equivalent administrative officer of a school must indicate verification of portfolio authenticity and recommendation for licensure in order for a candidate to be granted a level 1 license.

(iii) If one of the independent reviewers rates any of the three competency strands as "meets" and the other reviewer rates the same strand as "does not meet," a third reviewer will resolve the discrepancy and determine the rating.

(iv) The director of professional licensure at the PED will evaluate the ratings of the superintendent or equivalent school administrator of a school along with the ratings of the independent reviewers and shall approve or deny the candidate's application for level 1 licensure.

(v) A candidate who does not successfully demonstrate the competencies in all three strands in items (i) - (iii) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC may sub-

mit any failed strand one time as long as the resubmission is completed within one calendar year of the date of the original submission.

(vi) A candidate's employing school or school district must act on strands in items (iv) - (v) of Subparagraph (a) of Paragraph (3) of Subsection B of 6.60.3.8 NMAC within 45 calendar of the date of the portfolio submission or resubmission of any failed strands.

(4) ~~[Must successfully demonstrate the department's]~~ Demonstrate the PED's approved competencies for entry level teachers that correspond to the license being sought by way of evaluations conducted by a local school district over a period of at least two full school years as part of a PED-approved school-based or statewide teacher preparation program that provides the professional development that is required to support a highly qualified teacher candidate for level [F] 1 alternative licensure as defined in this rule. The professional development program shall be developed in collaboration with a college, university, or other professional development providers. Such applicants shall also complete the reading courses set forth at Paragraphs (1) or (2) of this Subsection prior to being recommended for licensure by a local school district. Under no circumstance shall an individual be recommended for licensure by a local school district unless that person has passed all sections of the current ~~[department required]~~ PED-required New Mexico teacher test.

C. Testing requirements: An applicant for alternative licensure must pass all of the New Mexico teacher assessments, including any applicable content knowledge assessment required by 6.60.5 NMAC, prior to receiving level [one] 1 alternative licensure~~[-and]~~.

D. An applicant for alternative licensure must be a highly qualified, beginning early childhood, elementary, middle level, secondary, pre K-12, or special education teacher, or be a highly qualified beginning middle or junior high school teacher holding alternative elementary K-8 licensure.

[07-01-00; 6.60.3.8 NMAC - Rn, 6 NMAC 4.2.2.1.8, 06-14-01; A, 06-01-02; A, 06-30-03; A, 08-31-04; A, 04-29-05; A, 10-31-06]

6.60.3.9 REQUIREMENTS FOR INTERNSHIP LICENSURE

A. A candidate for alternative licensure may be permitted to assume the functions of a teacher prior to completion of licensure requirements and be issued a three-year non-renewable internship license, if he/she is a highly qualified teacher candidate for level [F] 1 alternative licensure, as defined in this rule.

(1) Such a candidate may be issued a three-year non-renewable internship license to allow time to complete the teacher competency testing requirements of 6.60.5.8 NMAC, and the reading coursework requirement set forth in Paragraphs (1) or (2) of Subsection B of 6.60.3.8 NMAC, and to present a portfolio or be evaluated for competency by a local school district.

(2) At the time of internship licensure application, the candidate must:

(a) present proof of registration for the New Mexico teacher assessments at the next available testing date, and

(b) present proof of enrollment in the required coursework for the teaching of reading.

(3) If a candidate for this licensure is not successful in demonstrating competency by way of portfolio assessment or by way of local public school district evaluations, he/she may still proceed by way of the alternative route set forth in this Subsection although the three-year non-renewable license issued under Paragraph (1) of Subsection B of 6.60.3.9 NMAC shall not be extended or renewed in order to provide additional time to complete an alternative licensure program.

B. A candidate enrolled in a ~~[department]~~ PED approved post-baccalaureate teacher preparation program or advanced degree program with a teacher preparation component may be considered to be participating in an alternative route to licensure and be issued internship licenses under Subsection A of 6.60.3.9 NMAC. Upon the completion of approved teacher preparation program requirements, the candidate may be issued a standard level [F] 1 license if, in addition, the candidate meets the requirements for standard licensure within the three-year period allowed to complete an alternative route to licensure.

C. After June 30, 2003, the time that a person provides services under an internship license shall not be counted toward or considered for advancement to level ~~[two or level three]~~ 2 or level 3 licensure.

[07-01-00; 6.60.3.9 NMAC - Rn, 6 NMAC 4.2.2.1.9, 06-14-01; 6.60.3.9 NMAC - N, 06-30-03; A, 08-31-04; A, 04-29-05; A, 10-31-06]

6.60.3.10 REQUIREMENTS FOR STANDARD LICENSURE:

To receive a standard level ~~[two]~~ 2 license, an applicant must meet all of the requirements for licensure advancement to level ~~[two]~~ 2 set forth in Subsection A of 6.60.6.9 NMAC.

[07-01-00; 6.60.3.10 NMAC - Rn, 6 NMAC 4.2.2.1.10, 06-14-01; 6.60.3.10 NMAC - Rn, 6.60.3.9 NMAC, 06-30-03; A, 08-31-

04; A, 04-29-05; A, 10-31-06]

6.60.3.11 SAVINGS CLAUSE:

A. All persons already holding alternative licensure who by June 30, 2000 have satisfactorily completed all requirements for that licensure shall be entitled to a standard license at level 2.

B. All persons for whom an alternative licensure program has already been approved by the ~~[department]~~ PED on or prior to June 30, 2000 but have not yet completed all requirements of that program will be permitted to continue toward licensure in accordance with their approved program.

C. All persons holding valid distinguished scholar licensure who by June 30, 2000 have passed all portions of either the core battery of the national teachers examination or the New Mexico teacher assessments shall be entitled to a ~~[three-year]~~ five-year alternative license. During the ~~[three-year]~~ five-year alternative licensure period, the alternative licensee shall complete all provisions set forth in Subsections B and C of 6.60.3.9 NMAC for standard licensure.

[6.60.3.11 NMAC - Rn, 6.60.3.10 NMAC, 06-30-03; A, 08-31-04; A, 10-31-06]

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

This is an amendment to 6.60.7 NMAC, Section 8, effective 10-31-06.

6.60.7.8 REQUIREMENTS:

A. Beginning July 1, 2006, applicants seeking an initial educator license shall pay by money order or certified check or other form acceptable to the public education department the following fees prior to or at the time of submission of their applications:

(1) all applicants, except those described in Paragraphs (2) or (3) below, shall pay an application fee of \$65.00.

(2) applicants for educational assistant, school health assistant licensure or substitute teacher certification shall pay an application fee of \$25.00.

(3) applicants for athletic coaching licensure who are seeking a coaching license only shall pay a fee of \$25.00.

B. Beginning July 1, 2006, applicants seeking the renewal of an existing educator license through the public education department shall pay by money order or certified check or other form acceptable to the public education department the following fees at the time of submission of their applications:

(1) all applicants, except those

described in Paragraphs (2) or (3) below, shall pay an application fee of \$35.00.

(2) applicants for educational assistant, school health assistant licensure or substitute teacher certification shall pay an application fee of \$25.00.

(3) applicants for athletic coaching licensure who are seeking a coaching license only shall pay a fee of \$25.00.

C. Beginning July 1, 2006, applicants seeking advancement to higher levels of teacher licensure by initial submission of a professional development dossier (PDD) as provided in 6.69.4.11 NMAC shall pay ~~\$185.00~~ by money order, certified check or other payment method acceptable ~~[\$185.00]~~ to the public education department or its contractor at the time of submission of their PDD. Applicants who resubmit previously failed PDD strands shall pay a fee of \$65 for one strand, \$115 for two strands and \$165 for three strands. If submission of the PDD corresponds with the renewal of licensure, the fee for renewal in Subsection B of this section shall be waived.

D. Beginning July 1, 2006, applicants seeking to add an endorsement or endorsements to an existing license shall pay by money order or certified check or other form acceptable to the public education department a fee of \$35.00.

E. Beginning February 1, 2007, applicants seeking a alternative teaching licensure by way of portfolio review in Paragraph (3) of Subsection B of 6.60.3.8 NMAC shall pay upon registration by money order, certified check or other payment method applicable to the public education department or its contractor a ~~\$300.00 fee, \$50.00 of which shall be non-refundable in the event the candidate does not submit a portfolio.~~ Applicants who resubmit previously failed portfolio strands shall pay a fee of \$100.00 per strand.

[6-15-98; 6.60.7.8 NMAC - Rn, 6 NMAC 4.2.4.7.8 & A, 10-13-00; A, 09-30-03; A, 08-31-04; A, 04-29-05; A, 05-31-06; A, 10-31-06]

**NEW MEXICO PUBLIC
EDUCATION
DEPARTMENT**

This is an amendment to 6.60.9 NMAC, Sections 2, 6, 7 and 9 through 12, effective 10-31-06.

6.60.9.2 SCOPE: All licensed personnel. The New Mexico public education department (PED) hereby sets minimal standards of accepted ethical behavior and professional conduct in education that are applicable to all licensed school personnel, instructional personnel under contract,

including any other person who provides instructional ~~[services in a school but who does not hold a standard license and whose presence is authorized by the PED through a waiver, substandard license, substitute license, or an educational plan approved by the PED]~~ or education-related services in a school and who holds any license, certificate or written authority issued by the PED. [6.60.9.2 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

6.60.9.6 OBJECTIVE: The PED seeks to make ethical values and ethical leadership an integral part of the day to day activities of schools, and holds all persons within the scope of this ~~[regulation]~~ rule accountable for adhering to minimal standards of accepted professional conduct and ethical behavior. The PED accepts the recommendations of its professional practices and standards council and the ethics subcommittee that a code of ethics and standards of professional conduct applicable to the education profession will infuse the learning environment with choices and values designed to assist in shaping young minds into educated, responsible citizens. [6.60.9.6 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

6.60.9.7 DEFINITIONS: "Ethical misconduct" means behavior or conduct engaged in by a licensed or certified school employee that violates the minimal standards of accepted ethical behavior and professional conduct listed in the standards of professional conduct section of this rule, or that constitutes the grounds for revoking licensure listed in 6.63.8 NMAC except for failure to meet level 3-A competencies.

[6.60.9.7 NMAC - N, 10-31-06]

6.60.9.9 STANDARDS OF PROFESSIONAL CONDUCT:

A. Preamble

(1) We, licensed New Mexico educators acknowledge that ethical values in our schools cannot exist without ethical leadership. It is our ultimate goal to educate children so that they may become productive citizens; we understand that our guidance and ability to provide choices has a profound effect on reaching this goal. In affording students and each other choices, we agree to consider the consequence of each choice, the moral value best exemplified by the recommended choice, and our position on the choice if it were applied to us. These principles apply equally to all licensed educators in all schools except where they are uniquely applicable to public schools or where they conflict with principles of religious freedom.

(2) Moral values are to ethical leadership what years of experience are to a

successful educator. The former sets the stage for success of the latter. Abstract principles that espouse excellence do not easily equate into simple behavioral maxims. We are certain that some foundational concepts can be embraced because they truly celebrate desirable moral values. These concepts are: respect for one's self and others, honesty and openness, the delicate balance between absolute freedom and safety, the equally delicate balance between confidentiality and the right to know, equality of opportunity, fairness to all, and personal integrity.

(3) In the final analysis it is our consistent ethical leadership that wins the most allies and produces the best results. Not only does this code highlight our professional responsibilities, but also it stimulates us to discuss the professional implications of our ethical choices and ethical recommendations, causes us to assess and reassess our application of moral values, and sets forth concrete behaviors appropriate for education professionals. We are committed to this code and understand that it provides minimally accepted standards of professional conduct in education.

B. Standard I: Duty to the student. We endeavor to stimulate students to think and to learn while at the same time we seek to protect them from any harm. Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but also by consistent and justifiable personal example. To satisfy this obligation, we:

(1) shall, in compliance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g, 34 C.F.R. Part 99), the Individuals with Disabilities Education Act (20 U.S.C. Section 1401 *et seq.*, 34 C.F.R. Part 300), the Mental Health and Developmental Disabilities Code (Section 43-1-19, NMSA 1978), the Inspection of Public Records Act (Section 14-2-1 *et seq.*, NMSA 1978), the Public School Code (Section 22-1-8, NMSA 1978), and the Children's Code (Sections 32A-2-32, 32A-4-3, NMSA 1978), withhold confidential student records or information about a student or his/her personal and family life unless release of information is allowed, permitted by the student's parent(s)/legal guardian, or required by law;

(2) shall not discriminate or permit students within our control, supervision or responsibility to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

(3) shall avoid using our positions as licensed school employees to exploit or unduly influence a student into engaging in an illegal act, immoral act, or any other

behavior that would subject a licensed school employee or student to discipline for misconduct whether or not the student actually engages in the behavior;

(4) shall tutor students only in accordance with local board policies, if any, only after written permission from the student's parent(s)/legal guardian, and only at a place or time approved by the local school and/or the student's parent(s)/legal guardian;

(5) shall not give a gift to any one student unless all students situated similarly receive or are offered gifts of equal value for the same reason;

(6) shall not lend a student money except in clear and occasional circumstances, such as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance;

(7) shall not have inappropriate contact with any student, whether or not on school property, which includes but is not limited to:

(a) all forms of sexual touching, sexual relations or romantic relations;

(b) inappropriate touching which is any physical touching, embracing, petting, hand-holding, or kissing that is unwelcome by the student or is otherwise inappropriate given the age, sex and maturity of the student;

(c) any open displays of affection toward mostly-boys or mostly-girls; and

(d) offering or giving a ride to a student unless absolutely unavoidable, such as where a student has missed his/her usual transportation and is unable to make reasonable substitute arrangements;

(8) shall not interfere with a student's right to a public education by sexually harassing a student or permitting students within our control, supervision or responsibility to sexually harass any other student, which prohibited behavior includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, any name calling by means of sexual references or references directed at gender-specific students, any other verbal or physical conduct of a physical nature with a student even where the licensed educator believes the student consents or the student actually initiates the activity, and any display/distribution of sexually oriented materials where students can see them; and

(b) creating an intimidating, hostile or offensive work/school environment by at a minimum engaging in any of the prohibited behaviors set forth at Paragraph (7) or Subparagraph (a) of Paragraph (8), Subsection B of 6.60.9.9 NMAC, above.

C. Standard II: Duty to the profession. The education profession has been vested by the public with an awesome

trust and responsibility. To live up to that lofty expectation, we must continually engender public confidence in the integrity of our profession, and must strive consistently in educating the children of New Mexico, all of whom will one-day shape the future. To satisfy this obligation, we:

(1) shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure;

(2) shall not orally or in writing misrepresent our professional qualifications;

(3) shall not assist persons into educational employment whom we know to be unqualified in respect to their character, education, or employment history;

(4) shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education;

(5) shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school;

(6) shall not disclose personal, medical, or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law;

(7) shall not knowingly make false or derogatory personal comments about an educational colleague, although first amendment protected comments on or off campus are not prohibited;

(8) shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100 [~~and which compromises the integrity of the licensed educator~~], excluding approved educational awards, honoraria, plaques, trophies, and prizes;

(9) shall avoid conduct connected with official duties that is unfair, improper, illegal or gives the appearance of being improper or illegal;

(10) shall not sexually harass any school employee, any school visitor or anyone else we might encounter in the course of our official duties, which includes:

(a) making any sexual advances, requests for sexual favors, repeated sexual references, and name calling by means of sexual references or references directed at any gender-specific individuals named above;

(b) making any other verbal gesture or physical conduct with any of the above-named individuals even where the licensed educator believes they consent or they actually initiate the activity;

(c) displaying or distributing any sexually oriented materials where the above-named individuals can see them; and

(d) creating an intimidating, hostile, or offensive work/school environment by engaging in any of the prohibited behaviors set forth at Subparagraphs (a), (b) or (c), Paragraph (10), Subsection C of 6.60.9.9 NMAC, above;

(11) shall educate oneself at least annually about avoiding sexual harassment by either attending periodic training, reviewing sexual harassment literature or the EEOC guidelines found at Title 29 Code of Federal Regulations Part 1604 (29 C.F.R. Section 1604.1 *et seq.*), or contacting appropriate school human resources personnel;

(12) shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus;

(13) shall not without permission of a supervisor use public school property to conduct personal business or our personal affairs;

(14) shall use educational facilities and property only for educational purposes and purposes for which they are intended consistent with applicable policy, law and regulation;

(15) shall not discriminate against any school employee, or any other person with whom we have any dealings or contact in the course of our official duties, on the basis of race, color, national origin, ethnicity, sex, sexual orientation, disability, religion, or serious medical condition;

(16) shall not engage in any outside employment:

(a) the performance of which conflicts with our public school duties, such as where a licensed educator takes a private job that would require performance in the very school district where he/she is employed;

(b) where we use confidential/privileged information obtained from our public school employment as part or all of our private employment duties; and

(c) that impairs our physical ability to perform our school duties;

(17) shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document:

(a) in connection with our official school duties;

(b) in connection with another licensed person's official school duties;

(c) in connection with any standardized or non-standardized testing;

(d) in connection with any school application or disclosure process; and

(e) in connection with any writing submitted to the public education department related to our initial or continued licensure, including endorsements;

(18) shall not in connection with any state board-approved teacher test know-

ingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering;

(19) shall not engage in any conduct or make any statement:

(a) that would breach the security of any standardized or non-standardized tests;

(b) that would ignore administering portions or the entirety of any standardized or non-standardized testing instructions;

(c) that would give students an unfair advantage in taking a standardized or non-standardized test;

(d) that would give a particular school or a particular classroom an unfair advantage in taking a standardized or non-standardized test; and

(e) that would assist students in obtaining services or benefits for which they do not qualify or are not entitled; ~~and~~

(20) shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to disturb the peace;

(21) shall not hold, or continue to hold, employment for which educator licensure or certification is required when the individual knew, should have known or is informed by the PED, that the individual does not hold the required credentials; and

(22) shall not use school information technology equipment, hardware, software or internet access to view, download, display, store or print pornographic images or advertisements, nude images, or sexually explicit depictions or language;

(23) shall not engage in unprofessional conduct, which conduct shall include but not be limited to the following:

(a) striking, assaulting or restraining a student for no valid reason;

(b) using any written or spoken words in public schools or at school events that are inflammatory, derogatory or otherwise demonstrate a bias against a person or group, on the basis of their race, religion, culture, ethnicity, sexual preference, sexuality or physical disability;

(c) bringing firearms onto school property or possessing them on school property, except with proper authorization;

(d) possessing or consuming alcohol beverages at school;

(e) possessing or using illegal drugs;

(f) being under the influence of alcohol or illegal drugs at school;

(g) actively obstructing an investigation into the possible unethical or illegal conduct of a school employee; and

(h) engaging in favoritism or

preferential treatment toward any school employee or applicant in regards to that individual's hiring, discipline, terms of employment, working conditions or work performance due to that individual's familial relationship with the licensee;

(24) shall report any knowledge of inappropriate contact, as provided by Paragraph (7) of Subsection B of 6.60.9.9 NMAC with a student or other school employee to the local school authority within 30 days of obtaining such knowledge.

[6.60.9.9 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

6.60.9.10 FAILURE TO COMPLY WITH THIS CODE:

The PED finds that adherence to this code of ethical responsibility has a significant bearing on licensed personnel's competence, turpitude or the proper performance of their duties.

~~[It makes the same finding for any other person providing instructional services in a school who does not hold a standard license but whose presence is authorized by the PED through a waiver, standard license, substitute license, or an educational plan approved by the PED.]~~

It makes the same finding for any other person providing instructional or education-related services in a school who holds any license, certificate or written authority issued by the instructional or education-related services in a school who hold any license, certificate or written authority issued by the PED.

Both the code of ethics and standards of professional conduct are intended to provide a valuable framework of personal ethics to assist educators and administrators in their interaction with colleagues, students and parents. However, the standards of professional conduct establish minimal standards of acceptable professional conduct with which all educators and administrators are required to comply. Therefore, the PED through the ~~[professional licensure bureau ("licensure bureau") may revoke or suspend the licensure]~~ educator ethics bureau may

revoke, suspend or take other appropriate action against any educator license of any person, or may deny applications for initial licensure or continuing licensure to any person, who is within the scope of this ~~[regulation]~~ rule, and who after hearing, is found to have ~~[failed]~~ engaged in ethical misconduct, by failing to comply with one or more of the enumerated provisions of the standards of professional conduct set forth in 6.60.9.9 NMAC, above, exclusive of the preamble.

All hearings and attendant notices shall be conducted and served pursuant to ~~[either 6 NMAC 4.2.4.4 or 6 NMAC 4.2.4.5]~~ the Uniform Licensing Act 61-1-1 through 61-1-31, NMSA 1978 and either 6.68.2 NMAC or 6.68.3 NMAC.

[6.60.9.10 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

6.60.9.11 DISSEMINATION OF THIS CODE: The [~~licensure bureau~~] PED shall adopt measures to ensure that this code of ethical responsibility receives the widest possible dissemination to all persons falling within its scope. Such measures include but are not limited to:

A. providing information about the code of ethical responsibility directly through the [~~licensure bureau's~~] PED and the PED's application process;

B. providing information about the code of ethical responsibility to all school districts, charter schools, and non-public schools accredited by the PED;

C. notifying any school district, charter school or private school accredited by the PED of the decision and order of the PED after the PED has taken final licensure action against one of [~~their~~] that school's PED licensed employees based in whole or in part on a failure to comply with the standards of professional conduct;

D. any other reasonable measure that is calculated to result in the widest dissemination of the PED's [~~code of ethics~~] code of ethical responsibility and notification of the consequences of failure to comply with the standards of professional conduct.

[6.60.9.11 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

6.60.9.12 REPORTING REQUIREMENT: It is the duty of each school superintendent or charter school administrator to provide prompt written notification to the director of the [~~Licensure~~] educator ethics bureau after taking final action to discharge or terminate the employment, based in whole or in part on a violation of the standards of professional conduct in this rule, of any certified or licensed school employee, or any other person providing instructional or education-related services in a school [~~who does not hold a standard license but whose presence was authorized by the PED through a waiver, substandard license, substitute license, or an educational plan approved by the PED] under written authority of the PED.~~

[6.60.9.12 NMAC - N, 04-30-01; A, 10-17-05; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.64.10 NMAC, Sections 6 and 8, effective 10-31-06.

6.64.10.6 OBJECTIVE: This public education department (PED) rule establishes entry-level bilingual education competencies that are based on what begin-

ning bilingual education teachers must know and be able to do to provide effective bilingual programs in New Mexico schools. The competencies were developed to ensure alignment with the New Mexico's content standards and benchmarks and with the national standards of the national association for bilingual education and must be used by New Mexico institutions of higher education to establish bilingual education preparatory programs.

[6.64.10.6 NMAC - N, 09-29-00; A, 05-31-06; A, 10-31-06]

6.64.10.8 CORE LICENSURE REQUIREMENTS:

A. Except as provided in Subsections C or D of 6.64.10.8 NMAC, teachers seeking to add an endorsement in bilingual education to an initial level 1 New Mexico teaching license must meet all of the requirements of the license provided in PED rule for that license, which includes, among other requirements, completing 24-36 semester hours in bilingual education and passage of the bilingual education licensure exam as required in 6.60.5 NMAC.

B. Teachers seeking to add an endorsement in bilingual education to an existing New Mexico teaching license of any level shall meet one of the following requirements:

(1) pass the bilingual education licensure exam as required in 6.60.5 NMAC or predecessor New Mexico teacher licensure examination or accepted comparable licensure test(s) from another state in bilingual education and complete at least 12 semester hours in the teaching of bilingual education that address the competencies in Subsections C-F in 6.64.10.9 NMAC, or

~~[(2) complete 24-36 semester hours in bilingual education or a graduate degree in bilingual education; or]~~

~~[(3) (2) obtain certification in bilingual education for the appropriate grade level of New Mexico licensure from the national board for professional teaching standards.~~

C. Persons who are "highly qualified" in the core academic subjects that they teach and who are enrolled in a public education (PED) approved bilingual education licensure or endorsement program or similar program in another state, whether as part of a teacher preparation program or in a licensure endorsement program only, may be issued a three-year non-renewable internship license in bilingual education under 6.60.3.9 NMAC if they have passed the required bilingual education licensure examination in 6.60.5 NMAC. Persons who have passed the required bilingual education licensure examination in 6.60.5 NMAC shall be required to complete

at least 12 semester hours in the teaching of bilingual education that address the competencies in [~~Subparagraphs~~] Subsections C-F in 6.64.10.9 NMAC.

D. Persons who hold a licensure endorsement in teaching English as a second language (TESOL) on an existing New Mexico teaching license may add an endorsement in bilingual education by passing the required bilingual education licensure examination in 6.60.5 NMAC and completing at least 6 semester hours in the teaching of bilingual education that address the competencies in Subsections C-F in 6.64.10.9 NMAC.

[6.64.10.8 NMAC - N, 09-29-00; A, 05-31-06; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.66.2 NMAC, Sections 1 through 3 and 6 through 8 effective 10-31-06. The part name is also amended.

PART 2 [~~CERTIFIED (LICENSED)] LICENSED SCHOOL INSTRUCTOR CONTRACT~~

6.66.2.1 ISSUING AGENCY: [~~State Board of Education~~] Public Education Department

[09-30-97, 07-30-99; 6.66.2.1 NMAC - Rn, 6 NMAC 4.3.1.1, 12-29-00; A, 10-31-06]

6.66.2.2 SCOPE: This [~~regulation~~] rule applies to local school boards, charter schools, governing authorities of state agencies and [~~certified (licensed)] licensed school instructors.~~

[09-30-97; 6.66.2.2 NMAC - Rn, 6 NMAC 4.3.1.2, 12-29-00; A, 10-31-06]

6.66.2.3 STATUTORY AUTHORITY: This [~~regulation~~] rule is adopted pursuant to Sections 22-2-1 and [~~22-10-11~~] 22-10A-21, NMSA 1978.

[09-30-97; 6.66.2.3 NMAC - Rn, 6 NMAC 4.3.1.3, 12-29-00; A, 10-31-06]

6.66.2.6 OBJECTIVE: To provide local school boards, charter schools, and governing authorities of state agencies with a form employment contract approved by the [~~state board of education for certified (licensed)] department for licensed school instructors in accordance with the requirements of Section [~~22-10-11~~] 22-10A-21, supra.~~

[09-30-97; 6.66.2.6 NMAC - Rn, 6 NMAC 4.3.1.6, 12-29-00; A, 10-31-06]

6.66.2.7 DEFINITIONS:

A. "Department" means the public education department (PED).

B. "Local school board" or "board" means the governing body of a school district or charter school.

C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes. [09-30-97; 6.66.2.7 NMAC - Rn, 6 NMAC 4.3.1.7, 12-29-00; A, 10-31-06]

6.66.2.8 REQUIREMENTS:

The board of education of _____, New Mexico, herein called _____ board, and _____ herein called instructor, agree:

A. The board employs the instructor for the school year(s) _____ beginning _____, _____, and ending on the date specified by the board in its calendar for the _____ - _____ school year, subject to adjustment for required makeup days.

B. The instructor shall present himself or herself for duty at such times and places as designated by the superintendent or his (her) authorized personnel.

C. In accordance with the board's approved salary schedule, for use during the school year _____ - _____, the instructor's salary based upon the following factors: _____ degree, _____ additional approved semester hours, and _____ years of allowable experience is \$ _____, plus special increment(s) of \$ _____, less required or authorized deductions. All of the above are subject to verification and, in the event of any error or incorrect computation, appropriate adjustment of this contract will be made after consultation with the instructor. The contract salary for the school year _____ - _____, shall be paid the instructor in _____ installments. The first installment shall be due and payable on _____, _____ The contract salary for the school year _____ - _____ is based upon a school year of: _____ teaching days plus _____ non-teaching days for a total of _____ working days and subject to the approved budget. For each day's absence from duty not included in sick leave or otherwise compensated for, deductions shall be made in accordance with the rules and regulations of the board. In the event that the instructor is employed on a two (2) or three (3) year contract, Subsection C. of Section 6.66.2.8 NMAC herein may be amended in the second and/or third year(s) to reflect any appropriate district salary adjustment factors. The

board may, but shall not be required to, increase prospectively, but not retroactively, the salary for any school year governed by the terms of this contract if revenues are available to the school district for that school year. Any increase is subject to budgetary approval by the [state department of public education] department. Notwithstanding the above, the board shall further have the authority, for any school year governed by the terms of this contract and for which a salary increase is mandated if the school district meets conditions as specified by the legislature of New Mexico, to implement salary adjustments during the school year in accordance with a salary schedule adopted by the board in accordance with the legislative guidelines for that year. Any adjustment is subject to budgetary approval by the [state department of public education] department.

D. This contract and the parties hereto are and shall continue to be subject to applicable laws of the state of New Mexico and the rules and regulations of the [state and local boards] department and local board of education as they may exist. This contract may be cancelled by the board for cause, including unsatisfactory work performance, [incompetency] incompetence, insubordination, physical or mental inability to perform the required duties or for any other good and just cause, provided, that any such cancellation may be effected only in accordance with the New Mexico statutes and any applicable rules and regulations of the [state and local boards] department and local board of education.

E. This contract may also be cancelled by the board for cause not personal to the instructor when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government for the performance of this contract, in accordance with the New Mexico statutes and any applicable rules and regulations of the [state and local boards] department and local board of education, provided there is no other position for which the instructor is qualified, consistent with the academic necessities of the district.

F. The instructor [will] shall give the board thirty (30) calendar days written notice of intention to resign. Failure to give such thirty (30) calendar day notice shall entitle the board, in its discretion, to file a written complaint with the [state board of education] secretary requesting suspension or revocation of the instructor's license.

G. The instructor shall furnish the board the following: (a) a [proper] valid license for the position to be held; (b)

an official transcript showing the education record and training of the instructor, (c) suitable evidence of date of birth; (d) such health certificates as may be required by law; and (e) any other documents as may be required by law. Failure to furnish any of the foregoing items at the required time may result in cancellation of this contract in accordance with the New Mexico statutes and any applicable rules and regulations of the [state and local boards] department and local board of education.

H. The instructor shall accept or reject the contract of offer of employment within fifteen (15) calendar days from receipt of such offer of employment.

I. BOARD OF EDUCATION OF

New Mexico
By: President _____
Secretary _____ Date
of Execution _____ Instructor

Date of Execution _____
[09-30-97, 05-30-98; 6.66.2.8 NMAC - Rn, 6 NMAC 4.3.1.8, 12-29-00; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.66.3 NMAC, Sections 1 through 3, and 6 through 8, effective 10-31-06. The part name was also changed.

PART 3 [CERTIFIED (LICENSED)] LICENSED SCHOOL ADMINISTRATOR CONTRACT

6.66.3.1 ISSUING AGENCY: [State Board of Education] Public Education Department [09-30-97, 07-30-99; 6.66.3.1 NMAC - Rn, 6 NMAC 4.3.2.1, 12-29-00; A, 10-31-06]

6.66.3.2 SCOPE: This [regulation] rule applies to local school boards, charter schools, and [certified (licensed)] licensed school administrators. [09-30-97; 6.66.3.2 NMAC - Rn, 6 NMAC 4.3.2.2, 12-29-00; A, 10-31-06]

6.66.3.3 STATUTORY AUTHORITY: This [regulation] rule is adopted pursuant to Sections 22-2-1 and [22-10-11], 22-10A-21 NMSA 1978. [09-30-97; 6.66.3.3 NMAC - Rn, 6 NMAC 4.3.2.3, 12-29-00; A, 10-31-06]

6.66.3.6 OBJECTIVE: To provide local school boards and charter schools with a form employment contract approved by the [state board of education for certified

~~(licensed)~~ public education department for certified school administrators in accordance with the requirements of Section ~~22-10-11~~ 22-10A-21, supra.

[09-30-97; 6.66.3.6 NMAC - Rn, 6 NMAC 4.3.2.6, 12-29-00; A, 10-31-06]

6.66.3.7 DEFINITIONS:

A. "Department" means the public education department (PED).

B. "Local school board" or "board" means the governing body of a school district or charter school.

C. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

[09-30-97; 6.66.3.7 NMAC - Rn, 6 NMAC 4.3.2.7, 12-29-00; A, 10-31-06]

6.66.3.8 REQUIREMENTS:

A. All administrator contracts shall be uniform and shall substantially conform to the model set forth below, with proper names being inserted where generic description are currently found. As used herein, "substantially conform" means that all administrative contracts shall at a minimum contain the following caption, terms, and signatories, and be subject to appropriate editing and word insertion in place of the blanks:

(1) (caption) The board of education of

_____, New Mexico, herein called board, and _____, herein called administrator, agree:

(2) (term) The administrator shall be employed by the board for a period beginning _____, _____, and _____ ending _____, _____, _____, _____ as _____ of the school district, county of _____, New Mexico.

(3) (term) The administrator shall during the term of his (her) employment faithfully perform the duties pertaining to his (her) position, administer the duties assigned by the superintendent of the school district, and abide by the rules and regulations of the ~~[state and local boards]~~ department and local board of education.

(4) (term) This contract and the parties hereto are and shall continue to be subject to applicable laws of the state of New Mexico and the rules and regulations of the ~~[state and local boards]~~ department and local board of education as they may exist. This contract may be canceled by the board for cause, including unsatisfactory work performance, ~~[incompetency]~~ incom-

petence, insubordination, physical or mental inability to perform the required duties or for any other good and just cause, provided, that any such cancellation may be effected only in accordance with the New Mexico statutes and any applicable rules and regulations of the ~~[state and local boards]~~ department and local board of education.

(5) (term) This contract may also be canceled by the board for cause not personal to the administrator when a reduction in personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government for the performance of this contract, in accordance with the New Mexico statutes and any applicable rules and regulations of the ~~[state and local boards]~~ department and local board of education, provided there is no other position for which the administrator is qualified, consistent with the academic necessities of the district.

(6) (term) The administrator ~~[will]~~ shall give the board thirty (30) calendar days written notice of intention to resign. Failure to give such thirty (30) calendar day notice shall entitle the board, in its discretion, to file a written complaint with the ~~[state board of education]~~ secretary requesting suspension or revocation of the administrator's license.

(7) (term) The administrator shall furnish the board the following: (a) a ~~[proper]~~ valid license for the position to be held; (b) an official transcript showing the education record and training of the administrator, (c) suitable evidence of date of birth; (d) such health certificates as may be required by law; and (e) any other documents as may be required by law. Failure to furnish any of the foregoing items at the required time may result in cancellation of this contract in accordance with the New Mexico statutes and any applicable rules and regulations of the ~~[state and local boards]~~ department and local board of education.

(8) (term) The administrator shall be entitled to _____ working days per year as annual leave with pay. Unused annual leave may be accumulated to a total of not more than _____ working days, but upon cancellation of this contract, no payment shall be made for more than _____ days of unused annual leave. The administrator shall be entitled to sick leave with pay for a total of not more than _____ working days per year. Unused sick leave may be accumulated to a total of not more than _____ working days.

(9) (term) Subject to the provisions of the applicable approved budget, the administrator shall, during the term hereof, receive a salary of \$ _____ per year, payable in _____ installments, less required or authorized deductions. The first installment shall be due and payable on _____.

(10) (term) In the event that the administrator is employed on a two (2) year contract, Paragraph 9 of Subsection A of Section 6.66.3.8 NMAC herein may be amended in the second year to reflect any appropriate district salary adjustment factors. The board may, but shall not be required to, increase prospectively, but not retroactively, the salary for any school year governed by the terms of this contract if revenues are available to the school district for that school year. Any increase is subject to budgetary approval by the ~~[state department of public education]~~ department. Notwithstanding the above, the board shall further have the authority, for any school year governed by the terms of this contract and for which a salary increase is mandated if the school district meets conditions as specified by the legislature of New Mexico, to implement salary adjustments during the school year in accordance with a salary schedule adopted by the board in accordance with the legislative guidelines for that year. Any adjustment is subject to budgetary approval by the ~~[state department of public education]~~ department. Additionally, the board shall have authority to implement any salary increases or other adjustments to benefits and compensation provided by the legislature of New Mexico.

(11) (signatories) BOARD OF EDUCATION OF _____ New Mexico BY: _____ President
_____ Date of _____ of Execution
_____ Secretary
Date of Execution _____ Administrator _____ Date of Execution _____.

B. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that permits the payment of monies, dividends, differentials, bonuses, incentives, salary, wages, or renewal inducements where the payment is neither tied nor traceable to services actually rendered.

C. No administrator contract, including any amendment or addendum, shall be signed, entered into, or executed that has not first been properly noticed and voted on openly at a public meeting held pursuant to the Open Meetings Act (10-15-1 to 10-15-4, NMSA 1978).

D. Compliance with this section shall be subject to periodic review by the ~~[state department of education]~~ department.

E. The ~~[SDE]~~ department may take such action it deems necessary depend-

ing on the degree of noncompliance with this rule, including but not limited to ~~bringing the matter to the state board~~, notifying the state auditor or other appropriate authorities, directing the district to cease and desist, directing the district to collect any improperly spent public funds, or imposing a budgetary codicil. [09-30-97, 05-30-98; 6.66.3.8 NMAC - Rn, 6 NMAC 4.3.2.8, 12-29-00; A, 08-15-03; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.66.4 NMAC, Sections 1 through 3, 6, 8, and 9, effective 10-31-06.

6.66.4.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department

[12-31-98, 07-30-99; 6.66.4.1 NMAC - Rn, 6 NMAC 4.3.3.1, 12-29-00; A, 10-31-06]

6.66.4.2 SCOPE: This ~~regulation~~ rule applies to local school boards, governing authorities of charter schools and state agencies, and ~~certified (licensed)~~ licensed school employees.

[12-31-98; 6.66.4.2 NMAC - Rn, 6 NMAC 4.3.3.2, 12-29-00; A, 10-31-06]

6.66.4.3 STATUTORY AUTHORITY: This ~~regulation~~ rule is adopted pursuant to Sections 22-2-1, ~~[22-10-11, 22-10-24, 22-10-25, and 22-10-26]~~ 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978.

[12-31-98; 6.66.4.3 NMAC - Rn, 6 NMAC 4.3.3.3, 12-29-00; A, 10-31-06]

6.66.4.6 OBJECTIVE: To provide local school boards and governing authorities of state agencies with requirements for sabbatical leave and form sabbatical leave contracts in accordance with the requirements of Sections ~~[22-10-11, 22-10-24, 22-10-25, and 22-10-26]~~ 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978.

[12-31-98; 6.66.4.6 NMAC - Rn, 6 NMAC 4.3.3.6, 12-29-00; A, 10-31-06]

6.66.4.8 REQUIREMENTS: Boards of education contemplating granting sabbatical leave to teachers shall submit the following information to the ~~[state department of public education]~~ PED:

A. Degree plan of employee or travel itinerary plus a narrative statement by the local superintendent explaining how this experience will benefit the school district and how it is related to the appli-

cant's position with the school district.

B. Salary of employee on sabbatical leave.

C. Name and salary of replacement for teacher on sabbatical leave.

D. Verification of employee having completed at least six years of continuous service in a certified capacity with the school district.

E. A copy of the contractual agreement between the school district and the employee guaranteeing all requirements of Sections ~~[22-10-23 through 22-10-26,]~~ 22-10A-21, 21-10A-35, 22-10A-36, and 22-10A-37, NMSA 1978, shall be met.

F. No leave may be approved by a school district until approval of the proposal has been granted by the ~~[state superintendent of public instruction]~~ secretary of education.

[12-31-98; 6.66.4.8 NMAC - Rn, 6 NMAC 4.3.3.8, 12-29-00; A, 10-31-06]

6.66.4.9 S A B B A T I C A L LEAVE CONTRACT:

A. The board of education o _____ f

_____, New Mexico, hereinafter referred to as _____ board, and _____

_____, certified (licensed) employee, herein referred to as employee, agree:

(1) Employee desires to take a sabbatical leave for the purposes of study or travel related to employee's duties. The program of study or travel proposed by employee, a copy of which is attached as exhibit I, has been reviewed and approved by the board.

(2) The board desires that employee be granted the sabbatical leave because the employee's sabbatical leave program has been shown to be related to the employee's duties and to be of direct benefit to the school district. A copy of the statement of the superintendent of the _____ school district explaining how the employee's program is related to employee's duties and how it will directly benefit the school district is attached as exhibit II.

(3) The term of this contract shall be from _____, _____ to _____, _____.

(4) The parties certify that the employee has completed _____ years of continuous service in a certified capacity as an employee of the _____ school district.

(5) Employee agrees that upon completion of the sabbatical leave period herein provided, employee will return to (his) (her) duties with the _____ school district for two (2) years following the leave. If employee

fails to fulfill this requirement, employee agrees to repay in full to the school district the salary received during the period of leave, such repayment being liquidated damages for breach of the contract.

(6) Upon return to the school system on completion of the sabbatical leave period, employee will be placed in an equivalent or better position by the board.

(7) The board will treat the sabbatical leave period as part of the employee's length of service in the computation of future length of service increments, if the board provides for such increments in its salary schedule.

(8) During the period of leave the employee may continue participation in the education retirement plan by making appropriate contributions as agreed by the board and the educational retirement board.

(9) The board agrees to pay the employee an amount equal to _____ per cent of employee's regular salary, said payment to be made in the following manner: [Use one of the following:]

(a) one-half (1/2) to be paid at the end of the first year after return and one-half (1/2) at the end of the second year after return; OR

(b) during the term of the leave upon the furnishing of security satisfactory to the board assuring the employee's remaining in the system for two (2) years after the leave or repayment to the school district of the salary received during the period of leave.

B. This contract must be approved by the ~~[state superintendent of public instruction]~~ secretary of education or (his) (her) designee before it becomes binding on either of the parties. BOARD OF EDUCATION OF _____

BY: _____ President
_____ Date of Execution
_____ Secretary
_____ Date of Execution
_____ Employee

Date of Execution _____
APPROVED BY: ~~[STATE SUPERINTENDENT OF PUBLIC INSTRUCTION]~~ SECRETARY OF EDUCATION

_____ Date

[12-31-98; 6.66.4.9 NMAC - Rn, 6 NMAC 4.3.3.9, 12-29-00; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.67.2 NMAC, Sections 1 through 3, and 6 through 9, effective 10-31-06.

6.67.2.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[12-31-98, 07-30-99; 6.67.2.1 NMAC - Rn, 6 NMAC 4.4.1.1, 12-29-00; A, 10-31-06]

6.67.2.2 SCOPE: This ~~[regulation]~~ rule applies to local school boards, governing bodies of charter schools, and governing authorities of state agencies and licensed school instructors.
[12-31-98; 6.67.2.2 NMAC - Rn, 6 NMAC 4.4.1.2, 12-29-00; A, 10-31-06]

6.67.2.3 STATUTORY AUTHORITY: This ~~[regulation]~~ rule is adopted pursuant to Sections 22-2-1 ~~[and]~~ 22-2-2, 22-5-14, 22-10A-22, and 22-10A-23 NMSA 1978.
[12-31-98; 6.67.2.3 NMAC - Rn, 6 NMAC 4.4.1.3, 12-29-00; A, 10-31-06]

6.67.2.6 OBJECTIVE: This ~~[regulation]~~ rule establishes requirements for providing written notice of reemployment or termination to licensed school instructors employed by local school districts or state agencies.
[12-31-98; 6.67.2.6 NMAC - Rn, 6 NMAC 4.4.1.6, 12-29-00; A, 10-31-2006]

6.67.2.7 DEFINITIONS:

A. "Department" means the public education department (PED).

B. "Local school board" or "board" means the governing body of a school district or charter school.

C. "Local superintendent" means the chief executive office of a school district or charter school.

D. "Notice of reemployment" means a written offer of employment for the ensuing school year.

E. "Notice of termination" means written notice that a licensed school employee will not be reemployed for the ensuing school year.

F. "School district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

G. "Tenured" means a licensed school instructor, who has been employed by the same employer for three consecutive years or more.

[12-31-98; 6.67.2.7 NMAC - Rn, 6 NMAC 4.4.1.7, 12-29-00; A, 10-31-06]

6.67.2.8 REQUIREMENTS:
~~[Notwithstanding Section 22-10-12, NMSA 1978 which states that "On or before the last day of the school year of the existing employment contract, the local school board or the governing authority of the state agency shall serve written notice of reemployment or termination on each certified school instructor employed by the school district or state agency..."; the state board of education hereby requires that if a licensed school instructor is not to be re-employed for the ensuing school year, the local school board or the governing authority of a state agency must serve a notice of termination upon said licensed school instructor, which shall be a notice of intention not to reemploy that licensed school instructor for the ensuing school year, and such notice shall be served on or before the fourteenth calendar day prior to the last day of the school year.]~~

A. Prior to the end of each school year, the local school board, local superintendent, or the governing authority of the state agency shall serve written notice of reemployment or termination on each licensed school instructor employed by the school district or state agency.

(1) A notice of reemployment shall be served on or before the last day of the school year.

(2) A notice of termination shall be served on or before the fourteenth calendar day prior to the last day of the school year.

B. Each licensed school instructor shall deliver to the local school board, local superintendent or to the governing authority of the state agency in which the person is employed a written acceptance or rejection of reemployment for the ensuing school year within fifteen days from either:

(1) the date written notice of reemployment has been served upon the individual; or

(2) the last day of the school year when no written notice of reemployment or termination has been served upon the individual on or before the last day of the school year.

C. Delivery of the written acceptance of reemployment by a licensed school instructor creates a binding employment contract between the licensed school instructor and the local school board or the governing authority of the state agency until the parties enter into a formal written employment contract. Written employment contract between local school boards or governing authorities of state agencies and certified school instructors shall be execut-

ed by the parties not later than ten days before the first day of a school year.

[12-31-98; 6.67.2.8 NMAC - Rn, 6 NMAC 4.4.1.8, 12-29-00; A, 10-31-06]

6.67.2.9 FAILURE TO PROVIDE NOTICE TO TENURED LICENSED EMPLOYEES: Failure to provide written notice of termination to tenured licensed staff fourteen days on or before the last day of the school year shall be deemed prejudicial, unless good cause for the failure is shown by the employer, and may be sufficient cause for reversal at any termination hearing or review before an independent arbitrator.

[6.67.2.9 NMAC - N, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.67.3 NMAC, Sections 1 through 3, and 6 through 8, effective 10-31-06.

6.67.3.1 ISSUING AGENCY: ~~[State Board of Education]~~ Public Education Department
[12-31-98, 07-30-99; 6.67.3.1 NMAC - Rn, 6 NMAC 4.4.2.1, 12-29-00; A, 10-31-06]

6.67.3.2 SCOPE: This ~~[regulation]~~ rule applies to local school boards, governing bodies of charter schools, and licensed school personnel.
[12-31-98; 6.67.3.2 NMAC - Rn, 6 NMAC 4.4.2.2, 12-29-00; A, 10-31-06]

6.67.3.3 STATUTORY AUTHORITY: This ~~[regulation]~~ rule is adopted pursuant to Sections 22-2-1 ~~[and]~~ 22-2-2, and 22-10A-21, NMSA 1978.
[12-31-98; 6.67.3.3 NMAC - Rn, 6 NMAC 4.4.2.3, 12-29-00; A, 10-31-06]

6.67.3.6 OBJECTIVE: This ~~[regulation]~~ rule establishes requirements for the termination or discharge of licensed school personnel when a reduction in personnel is required.
[12-31-98; 6.67.3.6 NMAC - Rn, 6 NMAC 4.4.2.6, 12-29-00; A, 10-31-06]

6.67.3.7 DEFINITIONS:

A. "Department" means the public education department (PED).

B. "Discharge" means the act of severing the employment relationship prior to the expiration of the current employment contract.

C. "Local school board" or "board" means the governing body of a school district or charter school.

D. "School district" means

an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes.

E. "Terminate" means, in the case of a licensed school employee, the act of reemploying an employee for the ensuing school year.

[12-31-98; 6.67.3.7 NMAC - Rn, 6 NMAC 4.4.2.7, 12-29-00; A, 10-31-06]

6.67.3.8 REQUIREMENTS:

Local school boards shall have the right to discharge or terminate licensed school personnel ~~[in accordance with the Public School Code]~~ when a reduction in school personnel is required as a result of decreased enrollment or a decrease or revision of educational programs or insufficient legislative appropriation or authorization being made by the state and/or federal government, provided that:

A. local school boards have a reduction in personnel policy in place and comply with those procedures;

B. the discharge or termination is made in accordance with the School Personnel Act (Chapter 22, Article 10A NMSA 1978), any applicable rules and regulations of the department and local board of education, and any applicable collective bargaining agreements; and

C. a local school board has considered placement of the licensed school employee in another position, and there is no other position for which that individual is qualified, consistent with the academic necessities of the district.

[12-31-98; 6.67.3.8 NMAC - Rn, 6 NMAC 4.4.2.8, 12-29-00; A, 10-31-06]

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.69.4 NMAC, Sections 6 through 12, effective 10-31-06.

6.69.4.6 OBJECTIVE: This ~~[regulation]~~ rule governs the requirements for a high objective statewide standard of evaluation for teachers from early childhood through grade twelve. This ~~[regulation]~~ rule identifies the specific evaluation/supervision standards and indicators and requirements for a competency based evaluation system for teachers.

[6.69.4.6 NMAC - N, 09-30-03; A, 10-31-06]

6.69.4.7 DEFINITIONS:

A. "Core academic subjects" means English, language arts, reading, mathematics, science, the arts, includ-

ing music and visual arts, and social studies, which includes civics, government, economics, history, and geography, and modern and classical languages, except the modern and classical Native American languages and cultures of New Mexico tribes and pueblos.

B. "A highly qualified early childhood (birth-grade three) or elementary teacher (K-8)", under this rule, means a teacher who is fully qualified for teaching birth to grade three and grades K-8, and who:

(1) meets the requirements for his/her license; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in the core academic subjects the teacher teaches by:

(a) passing the elementary teacher competency or the elementary content knowledge test of the New Mexico teacher assessments or comparable predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state; or

(b) holding national board for professional teaching standards certification for the appropriate grade level and type; or

(c) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

C. "A highly qualified middle or junior high school teacher holding elementary K-8 licensure", under this rule, means a teacher who is fully qualified to teach the core academic subjects in a public middle or junior high school, and who:

(1) meets all of the requirements for elementary K-8 licensure; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in each of the core academic subjects the teacher teaches by either:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches; or

(b) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches, or

(c) obtaining advanced credentials, which means certification by the national board for professional teaching

standards for the appropriate grade level and type; or

(d) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

D. "A highly qualified middle level (5-9), secondary (7-12), or pre K-12 specialty area teacher," under this rule, means a teacher who is fully qualified to teach the core academic subjects, and who:

(1) meets all of the requirements for his/her license; and

(2) has no licensure requirements waived on an emergency or temporary basis, or for any other reason; and

(3) has demonstrated competency in the core academic subjects the teacher teaches by:

(a) passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches; or

(b) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

(c) obtaining advanced credentials, which means certification by the national board for professional teaching standards for the appropriate grade level and type; or

(d) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

E. "A highly qualified pre k-12 special education teacher," under this rule, means a teacher who is fully qualified to teach special education students by either providing access for those students to a regular education classroom where instruction in the core academic subjects is delivered by a highly qualified regular education teacher, and where the special education teacher shall meet the requirements of Paragraphs (1) and (2) below; or, if the special education teacher teaches the core academic subjects to special education students who are assessed under regular education standards, and is fully qualified to teach each core academic subject the teacher teaches, and where that teacher also meets the requirements of Paragraphs (1) and (2) and (3) below; or if the special education teacher teaches the core academic subjects exclusively to children who are assessed against alternate achievement standards and

where the teacher also meets the requirements of Paragraphs (1) and (2) and either (3) or (4):

(1) the teacher meets the requirements for his/her special education license;

(2) the teacher has no special education licensure requirements waived on an emergency or temporary basis, or for any other reason;

(3) the teacher has demonstrated competency in any core academic subjects the teacher teaches by:

(a) passing the elementary teacher competency or the elementary content knowledge test of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests offered in New Mexico or in another state, if the special education teacher teaches in an elementary school; or

(b) by passing the content knowledge test(s) of the New Mexico teacher assessments or predecessor New Mexico teacher licensure examinations, or accepted comparable licensure tests from another state in each subject area the teacher teaches if the teacher teaches in a middle or high school; or

(c) successfully completing an undergraduate academic major (24-36 semester hours), or coursework equivalent to an undergraduate major, or a graduate degree in each subject area the teacher teaches; or

(d) obtaining advanced credentials, which means content area or special education certification by the national board for professional teaching standards for the appropriate grade level and type; or

(e) demonstrating competence in all of the core academic subjects the teacher teaches based on the state's high objective uniform standard of evaluation for subject area competence as provided in 6.69.4.9 NMAC.

(4) the teacher has demonstrated competency in the core academic subjects, regardless of the grade level taught, by passing the elementary or secondary teacher competency test, or the elementary content knowledge test, or any one of the middle level or secondary level content knowledge tests in the core academic areas of the New Mexico teacher assessments or comparable predecessor New Mexico teacher licensure examinations, or accepted comparable licensure test(s) from another state.

F. "Full school year" means a minimum of 160 instructional days in a school year or 480 instructional days or equivalent number of days in schools or school districts on alternative schedules over multiple school years of full-time or part-time teaching during which the teacher is the teacher of record in at least one class

each school year while holding a standard teaching license. Instructional days may include teaching in summer school or similar educational setting.

[6.69.4.7 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05; A, 10-31-06]

6.69.4.8 REQUIREMENTS:

A. If a teacher was hired after the first day of school of the 2002-2003 school year and is assigned to teach the core academic subjects in a title I targeted assistance program or a title I school wide, the teacher must be highly qualified, as defined in this rule.

B. If a teacher was hired prior to the first day of school of the 2002-2003 school year and is assigned to teach in the core academic subjects in any public school, the teacher must be highly qualified, as defined in this rule, by June 30, 2006, unless the school district where the teacher is employed qualifies for the rural education achievement program under Title VI of the Elementary and Secondary Education Act 20 USC 7345, in which case the teacher must be highly qualified, as defined in this rule, by June 30, 2007.

C. The school district must ensure, through proper annual teaching assignment and through annual professional development plans and evaluations that all teachers assigned to teach in core academic subjects are highly qualified as provided in subsections A and B of this section and as required in section 1119 of the No Child Left Behind Act in Title I of 20 USC 6301.

D. Every public school teacher must have an annual performance evaluation based on an annual professional development plan that meets the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.4.10 NMAC. The format for this evaluation shall be established by the department and shall be uniform throughout the state in all public school districts.

E. Except as provided in subsection F of this section, in order for a teacher to advance from licensure level [H] 1 to level [H] 2 and from licensure level [H] 2 to level [H-A] 3-A a teacher who applies for licensure after June 30, 2004 must successfully meet the requirements of the state's high objective uniform standard of evaluation as provided in 6.69.4.11 NMAC.

F. Those teachers who are in the third year of a level [H] 1 license in the 2003-2004 school year may advance to level [H] 2 through the rules in place prior to the adoption of this rule by the local superintendent verifying that the teacher has met the nine essential competencies required for renewal of licensure by June 30, 2004.

G. Those teachers who

hold a level [H] 2 license in the 2003-2004 school year may advance to level [H-A] 3-A through the rules in place prior to the adoption of this rule by the local superintendent verifying that the teacher has met the nine essential competencies required for renewal of licensure by June 30, 2004.

H. On the effective date of this rule, teachers holding [~~level I, level II, or level III~~] level 1, level 2, or level 3-A licenses will continue to hold those licenses at the same level and shall meet the requirements for their level of licensure as provided in 6.69.4.12 NMAC by September 1, 2006, as established through local annual evaluations.

[6.69.4.8 NMAC - N, 09-30-03; A, 05-13-05; A, 10-31-06]

6.69.4.9 IMPLEMENTATION

OF THE HIGH OBJECTIVE UNIFORM STATEWIDE STANDARD OF EVALUATION-FOR DEMONSTRATING COMPETENCE IN THE CORE ACADEMIC SUBJECTS AND OTHER ENDORSEMENT AREAS:

To meet the requirements of subject area competence by means of the high objective uniform statewide standard of evaluation (HOUSSE), a candidate employed as a general education teacher in a school district that does not qualify for the small rural school achievement program under title VI, Part B of the No Child Left Behind Act, 20 USC 7341, must fulfill the requirements in Subsections A and B of 6.69.4.9 NMAC [below] and either the requirements of Subsections C or D of 6.69.4.9 NMAC [below] by June 30, 2007. A candidate employed as a general education teacher in a school district that does qualify for the small rural school achievement program under title VI, Part B of the No Child Left Behind Act, 20 USC 7341, may fulfill the requirements in Subsections A and B of 6.69.4.9 NMAC and either the requirement of Paragraphs (2)-(3) of Subsections C or Paragraphs (2)-(3) of Subsection D of 6.69.4.9 NMAC within three full school years of the date of hire as long as he or she is highly qualified in at least one core academic subject when hired in a qualifying rural school district. A new to the profession special education teacher employed in any school district may fulfill the requirements in Paragraphs (2)-(3) of Subsection or Paragraphs (2)-(3) of Subsection D of 6.69.4.9 NMAC within two full school years of initial employment in any district as long as he or she is highly qualified in either language arts, mathematics or science when hired. The candidate must:

A. have successful annual evaluations for two school years prior to the evaluation, as is defined in Subsection D of 6.60.6.7 NMAC; and

B. have two complete school years of successful teaching and either;

C. complete credit hours at a regionally accredited college or university in the core academic subject in which the candidate is seeking to demonstrate competence, as follows:

(1) for K-8 elementary licensed teachers or pre k-12 special education licensed teachers teaching in a self-contained elementary classroom, 24 lower or upper division credit hours across the elementary education core academic subjects of language arts, social studies, mathematics, and science with at least six credit hours in each core area;

(2) for K-8 elementary licensed teachers teaching in a middle school, and pre k-12 special education licensed teachers teaching in a middle or high school, 18 lower or upper division credit hours in each core academic subject the teacher teaches;

(3) for 7-12 secondary, 5-9 middle level, and pre k-12 specialty area licensed teachers teaching in a middle school, junior high school, or high school, 18 credit hours, 12 of which must be upper division in each core academic subject the teacher teaches; or

D. complete the following combination of coursework through a regionally accredited college or university and by portfolio:

(1) for K-8 licensed elementary teachers teaching in a self-contained elementary classroom, and for a pre k-12 special education licensed teachers teaching special education students at any grade level who are assessed against alternative achievement standards, 12 lower or upper division credit hours across the elementary education curriculum areas;

(2) for K-8 licensed elementary teachers teaching in a middle school, and for a pre k-12 special education licensed teachers teaching special education students in a middle school or high school, upper or lower division credit hours as follows:

(a) 12 semester hours in a single core subject area; or

(b) 15 semester hours in two core subject areas, with at least 6 hours in each one; or

(c) 18 semester hours in three core subject areas, with at least 6 hours in each one; or

(d) 24 semester hours in four core subject areas, with at least 6 hours in each one;

(3) for 7-12 secondary, 5-9 middle level, and pre k-12 specialty area licensed teachers, the credit hours, specified in Paragraph (2) of Subsection D of 6.69.4.9 NMAC all at the upper division level;

(4) demonstrate to a local panel of teachers the requirements of Sub-para-

graphs (a) or (b) below:

(a) mastery of the competence in the instructional strand of the public education department's teacher competencies and indicators for the level of licensure the candidate holds in each core academic subject in which the teacher seeks to demonstrate that he or she is highly qualified by submitting evidence from (1), (2) and (3) as follows:

(i) documentation from Paragraph (1) of Subsection E of 6.69.4.11 NMAC; and

(ii) observation summaries, by each panel member, of the candidate teaching in the area for which he or she is applying; observations by the panel may be done in person or by video; and

(iii) at least two observation summaries, completed by the candidate, of a teacher(s) teaching in the subject area for which the candidate is seeking to be highly qualified;

(b) provide an analysis of student achievement in each core academic subject in which the teacher seeks to demonstrate that he or she is highly qualified by submitting evidence as follows:

(i) explain (350 word maximum) the way(s) in which a class of students demonstrated their achievement (e.g., test, work sample, performance) related to a segment of instruction; include examples of different materials used and student work;

(ii) provide the criteria (350 word maximum) for determining different levels of achievement and how this was communicated to the students; the criteria may be in a handout or other means of communication to students;

(iii) to illustrate relative levels of achievement in the class, provide examples of the work of three unidentified students who represent "high," "mid range," and "low" levels of achievement; these examples may include unidentified student written or drawn work, photographs, audio recordings (5 minute maximum), or video recordings (5 minute maximum and written parental consent to video child);

(iv) explain (350 word maximum) how the three unidentified students differed in their achievement levels and how this achievement relates to the state's standards and/or benchmarks;

(v) explain (350 word maximum) how this data could be taken into account in a subsequent instructional segment for the class;

(c) the local panel of teachers shall consist of two teachers:

(i) one teacher will be appointed by the principal in the school where the teacher seeking to be highly qualified is teaching; the second teacher will be appointed by the candidate;

(ii) panelists must be highly qualified, as defined in Subsection B, C or D of 6.69.4.7 NMAC, hold a current level [~~H or III-A~~] 2 or 3-A license, and have an endorsement or license in the subject area or areas to be evaluated;

(iii) panelists may be from the candidate's same school, or same district, or from another school or district in New Mexico;

(5) both teachers on the panel must agree that the candidate has met, or exceeds, the competencies and indicators for the level of licensure the teacher being evaluated holds or that the students of the teacher being evaluated have demonstrated growth and progress in each core academic subject the teacher teaches;

(6) the panel shall submit their recommendation to the local superintendent and records of the panel's findings shall be kept on file locally and available to the public upon request; verification of the panel's findings shall be submitted to the public education department in a form acceptable to the department if the candidate is seeking to add an endorsement on his/her license based on Subsection C of 6.69.4.9 NMAC;

(7) if permitted in the public education department's rules governing the subject area the candidate may be issued an endorsement in the evaluated subject area if the candidate has completed the entire process of one of the options in 6.69.4.9 NMAC.

[6.69.4.9 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05; A, 10-31-06]

6.69.4.10 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION-ANNUAL:

A. No later than October 15, 2004, each school district shall adopt policies, guidelines, and procedures for annual teacher performance evaluation that meet the requirements of this ~~[regulation]~~ rule. The annual evaluation plan will be combined with the evaluation plan for licensure advancement provided in Subsection A of 6.69.4.11 NMAC to form an overall system for teacher evaluation and support.

B. No later than forty school days after the first of school of each school year, each teacher and his or her school principal shall establish a professional development plan for the teacher, with measurable objectives, for the coming year based on, among other things:

(1) the public education department's nine teaching competencies and indicators for the teacher's licensure level; and

(2) the previous year's annual evaluation, if applicable; and

(3) assurance that the teacher is highly qualified in the core academic sub-

ject(s) the teacher teaches and that the district has appropriately assigned the teacher to teach in the subject(s) in which the teacher is highly qualified, as defined in this rule.

C. Annual performance evaluations shall be based on, among other things, how well the professional development plan was carried out and the measurable objectives were achieved.

D. The school principal shall observe each teacher's classroom or program practice at least once annually to determine the teacher's ability to demonstrate state adopted competencies and indicators for each teacher's licensure level.

E. If a level ~~[H] 2~~ or level ~~[H-A] 3-A~~ teacher does not demonstrate essential competencies for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of that school year the teacher still fails to demonstrate essential competencies, a district may choose not to contract with that teacher.

F. If a level ~~[H-A] 3-A~~ teacher does not demonstrate essential competencies at level ~~[H-A] 3-A~~ for a given school year, the school district shall provide the teacher with professional development and peer intervention, including mentoring, for a period the school principal deems necessary. If by the end of the following school year the teacher still fails to demonstrate essential level ~~[H-A] 3-A~~ competencies, the superintendent may recommend to the secretary of education that the teacher's level ~~[H-A] 3-A~~ license be suspended until such time as the teacher demonstrates the essential competencies at level ~~[H-A] 3-A~~. Depending on the outcome of any due process proceeding under the Uniform Licensing Act, Sections 61-1-1 through 61-1-31, NMSA 1978, and if the superintendent verifies that the teacher meets the standards for a level ~~[H] 2~~ license, the teacher may be issued a level ~~[H] 2~~ license during the period of level ~~[H-A] 3-A~~ licensure suspension. A suspended level ~~[H-A] 3-A~~ license may be reinstated by the secretary of education either upon verification by a local superintendent that the teacher now demonstrates the essential competencies at level ~~[H-A] 3-A~~ or through the process described in 6.69.4.11 NMAC.

G. Any teacher who held a ~~[level II or level III A]~~ level 2 or level 3-A license prior to July 1, 2004, shall meet the requirements of the high objective uniform standard of evaluation for his/her level of licensure through the annual evaluation process by September 1, 2006 or shall not be eligible for the increased base salary provided in 22-10A-11(C), NMSA 1978.

H. At least every two years, school principals shall attend a training program approved by the department to improve their teacher evaluation skills. [6.69.4.10 NMAC - N, 09-30-03; A, 10-14-04; A, 05-13-05; A, 10-31-06]

6.69.4.11 IMPLEMENTATION OF THE HIGH OBJECTIVE UNIFORM STANDARD OF EVALUATION FOR ADVANCEMENT TO LEVEL ~~[H] 2~~ OR LEVEL ~~[H] 3~~ LICENSURE:

A. No later than ~~[April 1, 2004]~~ October 15, 2004, each school district shall adopt policies, guidelines, and procedures for teacher performance evaluation for licensure advancement that meet the requirements of this ~~[regulation]~~ rule. The licensure advancement plan will be combined with the annual evaluation plan provided in Subsection A of 6.69.4.9 NMAC to form an overall system for teacher evaluation and support.

B. With the adoption of this rule by the PED, the minimum salaries associated with licensure levels provided in Chapter 22, Article 10A, NMSA 1978 shall become effective.

C. The teacher shall develop and submit a complete professional development dossier (PDD) consisting of three strands set forth in Paragraph (2) of Subsection D of 6.69.4.11 NMAC according to the following schedule:

(1) if advancing to level ~~[H] 2~~, not earlier than three months prior to the completion of the third year at level ~~[H] 1~~;

(2) if advancing to level ~~[H] 3~~, not earlier than three months prior to the completion of the third year at level ~~[H] 2~~.

D. The PDD shall include:

(1) evidence of competence that may be collected over multiple school years, including the year the PDD is being developed;

(2) evidence in the following format that demonstrates how the teacher meets the PED's nine teacher competencies and indicators for the level of licensure to which the teacher is advancing; evidence that demonstrates how the teacher meets competencies related to an:

(a) instruction strand (competencies 1, 2, 5); and a

(b) student learning strand (competencies 3, 4, 6, and 7); and a

(c) professional learning strand (competencies 8 and 9);

(3) evidence from an evaluation strand that includes the teacher's annual evaluations from at least the two years prior to the application for advancement and the superintendent's recommendation for advancement to the next licensure level;

(4) a verification strand that includes:

(a) for a level ~~[H] 1~~ teacher advancing to level ~~[H] 2~~;

(i) verification of participation in a district's formal mentorship program;

(ii) verification of three years successful teaching experience at level ~~[H] 1~~;

(iii) verification by the superintendent that the work product in the dossier is that of the teacher and that the data submitted is accurate;

(b) for a level ~~[H] 2~~ teacher advancing to level ~~[H-A] 3-A~~:

(i) verification of a post baccalaureate degree or national board professional teaching certification;

(ii) verification of a minimum three years of successful teaching experience at level ~~[H] 2~~;

(iii) verification by the superintendent that the work product in the dossier is that of the teacher and that the data submitted is accurate.

E. Evidence in the PDD competency strands:

(1) The instruction strand shall include evidence of:

(a) student achievement data; and
(b) assessment techniques and procedures; and

(c) instructional plans and materials; and

(d) examples of student work and performance; and

(e) evidence of implementation of state curriculum standards.

(2) The student learning strand shall include mandatory evidence and may include optional evidence as follows:

(a) the student learning strand shall include evidence of:

(i) adaptations/modification for diverse learners; and

(ii) evidence of effective classroom management strategies and procedures; and

(iii) classroom observation reports; and

(iv) evidence of communication with students and parents.

(b) the student learning strand may include evidence in the form of:

(i) student surveys; and/or

(ii) video tapes with reflections/analysis.

(3) The professional learning strand shall include evidence of at least one of the following:

(a) professional development activities associated with the teacher annual professional development plan (PDP); or

(b) evidence of collaborating with professional community; or

(c) parent surveys; or

- (d) research publications; or
- (e) professional presentations.

(4) Evidence comparable and equivalent to Paragraphs (1), (2) and (3) of Subsection E of this section may be developed through certification by the national board of professional teaching standards (NBPTS).

F. Unless special accommodations are requested in writing to the PED 30 days in advance of a submission, the PDD and associated fees in Subsection C of 6.60.7.8 NMAC shall be submitted electronically following procedures established by the PED.

G. The PDD shall be evaluated by the superintendent of the teacher's school district and by two external reviewers, one of whom shall hold the same grade level licensure and subject area endorsement as the candidate, as follows:

(1) The superintendent will complete the verification and evaluation strands in order to make his recommendation for licensure advancement and the two external reviewers will rate the three competency strands as "exceeds standards," "meets standards" or "does not meet standards in order to make their recommendations for licensure advancement."

(2) Each one of the three competency strands of a teacher's PDD reviewed by the independent reviewers must be rated as either "exceeds standards" or "meets standards" and each one of the strands completed by the superintendent must be verified and have a positive recommendation in order for the teacher to advance to the next higher level of licensure.

(3) The superintendent and the reviewers will submit the PDD to the PED or its contractor with their ratings.

(4) PED will evaluate the ratings of the superintendent and the external reviewers and approve or deny the teacher's application for licensure advancement:

(a) If one of the external reviewers rates one of the competency strands of the PDD as "exceeds standards" and the other external reviewer rates the same strand as "meets standards", the strand will be deemed passed.

(b) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "exceeds standards", the finding will be that the candidate "meets standards" and the strand will be deemed passed.

(c) If one of the external reviewers rates one of the competency strands of the PDD as "does not meet standards" and the other rates the same strand as "meets standards," a third reviewer will resolve the discrepancy in order to determine if the strand will be passed.

(d) If both of the external review-

ers rate the competency strand(s) of PDD the same, that rating will be their finding. If, however, both of the external reviewers rate the competency strand(s) of the PDD as "does not meet standards," a third trainer/reviewer may review the strand(s) to confirm or reject their ratings.

H. A candidate for licensure advancement who is not successful in the PDD may continue to submit a new PDD.

I. If a candidate for licensure advancement meets or exceeds standards in one or some of the strands, but not in all of them, the teacher's score(s) of "meets standards" or "exceeds standards" may be retained for a period of two calendar years. Any resubmission of a PDD during that two-year period need only address those strands rated "does not meet standards" in order to determine a final passing score for all strands for licensure advancement.

[6.69.4.11 NMAC - N, 09-30-03; A, 05-13-05; A, 10-31-06]

6.69.4.12 NEW MEXICO TEACHER COMPETENCIES AND INDICATORS FOR LICENSURE [LEVELS I, II, III] LEVELS 1, 2, 3:

A. New Mexico is one of the most diverse states in the nation, and this diversity is reflected in the strengths and needs of New Mexico's students. The ability of a highly qualified teacher to address the learning needs of all of New Mexico's students, including those who learn differently as a result of disability, culture, language, or socioeconomic status, forms the framework for the New Mexico teacher competencies for licensure levels [~~I, II, and III~~] 1, 2, and 3-A assessment criteria indicators.

B. Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level [~~I~~] 1 teachers.

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

- (a) utilizes and enhances approved curriculum;
- (b) gives clear explanations relating to lesson content and procedure;
- (c) communicates accurately in the content area;
- (d) shows interrelatedness of one content area to another.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

- (a) provides opportunities for students to work independently, in small groups, and in large groups, as appropriate;
- (b) uses a variety of methods such as demonstrations, lecture, student initiated

work, group work, questioning, independent practice, etc., as appropriate;

(c) uses a variety of resources such as field trips, supplemental printed materials, manipulatives, etc., as appropriate;

(d) provides opportunities for students to apply, practice, and demonstrate knowledge and skills learned through various modalities;

(e) implements necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) explains and/or demonstrates the relevance of topics and activities;

(b) communicates to students the instructional intent, directions or plan at the appropriate time;

(c) establishes and states expectations for student performance;

(d) clarifies actions, directions, and explanations when students do not understand;

(e) actively solicits communication from students about their learning;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) uses and instructs students in the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, decision-making, etc;

(b) uses teaching techniques which address student learning levels, rates, and styles;

(c) uses materials and media which address student learning levels, rates and styles;

(d) uses resources such as community service agencies, school personnel, parents, etc., to meet students' learning levels, rates, and styles.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) uses a variety of assessment tools and strategies, as appropriate;

(b) uses information gained from ongoing assessment for remediation and instructional planning;

(c) maintains documentation of student progress;

(d) communicates student progress with students and families in a timely manner.

(6) The teacher manages the educational setting in a manner that promotes

positive student behavior, and a safe and healthy environment:

(a) serves as a model for constructive behavior patterns;

(b) executes routine tasks effectively and efficiently;

(c) establishes and states expectations for student behavior;

(d) handles transitions effectively;

(e) has materials and media ready for student use;

(f) minimizes distractions and interruptions;

(g) manages student behavior effectively and appropriately;

(h) identifies hazards, assesses risks, and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) demonstrates sensitivity and responsiveness to the personal ideas, learning needs, interests, and feelings of students with disabilities, and/or from culturally and linguistically diverse backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups.);

(b) acknowledges student performance and achievement;

(c) acknowledges that every student can learn;

(d) provides opportunities for each student to succeed;

(e) provides students with opportunities for active involvement and creativity;

(f) provides opportunities for students to be responsible for their own behavior and learning;

(g) promotes positive student/teacher relationships;

(h) encourages high student expectations;

(i) demonstrates an awareness and respect for each student's background, experience, learning ability, language and culture.

(8) The teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) seeks out information on methodology, research, and current trends in education to enhance and improve the quality of learning;

(b) implements a variety of strategies to enhance learning;

(c) recognizes that change entails risk and that modifications may be needed.

(9) The teacher works productively with colleagues, parents, and community members:

(a) collaborates with colleagues;

(b) communicates with parents on

a regular basis;

(c) uses conflict resolving strategies when necessary;

(d) involves parents and community in their learning environment;

(e) communicates in a professional manner with colleagues, parents, and community members regarding educational matters.

C. Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level [H] 2 teachers.

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

(a) enhances and extends approved curriculum;

(b) gives clear explanations relating to lesson content and procedures;

(c) communicates accurately in the content area;

(d) integrates other subjects into the content curriculum.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

(a) designs appropriate opportunities for large group, small group, and independent student learning experiences;

(b) selects from a variety of teaching methods (demonstrations, lectures, student projects, group work, independent practice) for specific instructional goals and purposes;

(c) integrates a variety of resources into instruction, including field trips, supplemental printed materials, manipulatives, and technology;

(d) demonstrates understanding and appropriate application of learning styles, modalities, and intelligences theories;

(e) designs and implements necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) effectively explains, demonstrates or communicates the relevance of topics and activities;

(b) consistently communicates to students the instructional intent, directions, and plans;

(c) establishes and states expectations for student performance;

(d) presents directions and explanations in a variety of ways to insure student understanding;

(e) solicits communication from

students about their learning for the purposes of ongoing instructional planning;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) consistently integrates the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making into instruction;

(b) adapts teaching techniques to accommodate a range of student learning levels, rates, styles and special needs;

(c) adapts materials and media to address a range of student learning levels, rates, styles and special needs;

(d) selects from a variety of community service agencies, specialized school personnel, and parents to address different learning levels, rates, styles, and needs.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) selects appropriate assessment tools and strategies for specific learning outcomes;

(b) uses formative and summative assessment for remediation and instructional planning;

(c) maintains documentation of student progress;

(d) consistently maintains communication with students and families about student progress.

(6) The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) identifies, explains, and models constructive behavior patterns;

(b) establishes and teaches effective and efficient routines;

(c) establishes and reinforces expectations for student behaviors that promote citizenship in a classroom community;

(d) maintains smoothness and momentum during classroom transitions;

(e) prepares and arranges material in advance for easy student accessibility;

(f) minimizes distractions and interruptions;

(g) monitors and directs student behavior effectively and appropriately;

(h) identifies hazards, assesses risks, and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) acknowledges and validates the ideas, learning needs, interests, and feelings of students with disabilities and/or from culturally and linguistically diverse

backgrounds (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well as other recent immigrant groups);

(b) consistently recognizes student performance and achievements;

(c) understands how students differ in their approaches to learning and adjusts instruction to meet diverse needs;

(d) designs opportunities for each student to succeed, based on individual learning needs;

(e) designs specific activities that require active involvement and creativity;

(f) designs opportunities that require and reinforce student responsibility for learning;

(g) develops students' self-esteem, motivation, character, and sense of civic responsibility;

(h) establishes and communicates high expectations for all students;

(i) demonstrates knowledge of different student backgrounds, experiences, learning abilities, languages and cultures and incorporates this knowledge into curricular decisions and instructional methodology.

(8) The teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) seeks out information on methodology, research and current trends in education to enhance and improve the quality of learning;

(b) demonstrates knowledge of best practices that enhance learning;

(c) participates in instructional improvement and school reform initiatives;

(9) The teacher works productively with colleagues, parents, and community members:

(a) actively promotes collegial relations with other school personnel;

(b) provides a system for interactive communication between teacher and parents;

(c) uses conflict resolution strategies as appropriate;

(d) promotes active roles for parents and community members in student learning;

(e) communicates in a professional manner with colleagues, parents, and community members regarding educational matters.

D. Beginning July 1, 2004, the high objective standard of evaluation shall include the following standards and indicators as part of the evaluation criteria for level ~~III~~ 3-A teachers:

(1) The teacher accurately demonstrates knowledge of the content area and approved curriculum:

(a) contributes to the refinement and development of the approved curriculum;

(b) provides clear explanations relating to lesson content and procedures in multiple ways and is aware of knowledge and preconceptions that students can bring to the subject;

(c) communicates accurately in the content area and can create multiple paths to the subject matter;

(d) can articulate to students the interrelatedness of the disciplines.

(2) The teacher appropriately utilizes a variety of teaching methods and resources for each area taught:

(a) designs and engages students in large group, small group, and independent work activities;

(b) demonstrates effective selection and use of a variety of methods to make knowledge accessible to all students;

(c) demonstrates effective integration of a variety of resources and learning experiences into the curriculum;

(d) designs opportunities for students to apply, practice, and demonstrate knowledge and skills based on knowledge of learning modalities, style preferences, and intelligences;

(e) engages with colleagues and parents to collaboratively design and implement necessary modifications and adaptations in instruction and curriculum so that students with disabilities have access to the general education curriculum in the least restrictive environment.

(3) The teacher communicates with and obtains feedback from students in a manner that enhances student learning and understanding:

(a) engages students in explaining and/or demonstrating the relevance of topics and activities;

(b) involves students in establishing instructional direction and plans;

(c) establishes and states expectations for student performance;

(d) presents directions and explanations in a variety of ways to insure student understanding;

(e) engages students in the analysis and evaluation of their learning and adjusts instruction based on student feedback;

(f) communicates regularly with students about their progress.

(4) The teacher comprehends the principles of student growth, development and learning, and applies them appropriately:

(a) consistently integrates the use of cognitive thinking skills such as critical thinking, problem-solving, divergent thinking, inquiry, and decision-making into instruction;

(b) selects the most effective teaching techniques to address a variety of student learning levels, rates, styles and needs as well as diverse interests and back-

grounds;

(c) selects the most effective materials and media to address a variety of student learning levels, rates, styles and needs;

(d) integrates community resources, service agencies, other school personnel, parents, and community members into the curriculum.

(5) The teacher effectively utilizes student assessment techniques and procedures:

(a) designs and uses multiple methods of measuring student understanding and growth;

(b) integrates assessment data from multiple sources into instructional planning and improvement;

(c) maintains documentation of student progress;

(d) develops a two-way system of communicating with students and families about student progress.

(6) The teacher manages the educational setting in a manner that promotes positive student behavior, and a safe and healthy environment:

(a) integrates the teaching of constructive, pro-social behaviors into regular instruction;

(b) establishes and teaches effective and efficient routines;

(c) engages students in establishing expectations for building a learning community in the classroom;

(d) maintains smoothness and momentum during instructional transitions;

(e) establishes an environment where materials and media are available and ready for student use;

(f) minimizes distractions and interruptions;

(g) develops a classroom management system that promotes acceptable and appropriate student behavior;

(h) identifies hazards, assesses risks and takes appropriate action.

(7) The teacher recognizes student diversity and creates an atmosphere conducive to the promotion of positive student involvement and self-concept:

(a) adjusts practice based on observation and knowledge of students with disabilities and/or from culturally and linguistically diverse groups (e.g., Native Americans, Hispanic Americans, African Americans, Asian Americans, as well other recent immigrant groups);

(b) creates curriculum designs that include student performance and acknowledgment of achievement;

(c) demonstrates an awareness of the influences of context disability, language, and culture on student learning;

(d) provides accommodations and interventions that allow each student to succeed based on individual learning needs;

(e) engages students in learning experiences that promote creativity, critical and divergent thinking;

(f) designs opportunities that require and reinforce student responsibility for learning;

(g) fosters the development of respect for individual, cultural, linguistic, disability, and religious differences;

(h) engages students in setting high standards for performance;

(i) treats all students equitably, recognizing and planning for individual differences in cultures, languages, learning abilities, backgrounds, and experiences.

(8) The teacher demonstrates a willingness to examine and implement change, as appropriate:

(a) demonstrates the ability to reason, take multiple perspectives, be creative, and take reasoned risks to improve teaching;

(b) collaborates with colleagues in the research and design of improved instructional strategies;

(c) assumes a leadership role in the study and implementation of instructional improvement and school reform initiatives.

(9) The teacher works productively with colleagues, parents, and community members:

(a) serves as a role model for collaborative working relations across the profession;

(b) demonstrates knowledge of specific school, family, and community resources that can support student learning;

(c) assists colleagues in the use of conflict resolution strategies;

(d) engages parents and community members productively in the work of the school;

(e) works collaboratively and creatively with colleagues, parents, and community members regarding educational matters.

E. A school district may select and/or develop additional standards and indicators determined appropriate by the local school district to complete the local teacher performance evaluation system.

F. Each school district shall provide training in evaluation of performance, classroom observation techniques, conference skills, and growth planning to all teachers and personnel assigned performance evaluation duties.

G. Teachers whose leadership roles are primarily outside of the classroom will be evaluated on their ability to lead other teachers in meeting the competencies and indicators in their level of licensure.

[6.69.4.12 NMAC - N, 09-30-03; A, 10-14-

04; A, 10-31-06]

NEW MEXICO RACING COMMISSION

This is an amendment to Subsections B and F of 15.2.4.8 NMAC stating in Subsection B what a horse in a claiming race may not wear into the paddock and in Subsection F, where a claimed horse is allowed to race. Effective 10/31/2006.

15.2.4.8 CLAIMING RACES: A. GENERAL PROVISIONS:

(1) A person entering a horse in a claiming race warrants that the title to said horse is free and clear of any existing claim or lien, either as security interest mortgage, bill of sale, or lien of any kind; unless before entering such horse, the written consent of the holder of the claim or lien has been filed with the stewards and the racing secretary and its entry approved by the stewards. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse.

(2) A filly or mare that has been bred is ineligible to enter into a claiming race unless a licensed veterinarian's certificate dated at least 25 days after the last breeding of that mare is on file with racing secretary's office stating that the mare or filly is not in foal. However, an in-foal filly or mare shall be eligible to enter into a claiming race if the following conditions are fulfilled:

(a) full disclosure of such fact is on file with the racing secretary and such information is posted in his/her office;

(b) the stallion service certificate has been deposited with the racing secretary's office (although all information obtained on such certificate shall remain confidential);

(c) all payments due for the service in question and for any live progeny resulting from that service are paid in full;

(d) the release of the stallion service certificate to the successful claimant at the time of claim is guaranteed.

(3) The stewards may set aside and order recession of a claim for any horse from a claiming race run in this jurisdiction upon a showing that any party to the claim committed a prohibited action, as specified in Subsection D of 15.2.4 NMAC with respect to the making of the claim, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of these rules regarding claiming races. Should the stewards order a recession of a claim, they may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they

may deem appropriate.

B. CLAIMING OF HORSES:

(1) Any horse in a race for claiming may not wear into the paddock anything it will not race in except for a blanket, rain sheet or halter and lead shank for control.

~~(1)~~ (2) Any horse starting in a claiming race is subject to be claimed for its entered price by any: licensed owner; holder of a valid claim certificate; licensed authorized agent acting on behalf of an eligible claimant.

~~(2)~~ (3) Every horse claimed shall race for the account of the original owner, but title to the horse shall be transferred to the claimant from the time the horse enters the track to the post. The successful claimant shall become the owner of the horse regardless of whether it is alive or dead, sound or unsound, or injured during the race or after it.

C. CLAIM CERTIFICATE:

(1) An applicant for a claim certificate shall submit to the commission: an application for an owner's license and the required fee; the name of a licensed trainer, or person eligible to be a licensed trainer, who will assume the care and responsibility for any horse claimed.

(2) The stewards shall issue a claim certificate upon satisfactory evidence that the applicant is eligible for an owner's license.

(3) The claim certificate shall expire 30 days after the date of issuance, or upon the claim of a horse, or upon issuance or denial of an owner's license, whichever comes first.

(4) A claim certificate may be renewed by the stewards during the same year.

D. PROHIBITIONS:

(1) A person shall not claim a horse in which the person has a financial or beneficial interest as an owner or trainer.

(2) A person shall not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse.

(3) A person shall not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race.

(4) A person shall not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person.

E. PROCEDURE FOR CLAIMING:

(1) To make a valid claim for a horse, an eligible person shall:

(a) have on deposit with the horsemen's bookkeeper an amount equal to

the amount of the claim, plus all transfer fees and applicable taxes;

(b) complete a written claim including information that the claimant holds a current valid license on a form furnished by the association and approved by the commission;

(c) identify the horse to be claimed by the spelling of its name on the certificate of registration or as spelled on the official program;

(d) place the completed claim form inside a sealed envelope furnished by the association and approved by the commission;

(e) have the time of day that the claim is entered recorded on the envelope;

(f) have the envelope deposited in the claim box no later than 10 minutes prior to post time of the race for which the claim is entered.

(2) After a claim has been deposited in the claim box, it is irrevocable and shall not be withdrawn from the claim box.

(3) Officials and employees of the association shall not provide any information as to the filing of claims until after the horses have entered the track to post.

(4) If more than one claim is filed on a horse, the successful claim shall be determined by lot conducted by the stewards or their representatives.

(5) Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse shall be solely responsible for the determination of the sex or age of any horse claimed.

F. TRANSFER OF CLAIMED HORSES:

(1) Upon successful claim, the stewards shall issue, upon forms approved by the commission, an authorization of transfer of the horse from the original owner to the claimant. Copies of the transfer authorization shall be forwarded to and maintained by the stewards and the racing secretary. Upon notification by the stewards, the horsemen's bookkeeper shall immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees.

(2) A person shall not refuse to deliver a properly claimed horse to the successful claimant.

(3) Transfer of possession of a claimed horse shall take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the testbarn for post-race testing, the original trainer or his/her representative shall maintain physical custody of the claimed horse and shall observe the testing procedure and sign the test sample tag. The successful claimant or his/her representative shall also accompany the

horse to the testbarn.

(4) When a horse is claimed out of a claiming race, the horse's engagements are transferred, with the horse, to the claimant.

(5) Ownership interest in any horse claimed from a race shall not be resold or transferred for 30 days after such horse was claimed, except by claim from a subsequent race.

(6) A claimed horse shall not race elsewhere, except within state, or out of state stake races for a period of thirty days (30) or the end of the meet, whichever occurs first.

~~(6)~~ (7) A claimed horse shall not remain in the same stable or under the control or management of its former owner.

[15.2.4.8 NMAC - Rp, 15 NMAC 2.4.8, 03/15/2001; A, 10/31/2006]

NEW MEXICO RACING COMMISSION

This is an amendment to Subsection I, Section 8 of 15.2.5. NMAC, amending the rule regarding the preferred list and allowing a horse placed on a steward's, veterinarian's, starter's or identifier's list to keep its dates, and an amendment to Section 9 of 15.2.5 NMAC giving the stewards the authority to reverse a declaration and/or a scratch. Effective 10/31/2006.

15.2.5.8 ENTRIES AND NOMINATIONS:

A. **ENTERING:** No horse shall be qualified to start unless it has been and continues to be entered.

B. PROCEDURE:

(1) Entries and nominations shall be made with the racing secretary and shall not be considered until received by the racing secretary, who shall maintain a record of time of receipt of them for a period of one year.

(2) An entry shall be in the name of the horse's licensed owner and made by the owner, trainer or a licensed designee of the owner or trainer. Any horse which is in a race or on the also-eligible list may not be sold or transferred until that obligation is completed, except with permission of the stewards.

(3) Numbered races printed in the condition book shall have preference over extra races. Should any race fail to draw seven (7) separate wagering interests, it may be called off.

(4) An entry must be in writing, by telephone, electronically or facsimile machine to the racing secretary. The entry must be confirmed in writing should the stewards or the racing secretary so request.

(5) The person making an entry shall clearly designate the horse so entered.

(6) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

(7) No horse may be entered in more than one race (with the exception of stakes races) to be run on the same day at the same track on which pari-mutuel wagering is conducted. If a horse is entered in more than one stakes race to be run on the same day, at the time of draw, the trainer must declare which race the horse will run in.

(8) Any permitted medication must be declared on the original entry at each race meet. No further declaration will be required at that meet unless there is a change.

(9) Any approved change of equipment must be declared at time of entry. Any changes after that time must be approved by the stewards.

C. NOMINATIONS:

(1) Any nominator to a stakes race may transfer or declare such nomination prior to closing.

(2) Joint nominations and entries may be made by any one of joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the nominator or transferee from liability for all stakes fees due. No fees paid in connection with a nomination to a stakes race that is run shall be refunded except as otherwise stated in the conditions of a stakes race.

(4) Death of a nominator to a stakes race shall not render void any subscription, entry or right of entry. All rights, privileges and obligations shall be attached to the legal heirs of the decedent or the successor owner of the horse.

(5) When a horse is sold privately or at public auction or claimed, stakes engagements shall be transferred automatically to its new owner; except when the horse is transferred to a person whose license is suspended or who is otherwise unqualified to race or enter the horse, then such nomination shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated as provided by the conditions for the race. If a stakes race is not run for any reason, all such nomination fees paid shall be refunded.

D. CLOSINGS:

(1) Entries for purse races and nominations to stakes races shall close at the time designated by the association in previously published conditions for such races. No entry, nomination or declaration shall be accepted after such closing time; except in the event of an emergency or if an overnight race fails to fill, the racing secre-

tary may, with the approval of a steward, extend such closing time.

(2) Except as otherwise provided in the conditions for a stakes race, the deadline for accepting nominations and declarations is midnight of the day of closing, provided they are received in time for compliance with every other condition of the race.

E. NUMBER OF STARTERS IN A RACE: The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and its extensions. The number of starters may be further limited by the number of horses, which, in the opinion of the stewards, can be afforded a safe, fair and equal start.

F. SPLIT OR DIVIDED RACES:

(1) In the event a race is cancelled or declared off, the association may split any overnight race for which postpositions have not been drawn.

(2) Where an overnight race is split, forming two or more separate races, the racing secretary shall give notice of not less than 15 minutes before such races are closed to grant time for making additional entries to such split races.

G. POST POSITIONS: Post positions for all races shall be determined by lot and shall be publicly drawn in the presence of a steward or steward designee.

H. ALSO-ELIGIBLE LIST:

(1) If the number of entries for a race exceeds the number of horses permitted to start, the racing secretary may create and post an also-eligible list.

(2) If any horse is scratched from a race for which an also-eligible list was created, a replacement horse shall be drawn from the also-eligible list into the race in order of preference. If none is preferred, a horse shall be drawn into the race from the also-eligible list by public lot. Horses which gain a position in a race from the also-eligible list take the outside post position in the order drawn from the also-eligible list.

(3) Any owner or trainer of a horse on the also-eligible list who does not wish to start the horse in such race shall so notify the racing secretary prior to scratch time for the race, thereby forfeiting any preference to which the horse may have been entitled in that race.

(4) If a scratch card is deposited for a horse listed as also-eligible, and if that horse is offered an opportunity to run by being drawn at scratch time, the horse shall lose its position on the preferred list.

I. PREFERRED LIST: The racing secretary shall maintain a list of each horse's registration date, entry date,

and racing date. Preference will be given to the best date. ~~[No date will be kept longer than sixty (60) days.]~~ A registration date can only be established when the foal certificate is on file with a racing secretary. An entry date is any time a horse passes the entry box, whether or not the race is in the condition book, or an extra, is used or eliminated. ~~[When the earliest entry date reaches sixty (60) days and expires, the next best entry date for that horse becomes its preferred date.]~~ Entry dates have preference over race or registration dates of the same date. Any horse, which is scratched, will lose its date and must re-establish a date. All horses placed on the steward's, veterinarian's, starter's or identifier's list will be posted on the bulletin board ~~[and will lose their dates. (An exception may be made, when in the opinion of the board of stewards, a horse would be unduly penalized.)]~~ they will not lose their date, but they must meet the necessary requirements to be removed from a list.

[15.2.5.8 NMAC - Rp, 15 NMAC 2.5.8, 03/15/2001; A, 05/15/2001; A, 11/15/2001; A, 12/14/2001; A, 03/31/2003; A, 05/30/2003; A, 06/13/2003; A, 09/29/2006; A, 10/31/2006]

15.2.5.9 DECLARATIONS AND SCRATCHES: Declarations and scratches are irrevocable except with permission of the stewards.

A. DECLARATIONS:

(1) A "declaration" is the act of withdrawing an entered horse from a race prior to the closing of entries.

(2) The declaration of a horse before closing shall be made by the owner, trainer or their licensed designee in the form and manner prescribed in these rules.

B. SCRATCHES:

(1) A "scratch" is the act of withdrawing an entered horse from a contest after the closing of entries.

(2) The scratch of a horse after closing shall be made by the owner, trainer or their licensed designee, with permission from the stewards.

(3) A horse may be scratched from a stakes race for any reason at any time up until 45 minutes prior to post time for that race.

(4) No horse may be scratched from an overnight race without approval of the stewards.

(5) In overnight races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than eight betting interests in the daily double or exotic wagering races, or horses representing more than eight betting interests in any other overnight race, remain in after horses with physical excuses have been scratched, then

owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races. This privilege shall be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(6) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness may not be accepted until the expiration of three (3) entry days after such horse was scratched or excused and the horse has been removed from the veterinarian's list by the racing veterinarian, and then only with the approval of the stewards.

[15.2.5.9 NMAC - Rp, 15 NMAC 2.5.9, 03/15/2001; A, 10/31/2006]

NEW MEXICO RACING COMMISSION

Explanatory paragraph: This is an amendment to Subsection D of 15.2.6.9 NMAC, omitting the verbal warning penalty, changing the levels specified for violations receiving written warnings, violations receiving fines, and subsequent penalties for repeated violations. Effective 10/31/2006.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The "uniform classification guidelines for foreign substances and recommended penalties and model rule", revised April 15, 2004, as issued by the association of racing commissioners international, is incorporated by reference. Upon a finding of a violation of these medication and prohibited substances rules, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures consistent with the recommendations contained therein. The guidelines and recommended penalties shall be provided to all license holders by attachment to this section. Provided, however, that in the event a majority of the stewards determine that mitigating circumstances require imposition of a lesser penalty they may impose the lesser penalty. In the event a majority of the stewards wish to impose a greater penalty or a penalty in excess of the authority granted them, then, and in such event, they may impose the maximum penalty authorized and refer the matter to the commission with specific recommendations for further action.

D. PENALTY RECOMMENDATIONS (in the absence of miti-

gating circumstances):

(1) A ~~verbal~~ written warning for ~~the first~~ one positive test within a 12-month period in the following levels:

(a) 5.1 micrograms per milliliter to ~~5.5~~ 9.9 micrograms per milliliter in one drug of phenylbutazone or oxyphenbutazone; or

(b) 1.1 microgram per milliliter to ~~1.2~~ 1.3 microgram per milliliter of flunixin; or

(c) 1.1 microgram per milliliter to ~~1.2~~ 1.3 microgram per milliliter of meclufenamic acid.

(d) ~~50.1~~ 50.0 to 60.0 nanograms per milliliter of ketoprofen.

~~(2) A written warning for one positive test within a 12-month period in the following levels:~~

~~(a) 5.6 micrograms per milliliter to 9.9 micrograms per milliliter in one drug of phenylbutazone or oxyphenbutazone; or~~

~~(b) 1.2 microgram per milliliter to 1.3 microgram per milliliter of flunixin; or~~

~~(c) 1.2 microgram per milliliter to 1.3 microgram per milliliter of meclufenamic acid.~~

~~(d) 60.0 nanograms per milliliter of ketoprofen.~~

~~(3)~~ (2) A fine for one positive test within a 12-month period in the following levels:

(a) \$200 for 10.0 micrograms per milliliter and above for combined total amount of phenylbutazone and oxyphenbutazone; or

(b) \$200 for 1.3 micrograms per milliliter of flunixin; or

(c) \$200 for 1.3 micrograms per milliliter of meclufenamic acid; or

(d) \$300 for 5.1 micrograms per milliliter or more of either phenylbutazone or oxyphenbutazone in combination with 1.3 micrograms or more of either flunixin or meclufenamic acid; or

(e) \$200 for 5.6 to 5.9 micrograms per milliliter in one drug of phenylbutazone, or oxyphenbutazone, and 1.1 to 1.2 micrograms per milliliter of flunixin or meclufenamic acid.

(f) \$200 for 75.0 nanograms per milliliter of ketoprofen.

~~(4)~~ (3) The penalties for a second violation within a twelve-month period are as follows:

(a) a second violation of Paragraph[s] (1) ~~or (2)~~ shall be a fine of \$200;

(b) a second violation of Paragraphs [3] 2(a), [3] 2(b), or [3] 2(c) shall be a fine of \$400;

(c) a second violation of Paragraph [3] 2(d) shall be a fine of \$600;

(d) a second violation of Paragraph [3] 2(e) shall be a fine of \$400;

(e) a second violation of Paragraph [3] 2(f) shall be a fine of \$400.

~~(5)~~ (4) The penalties for a third violation within a twelve-month period are as follows:

(a) a third violation of Paragraph[s] (1) ~~or (2)~~ shall be a fine of \$400;

(b) a third violation of Paragraphs [3] 2(a), [3] 2(b), or [3] 2(c) shall be a \$400 fine, disqualification, and loss of purse;

(c) a third violation of Paragraph [3] 2(d) shall be a fine of \$900, disqualification, and loss of purse;

(d) a third violation of Paragraph [3] 2(e) shall be a fine of \$900, disqualification, and loss of purse;

(e) a third violation of Paragraph [3] 2(f) shall be a fine of \$900, disqualification, and loss of purse.

~~(6)~~ (5) The penalties for a fourth violation within a twelve-month period are as follows:

(a) a fourth violation of Paragraph[s] (1) ~~or (2)~~ shall be a fine of \$400, disqualification, and loss of purse;

(b) a fourth violation of Paragraphs [3] 2(a), [3] 2(b), or [3] 2(c) shall be a fine of \$1,000, loss of purse, disqualification, and a thirty day suspension;

(c) a fourth violation of Paragraph [3] 2(d) shall be a fine of \$1,500, loss of purse, disqualification, and a thirty-day suspension;

(d) a fourth violation of Paragraph [3] 2(e) shall be a fine of \$1,500, loss of purse, disqualification, and a thirty-day suspension;

(e) a fourth violation of Paragraph [3] 2(f) shall be a fine of \$1,500, loss of purse, disqualification, and a thirty-day suspension.

~~(7)~~ (6) For the fifth violation within a 12 month period of Paragraph[s] (1) ~~or (2)~~ shall be a fine of \$1,000, loss of purse, disqualification, and a thirty day suspension.

~~(8)~~ (7) A positive test of two permitted non-steroidal anti-inflammatory drugs found at twice the allowable level or more for two drugs shall carry the penalties of a class IV drug positive for the trainer and attending veterinarian. Additional violations shall carry the same penalties as additional violations of a class IV drug for the trainer and the attending veterinarian.

NEW MEXICO RACING COMMISSION

This is an amendment to Subsection E of 16.47.1.12 NMAC, amending the jockey betting to disallow any jockey betting during or before a live racing program. Effective 10/31/2006.

16.47.1.12 JOCKEYS A. ELIGIBILITY:

(1) A jockey must pass a physical examination given within the previous twelve months by a licensed physician affirming fitness to participate as a jockey. The stewards may require that any jockey be reexamined and may refuse to allow any jockey to ride pending completion of such examination.

(2) An applicant must demonstrate by prior licensing, or demonstration of riding ability and temporary participation in races with the stewards' prior approval, riding competence and ability. The stewards may authorize a temporary license to ascertain the applicant's riding competence and ability.

(3) A jockey shall not be an owner or trainer of any horse competing at the race meeting where the jockey is riding.

B. APPRENTICE JOCKEYS:

(1) An apprentice jockey must be 16 years of age and if less than the age of 18, a parent or guardian must sign the license application assuming full financial responsibility for the applicant.

(2) An applicant for an apprentice jockey license shall provide a certified copy of the applicant's birth certificate or other satisfactory evidence of date of birth.

(3) An apprentice jockey license does not apply to quarter horse racing.

(4) An applicant with an approved apprentice certificate may be licensed as an apprentice jockey.

(5) An apprentice certificate may be obtained from the stewards on a form provided by the commission.

(6) An apprentice jockey shall ride with a five pound weight allowance beginning with his/her first mount and for one full year from the date of his/her fifth winning mount. If after riding one year from the date of his/her fifth winning mount, the apprentice jockey has failed to ride a total of forty winners, he/she shall continue to ride with a five pound weight allowance for one more year from the date of his/her fifth winning mount or until he/she has ridden forty winners, whichever comes first. In no event may a weight allowance be claimed for more than two years from the date of the fifth winning mount unless an apprentice jockey is unable to ride for a period of seven consecutive days or more after the date of his/her fifth winning mount because of service in national armed forces, enrollment in high school or an institution of secondary education, or because of physical disablement, or restriction on racing or other valid reasons, the commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such apprentice jockey was unable to ride. The stewards or commission may issue apprentice extensions with prop-

er documentation.

(7) An apprentice jockey must meet the conditions set forth in Subsection A of 16.47.1.12 NMAC.

C. FOREIGN JOCKEYS: Whenever a jockey from a foreign country rides in this jurisdiction, the jockey must declare that he/she is a holder of a valid license in his/her country and currently not under suspension. To facilitate this process, the jockey shall present a declaration sheet in a language recognized in this jurisdiction to the commission. The jockey must complete a license application and be fingerprinted to be maintained in the files of the commission.

D. JOCKEYS RESPONSIBILITY:

(1) A jockey shall not have a valet-attendant except one provided and compensated by the association.

(2) No person other than the licensed contract employer, or a licensed jockey agent, may make riding engagements for a rider, except that a jockey not represented by a jockey agent may make his own riding engagements.

(3) A jockey shall have no more than one jockey agent

(4) No revocation of a jockey agent's authority is effective until the jockey notifies the stewards in writing of the revocation of the jockey agent's authority.

E. JOCKEY BETTING:
~~[A jockey shall only be allowed to wager on a race in which he/she is riding. A jockey shall only be allowed to wager if the owner or trainer of the horse which the jockey is riding makes the wager for the jockey; the jockey only wagers on his/her own mount to win or finish first in combination with other horses in multiple type wagers; and records of such wagers are kept and available for presentation upon request by the stewards]~~
No jockey shall be allowed to bet before or during any live racing program.

[16.47.1.12 NMAC - Rp, 16 NMAC 47.1.12, 03/15/2001; A, 08/31/2004; A, 10/31/2006]

NEW MEXICO WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.7.4.2, 20.7.4.6 through 20.7.4.8, 20.7.4.10 through 20.7.4.14, 20.7.4.20 through 20.7.4.29 NMAC, effective 11-15-06.

20.7.4.2 SCOPE: All persons, facilities and systems subject to the ~~[Utility Operators Certification]~~ act.
 [20.7.4.2 NMAC - Rp, 20 NMAC 7.4.101, 1-26-01; A, 11-15-06]

20.7.4.6 OBJECTIVE: The objective of this part is to implement the ~~[Utility Operators Certification]~~ act.
 [20.7.4.6 NMAC - Rp, 20 NMAC 7.4.105, 1-26-01; A, 11-15-06]

20.7.4.7 DEFINITIONS: All terms ~~[defined in the Utility Operators Certification Act and in 20.7.4 NMAC]~~ used in this part shall have the following meanings ~~[provided therein except as modified herein. As used in this part]:~~

~~A. "act" means the Utility Operators Certification Act, NMSA 1978, Sections 61-33-1 to 10;~~

~~[A.] B. "board" means the utility operators certification advisory board;~~

~~[B. "certification act" means the Utility Operators Certification Act, NMSA 1978, Sections 61-33-1 to 10;~~

C. "certified operator" means a person who is certified by the ~~[commission]~~ department as being qualified to operate one of the classifications of public water supply systems or public wastewater facilities;

~~[D. "certified supervisor" means a person who is certified as an operator by the commission as qualified to operate one of the classifications of water supply systems or wastewater facilities and who performs on-site coordination, direction and inspection of the operation of a public wastewater facility or a public water supply facility;]~~

~~[E.] D. "collection system" means pipelines or conduits, pumping stations, force mains, and all other devices, appurtenances and facilities used for collecting and conducting waste to a point of treatment and disposal;~~

~~[F.] E. "commission" means: (1) the water quality control commission; or~~

~~(2) the department, when used in connection with any administrative and enforcement activity or function which the commission has delegated to the department under the Utility Operators Certification Act];~~

~~[G.] E. "department" means the New Mexico environment department;~~

~~[H.] G. "distribution system" means pipelines, appurtenances, devices and facilities which carry potable water under pressure to each consumer;~~

~~[I.] H. "domestic liquid waste" means human excreta and water-carried waste from typical residential plumbing fixtures and activities, including but not limited to waste from toilets, sinks, bath fixtures, clothes or dishwashing machines and floor drains;~~

~~[J.] I. "domestic liquid waste treatment unit" means any system that is designed to discharge less than two thou-~~

~~sand gallons per day and that is subject to the rules promulgated by the environmental improvement board pursuant to Paragraph (3) of Subsection (A) of Section 74-1-8 NMSA 1978 or a watertight unit designed, constructed and installed to stabilize only domestic liquid waste and to retain solids contained in such domestic liquid waste, including [but not limited to aerobic treatment units and] septic tanks;~~

~~[K.] J. "education" means academic credit received attending any public or private primary, secondary or high school, approved vocational training courses in the water supply and wastewater field, college or university;~~

~~[L.] K. "experience" means actual work experience, full or part-time, as an operator in the fields of public water supply or public wastewater treatment; work experience in a related field may be accepted at the discretion of the [Commission] department;~~

L. "operate" means performing any activity or function or making any process control or system integrity decision regarding water quality or water quantity that has the potential to affect the proper functioning of a public water supply system or public wastewater facility or to affect human health, public welfare or the environment; the term "operate" does not include the operation of monitoring equipment from a distantly remote location;

M. "operator" means any person ~~[employed by the owner as the person responsible for the operation of all or any portion of a public water supply system or public wastewater facility. Not included in this definition are such persons as directors of public works, city engineers, city managers, or other officials or persons whose duties do not include actual operation or direct supervision of public water supply systems or public wastewater facilities]~~ who operates a public water supply system or public wastewater facility;

N. "owner" means the person or persons ~~[having the responsibility of managing or maintaining a public water supply system or a public wastewater facility]~~ who own(s) any part of a public water supply system or public wastewater facility;

O. "person" means any agency, department or instrumentality of the United States and any of its officers, agents or employees, the state or any agency, institution or political subdivision thereof, any public or private corporation, individual, partnership, association or other entity, and includes any officer or governing or managing body of any political subdivision or public or private corporation;

~~[P.] P. "population served" means actual or estimated maximum number of persons served by the public water~~

supply system or public wastewater facility; ~~[P.] Q.~~ “public wastewater facility” means a system of structures, equipment and processes designed to collect and treat domestic and industrial waste and dispose of the effluent, but does not include:

(1) any domestic liquid waste treatment unit;

(2) any industrial facility subject to an industrial pretreatment program regulated by the United States environmental protection agency under the requirement of the federal Clean Water Act of 1977; or

(3) any waste treatment system which is strictly limited to treating non-human, agricultural waste;

~~[Q.] R.~~ “public water supply system” means:

(1) a system for the provision through pipes or other constructed conveyances to the public of water for human consumption or domestic purposes [~~through pipes or other constructed conveyances~~] if the system:

(a) has at least fifteen service connections; or

(b) regularly serves an average of at least twenty-five individuals at least sixty days of the year; ~~and~~

(2) ~~includes~~ any water supply source and any treatment, storage and distribution facilities under control of the operator of the system; and

(3) any collection device, including but not limited to wells, spring boxes, infiltration galleries or intake structures, and any treatment, storage, and distribution facilities under the control of the operator of such system and any collection device or pretreatment storage facilities not under such control which are used primarily in connection with such system;

S. “supervision” means the coordination, direction, oversight or inspection of the operation of a public water supply system or a public wastewater facility; the term “supervision” does not include the operation of monitoring equipment from a distantly remote location;

~~[R.] T.~~ “training” means approved education or non-academic training in the fields of public water supply system or public wastewater ~~[treatment]~~ facility operations;

~~[S.] U.~~ “training credit” means the amount of credit earned by a participant in a training program; and

~~[T.] V.~~ “treatment works” means any plant or other works used for the purpose of treating, stabilizing or holding wastes[?].

[20.7.4.7 NMAC - Rp, 20 NMAC 7.4.108, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.8 CONSTRUCTION:

This part shall be liberally construed to

carry out the purposes of the ~~[Utility Operators Certification]~~ act. If any provision or application of this part is held invalid, the remainder or its application to other situations or persons shall not be affected.

[20.7.4.8 NMAC - Rp, 20 NMAC 7.4.106, 1-26-01; A, 11-15-06]

20.7.4.10 ~~[RESERVED]~~ LEVELS OF CERTIFICATION FOR OPERATORS OF PUBLIC WATER SUPPLY SYSTEMS AND PUBLIC WASTEWATER FACILITIES:

A. The levels of general certification for operators of public water supply systems from lowest to highest shall be:

- (1) level 1 water supply (WS1);
- (2) level 2 water supply (WS2);
- (3) level 3 water supply (WS3);

and

- (4) level 4 water supply (WS4).

B. The levels of special certification for operators of public water supply systems from lowest to highest shall be:

- (1) small water (SW); and
- (2) small water advanced (SWA);

C. The levels of certification for water sample technicians at public water supply systems from lowest to highest shall be:

- (1) water sample technician 1 (WST1); and
- (2) water sample technician 2 (WST2).

D. The levels of certification for operators of distribution systems at public water supply systems from lowest to highest shall be:

- (1) distribution systems 1 (DS1);
- (2) distribution systems 2 (DS2);

and

- (3) distribution systems 3 (DS3).

E. The levels of general certification for operators of public wastewater facilities from lowest to highest shall be:

- (1) level 1 wastewater (WW1);
- (2) level 2 wastewater (WW2);
- (3) level 3 wastewater (WW3);

and

- (4) level 4 wastewater (WW4).

F. The levels of special certification for operators of public wastewater facilities from lowest to highest shall be:

- (1) small wastewater (SWW); and
- (2) small wastewater advanced (SWWA).

G. The levels of certification for wastewater laboratory technicians at public wastewater facilities from lowest to highest shall be:

- (1) wastewater laboratory technician 1 (WWLT1);

(2) wastewater laboratory technician 2 (WWLT2); and

(3) wastewater laboratory technician 3 (WWLT3).

H. The levels of certification for operators of collection systems at public wastewater facilities from lowest to highest shall be:

- (1) collection systems 1 (CS1);

and

- (2) collection systems 2 (CS2).

[20.7.4.10 NMAC - Rp, 20 NMAC 7.4.109 - 110, 1-26-01; A, 11-15-06]

20.7.4.11 CLASSIFICATION OF PUBLIC WATER SUPPLY SYSTEMS AND PUBLIC WASTEWATER FACILITIES:

A. Public water supply systems and public wastewater facilities are classified based on: (1) the size and type of the system or facility; (2) the capacity of the system or facility in terms of size service area and number of users served; (3) the type and character of the water or wastewater to be treated; and (4) the physical conditions affecting the treatment plants, collection systems and distribution systems.

B. Public water supply systems and public wastewater facilities are classified ~~[by the commission]~~ in accordance with the requirements of ~~[Sections]~~ 20.7.4.12 NMAC and 20.7.4.13 NMAC ~~[in accordance with the Utility Operators Certification Act, NMSA 1978, Section 61-33-4(A)].~~

[20.7.4.11 NMAC - Rp, 20 NMAC 7.4.111, 1-26-01; A, 11-15-06]

Continued on page 1027

20.7.4.12 PUBLIC WATER SUPPLY SYSTEMS:

[Population served	—0— 501— 5,001— 10,001— 20,000+	
	—500— 5,000— 10,000— 20,000—	
Treatment process		<u>Classification</u>
Filtration (sand, gravity)	SWA—3—3—3—	4
Coagulation, sedimentation, filtration	SWA—3—3—4—	4
Chemical precipitation (Mn, Fe, softening)	SWA—3—3—4—	4
Aeration	SW—2—3—3—	4
Odor and taste control (activated carbon)	SW—2—3—3—	4
Chemical addition (stabilization)	SW—2—2—3—	4
Pressure filtration	—SWA—2—2—3—	4
Ion exchange (softening, defluoridation)	SWA—2—3—3—	4
Chlorination	SW—2—2—3—	4
Fluoridation	—SW—2—2—3—	4
Special, such as desalination	SWA—4—4—4—	4
Production, ground water only	—SW—1—2—3—	4
—SW— Small Water classification;		—SWA— Advanced Small Water classification
Distribution systems		<u>—Classification</u>
Distribution of treated surface water	—SW—2—2—2—	3
Distribution of chlorinated ground water	SW—2—2—2—	3
Distribution of unchlorinated ground water	—SW—1—2—2—	3]

A. In order to operate the various types of treatment processes at public water supply systems, the indicated level of certification shall be required:

Type of Treatment Process	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Filtration (sand, gravity)	SWA	WS3	WS3	WS3	WS4
Coagulation, sedimentation, filtration	SWA	WS3	WS3	WS4	WS4
Chemical precipitation (Mn, Fe, softening)	SWA	WS3	WS3	WS4	WS4
Aeration	SW	WS2	WS3	WS3	WS4
Odor and taste control (activated carbon)	SW	WS2	WS3	WS3	WS4
Chemical addition (stabilization)	SW	WS2	WS2	WS3	WS4
Pressure filtration	SWA	WS2	WS2	WS3	WS4
Ion exchange (softening, defluoridation)	SWA	WS2	WS3	WS3	WS4
Chlorination	SW	WS2	WS2	WS3	WS4
Fluoridation	SW	WS2	WS2	WS3	WS4
Arsenic removal	SWA	WS3	WS3	WS3	WS4
Radionuclide removal	SWA	WS3	WS3	WS3	WS4
Special, such as desalination	SWA	WS4	WS4	WS4	WS4
Production, ground water only	SW	WS1	WS2	WS3	WS4

B. In order to operate various types of distribution systems at public water supply systems, the indicated level of certification shall be required:

Type of Distribution Systems	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Distribution of treated surface water	SW	DS2	DS2	DS2	DS3
Distribution of chlorinated groundwater	SW	DS2	DS2	DS2	DS3
Distribution of unchlorinated groundwater	SW	DS1	DS2	DS2	DS3

C. In order to perform the various types of water sampling at public water supply systems after January 1, 2008, the indicated level of certification shall be required:

Type of Water Sampling	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Microbiology	SW or WST1	WST1	WST1	WST1	WST1
Chemical and Radiological	WST2	WST2	WST2	WST2	WST2

20.7.4.13 PUBLIC WASTEWATER FACILITIES:

[Population served	—1 501 5,001 10,001 20,000+
	—500 5,000 10,000 20,000
Treatment process	Classification
Raw wastewater lagoons	SWW 1 1 1 1
Aerated lagoons	SWW 2 2 2 2
Primary treatment	SWW 2 2 2 2
Primary treatment and oxidation ponds	SWW 2 2 2 2
Secondary treatment, trickling filter	SWW 2 3 3 4
Secondary treatment, aeration	SWWA 3 3 4 4
Physical-chemical treatment processes	SWWA 3 3 3 4
Advanced waste treatment process	SWWA 3 4 4 4
—SWW — Small Wastewater classification;	SWWA — Advanced Small Wastewater classification

Collection systems

Ordinarily, collection systems are considered as a part of the treatment works; however, where the jurisdiction or responsibility for collection system is not the same as the jurisdiction or responsibility for the treatment works, the collection system shall be classified as class Small Wastewater, if the population served is less than or equal to 500 persons; class 1, if the population served is between 501 and 15,000 persons; and as class 2, if the population served is greater than or equal to 15,000 persons.]

A. In order to operate the various types of treatment processes at public wastewater facilities, the indicated level of certification shall be required:

Type of Treatment Process	Population Served				
	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Raw wastewater lagoons	SWW	WW1	WW1	WW1	WW1
Aerated lagoons	SWW	WW2	WW2	WW2	WW2
Primary treatment	SWW	WW2	WW2	WW2	WW2
Primary treatment and oxidation ponds	SWW	WW2	WW2	WW2	WW2
Secondary treatment, trickling filter	SWW	WW2	WW3	WW3	WW4
Secondary treatment, aeration	SWWA	WW3	WW3	WW4	WW4
Physical-chemical treatment processes	SWWA	WW3	WW3	WW3	WW4
Advanced waste treatment process	SWWA	WW3	WW4	WW4	WW4
Phosphorous and nitrogen removal	SWWA	WW3	WW3	WW4	WW4

B. In order to operate collection systems at the various sizes of public wastewater facilities, the indicated level of certification shall be required:

Population Served	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Level of Certification	SWW	CS1	CS1	CS2	CS2

C. In order to perform wastewater analysis at the various sizes of public wastewater facilities after January 1, 2008, the indicated level of certification shall be required:

[20.7.4.13 NMAC - Rp, 20 NMAC 7.4.113, 1-26-01; A, 11-15-06]

Population Served	25 to 500	501 to 5,000	5,001 to 10,000	10,001 to 20,000	20,000+
Level of Certification	WWLT1	WWLT2	WWLT2	WWLT3	WWLT3

20.7.4.14 LESSER INCLUDED CERTIFICATIONS:

A. An operator holding a SWA certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW certification.

B. An operator holding a SWWA certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW certification.

C. An operator holding a WS1 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, WST1 and DS1 certification.

D. An operator holding a WS2 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, WS1, WST1, WST2, DS1 and DS2 certification.

E. An operator holding a WS3 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, SWA, WS1, WS2, WST1, WST2, DS1, DS2 and DS3 certification.

F. An operator holding a WS4 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SW, SWA, WS1, WS2, WS3, WST1, WST2, DS1, DS2 and DS3 certification.

G. An operator holding a WW1 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW and CS1 certification.

H. An operator holding a WW2 certification is certified to perform any activity or function or make any process control or

system integrity decision which requires a SWW, WW1, CS1 and CS2 certification.

I. An operator holding a WW3 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW, SWWA, WW1, WW2, CS1 and CS2 certification.

J. An operator holding a WW4 certification is certified to perform any activity or function or make any process control or system integrity decision which requires a SWW, SWWA, WW1, WW2, WW3, CS1 and CS2 certification.

[20.7.4.14 NMAC - N, 11-15-06]

[20.7.4.14] 20.7.4.15 - 20.7.4.19

[RESERVED]

20.7.4.20 CERTIFICATION GENERAL PROVISIONS:

A. [After July 1, 1976, each owner of a public water supply system or a public wastewater facility serving 2,500 persons or more shall employ a certified operator(s).] It is unlawful to operate or allow the operation of a public water supply system or public wastewater facility unless the system or facility is operated by or under the supervision of a certified operator who meets or exceeds the appropriate level of certification required to operate the system or facility.

[B. After December 1, 1993, each owner of a public water supply system or a public wastewater facility serving 501-2,500 persons shall employ a certified operator(s)]

B. Separate certification is required for the operation of public water supply systems and public wastewater facilities.

[C. After December 1, 1995, each owner of a public water supply system or public wastewater facility shall employ a certified operator(s)]

C. The name(s) of the certified operator(s) employed by a public water supply system or public wastewater facility must be on file at all times with the department. A certified operator may be replaced with another certified operator of the required level at any time. The owner shall notify the department in writing of the name of the new certified operator within thirty days after the replacement of the certified operator.

[D. All operations and maintenance of all or any part of a public water supply system or public wastewater facility shall be performed by, or under the direct supervision of, a certified operator or certified supervisor designated by the owner in accordance with the deadlines set forth for the specific sizes of systems in Subsections A, B and C of this section. The

certified operator or certified supervisor must hold certification in a class equal to, or greater than, the classification of the system or facility]

D. The department may issue certifications restricted to distribution systems or collection systems.

[E. Class 4 is the highest classification level and class 1 is the lowest for systems serving a daily maximum population greater than 500 persons. These classes are ranked so that a person holding certification in a particular class may operate any facility in that particular class and any lower class. Separate certification is required for the operation of a public water supply system and of a public wastewater facility.

F. The classes of small system certifications are ranked so that any person holding certification at the advanced level may operate any facility in that class and any lower class.

G. Persons holding certification in class 1-4 may operate facilities in the classes of small water and wastewater systems provided that they are certified at a level which is inclusive of the treatment processes employed by the small system operated.

H. The name(s) of the certified operator(s) and certified supervisors employed by a public water supply system or public wastewater facility must be on file at all times with the department. A certified operator or certified supervisor may be replaced with another certified operator or certified supervisor of the required particular class at any time. The owner shall notify the department in writing within ten days after the replacement.

I. The commission may issue certificates restricted to distribution systems or collection systems.]

[20.7.4.20 NMAC - Rp, 20 NMAC 7.4.200, 1-26-01; A, 11-15-06]

20.7.4.21 REQUIREMENTS FOR APPLICATION FOR CERTIFICATION: [Each applicant for certification as a public water supply system operator or a public wastewater facility operator shall:

A. Make application on forms furnished by the department. Applications shall be submitted to the department not later than thirty days prior to the date of the examination.

B. Submit evidence that the applicant has reached the age of majority.

C. Pay a fee, in advance, to the department. The fee shall be \$15.00 for each department action such as examination for certification and \$10.00 for the issuance of a temporary certificate.

D. Successfully meet the

educational, experience and training requirements stipulated in Section 20.7.4.22 of this part. All training programs must be approved by the commission and the commission shall assign the number of training credits for each approved training program.

E. Successfully pass the examination for the class and type of certification being applied for:

(1) Examinations for certification shall be scheduled at such times and locations as the commission deems necessary.

(2) Examinations shall be used in determining skill, knowledge, ability and judgment of the applicant.

(3) All examinations will be graded and the applicants notified of the results. Examination papers will not be returned to the applicant, but may be reviewed by the applicant at the department office.]

A. Each applicant for certification as a certified operator shall:

(1) complete an application on forms furnished by the department; applications shall be submitted to the department not later than thirty days prior to the date of the examination;

(2) submit evidence that the applicant has reached the age of majority;

(3) pay a nonrefundable examination application fee, in advance, to the department; the examination application fee for certification as a SW, SWA, SWW, SWWA, WST1, WST2 and WWLT1 shall be \$25.00; the examination application fee for certification as a WS1, WS2, WS3, WS4, WW1, WW2, WW3, WW4, WWLT2, WWLT3, CS1, CS2, DS1, DS2 and DS3 shall be \$30.00;

(4) successfully meet the educational, experience and training requirements stipulated in 20.7.4.22 NMAC; all training programs must be approved by the department, and the department shall assign the number of training credits for each approved training program; and

(5) successfully pass the written examination for the level of certification being applied for.

B. Written examinations for certification shall be scheduled at such times and locations as the department deems appropriate. Written examinations shall be used in determining skill, knowledge, ability and judgment of the applicant. All written examinations will be graded and the applicants notified of the results. Examination papers will not be returned to the applicant, but may be reviewed by the applicant at the department.

[20.7.4.21 NMAC - Rp, 20 NMAC 7.4.201, 1-26-01; A, 11-15-06]

20.7.4.22 MINIMUM REQUIREMENTS FOR [THE CLASSES] CERTIFICATION:

A. [Basic requirements

~~are~~ The minimum requirements for each level of certification are:

(1) ~~[Class 1 and the classes of small system]~~ SW, SWA, SWW, SWWA, WS1, WW1, WWLT1, DS1 and CS1 certification require high school graduation, or general equivalency diploma, ~~[plus]~~ one year of experience ~~[plus]~~ and successful completion of ten training credits;

(2) ~~[Class 2 requires]~~ WS2, WW2, WWLT2, DS2 and CS2 certification require high school graduation, or general equivalency diploma, ~~[plus]~~ two years of experience ~~[plus]~~ and successful completion of thirty training credits;

(3) ~~[Class 3 requires]~~ WS3, WW3, WWLT3 and DS3 certification require high school graduation, or general equivalency diploma, ~~[plus]~~ four years of experience ~~[plus]~~ and successful completion of fifty training credits; and

(4) ~~[Class 4 requires]~~ WS4 and WW4 certification require high school graduation, or general equivalency diploma, ~~[plus]~~ one year's experience, as appropriate, as a ~~[class 3]~~ WS3 and WW3 certificate holder ~~[plus]~~ and successful completion of eighty training credits[-];

(5) WST1 certification requires high school graduation, or general equivalency diploma, and successful completion of five training credits;

(6) WST2 certification requires high school graduation, or general equivalency diploma, and successful completion of ten training credits.

B. Substitutions.

(1) In no case shall the actual experience be less than one year for any ~~[class] level~~ except as in Subparagraph (d) of Paragraph (2) of Subsection B of this section.

(2) Education may be substituted for the basic requirements or used for training credits as follows. In no case may the same education serve both as a substitution for experience and as training credits except as provided in this section.

(a) One year of additional experience may be substituted for the high school graduation or general equivalency diploma requirement for all ~~[classes] levels~~ of certification except ~~[class] level 4~~.

(b) No more than one year (30 semester hours) of successfully completed college education in a non-related field may be substituted for an additional six months of the required experience.

(c) One year of an approved vocational school in the water and/or wastewater field may be substituted for only one additional year of the required experience.

(d) An associate's degree for a two-year program in an approved school in the water and/or wastewater field and six months of actual experience in that field (which may be accrued before, during, or

after the school program) may be substituted for the requirements of any level up to and including ~~[class] level 2~~. An associate's degree for a two-year program in an approved school in the water and/or wastewater field and twelve months of actual experience in that field (which may be accrued before, during, or after the school program) may be substituted for the requirements of a ~~[class] level 3~~.

(e) Completion of at least three years of actual experience in the water and/or wastewater field plus high school diploma or equivalent, plus 15 semester hours of successfully completed college education directly related to the water or wastewater field may be substituted for any level up to and including ~~[class] level 3~~.

(f) A bachelor's degree for a major directly related to the water or wastewater field plus two years of actual experience in that field may be substituted for any level up to and including ~~[class] level 3~~.

(3) Full time water and wastewater laboratory experience may be substituted for operator experience in a respective field at a rate of 25 percent of the actual experience held.

[20.7.4.22 NMAC - Rp, 20 NMAC 7.4.202, 1-26-01; A, 11-15-06]

20.7.4.23 TEMPORARY CERTIFICATION:

A. If, after reasonable time and effort by an owner, a qualified operator cannot be employed, the system or facility may apply for temporary certification for the operator of a system or facility. In support of the application, the system or facility shall submit documentation demonstrating that it cannot employ a qualified operator and a schedule of compliance that includes the actions the system or facility will take to employ a certified operator, the date by which the system or facility will employ a certified operator, and a contingency plan that outlines the actions to be taken if the system's or facility's schedule fails to result in the employment of a certified operator.

B. A temporary certificate may be issued to an individual for a period not to exceed six months.

C. A temporary certificate may be extended to a maximum of 18 months if the operator is involved in a training program that will qualify the operator for the required level in that period.

D. An extension to the six-month temporary certification will require prior approval of a training program to ensure coverage of areas that are specific to the system, facility or individual's knowledge and skills.

[20.7.4.23 NMAC - Rp, 20 NMAC 7.4.203, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.24 CERTIFICATION WITHOUT EXAMINATION:

A. Certificates shall be issued without an examination to persons who, on July 1, 1993, were operators of a system or facility serving under 2,500 persons. Applications for certification under this subsection must have been made on or before December 1, 1993.

(1) Persons making application under this subsection must meet the basic requirements for certification outlined in ~~[Section]~~ 20.7.4.22 NMAC.

(2) Certificates issued under this subsection will be restricted to the particular system or facility for which the applicant is employed as it existed on July 1, 1993. Major changes in the type of treatment employed, or the size of the population served, that would significantly affect the operation of the system or facility shall cause any certificate issued under this subsection to become invalid. The limitations of any certificate issued under this subsection will be printed thereon.

(3) The ~~[Commission] department~~ may deny any application for certification under this subsection if, in the opinion of the ~~[commission] department~~, approval of the application could adversely affect the health and safety of the public or the environment.

(4) Application for certification under this subsection must be accompanied by a ~~[\$25.00]~~ \$30.00 fee per certificate requested, payable to the department.

B. The ~~[commission] department~~ may issue certificates, ~~[in equivalent classification]~~ at an equivalent level of certification, without examination to applicants who hold valid certificates or licenses issued by any state, territory, or foreign jurisdiction, provided that the requirements for issuance of such certificates or licenses are, in the opinion of the ~~[commission] department~~, equal to or higher than those set forth in this part. Application for certification under this provision must be accompanied by a ~~[\$25.00]~~ \$30.00 fee per certificate requested, payable to the Department.

[20.7.4.24 NMAC - Rp, 20 NMAC 7.4.204, 1-26-01; A, 11-15-06]

20.7.4.25 RENEWAL OF CERTIFICATES:

A. All initial certifications shall expire on the last day of the certificate holder's birth month following the third anniversary of certification. All renewals shall be for three years. A renewal fee ~~of \$15.00~~ will be payable to the department for each renewal. Renewal fees shall be paid for each individual certification and shall be in accordance with the following fee schedule.

(1) The renewal fee for SW, SWA,

SWW and SWWA certifications shall be \$20.00.

(2) The renewal fee for WS1, WS2, WW1, WW2, WST1, WST2, WWLT1, WWLT2, WWLT3, CS1, CS2, DS1 and DS2 certifications shall be \$25.00.

(3) The renewal fee for WS3, WW3, WS4, WW4 and DS3 certifications shall be \$30.00.

B. The department shall mail each holder of a certificate a renewal notice at least thirty days prior to the expiration date, mailed to his last address of record. Failure to receive such notice shall not relieve the holder of his responsibility to apply for renewal prior to the expiration date.

C. Each certificate issued under ~~[Section]~~ 20.7.4.24 NMAC must be renewed at three-year intervals.

D. Renewal will require that each certificate holder be credited with having obtained thirty training credits in the three-year period preceding the date on which renewal application is due, except for renewals of WST1 certifications which require five hours of training credits and WST2 certifications which require ten hours of training credits. The thirty training credits must include at least ten training credits for approved training in the operation and maintenance of the same type of public water supply system or public wastewater facility as each certificate being renewed. ~~[This requirement will apply after the third year of New Mexico certification for each operator.]~~

[20.7.4.25 NMAC - Rp, 20 NMAC 7.4.205, 1-26-01; A, 10-17-01; A, 11-15-06]

20.7.4.26 LAPSED CERTIFICATES:

A. Certificates, which have not been renewed in accordance with ~~[Section]~~ 20.7.4.25 NMAC, will be considered lapsed and invalid.

B. Lapsed certificates may be reinstated without penalty upon application within thirty days of the date of expiration. A lapsed certificate which has not been reinstated within the thirty-day period may be reinstated within one year of expiration date upon reapplication and payment of a ~~[\$5.00]~~ \$10.00 per month penalty fee for each month or portion thereof beyond the expiration date. Reinstatement of lapsed certificate will also require satisfaction of all the renewal requirements of ~~[Section]~~ 20.7.4.25 NMAC.

C. If a lapsed certificate has not been reinstated within one year of its expiration date, re-examination will be required for reinstatement. All applicants for re-examination must meet the requirements of ~~[Sections]~~ 20.7.4.21 and 20.7.4.22 NMAC of this part.

[20.7.4.26 NMAC - Rp, 20 NMAC 7.4.206, 1-26-01; A, 11-15-06]

20.7.4.27 SUSPENSION AND REVOCATION:

A. The ~~[commission shall]~~ department may suspend or revoke any or all certificate(s) held by a certified operator ~~[or certified supervisor]~~ [as provided for in Section 61-33-7 of the ~~[Utility Operators Certification]~~ act.

B. In the event of a contemplated suspension or revocation of a certificate, the ~~[commission]~~ department shall notify the certificate holder by registered mail of the reason for such action. Within 20 days after receipt of the notice, the certificate holder may request in writing that a hearing be held by the ~~[commission]~~ department.

C. When the ~~[commission]~~ department contemplates the suspension or revocation of a certificate, the ~~[commission]~~ department shall serve upon the certificate holder a written notice containing a statement:

(1) that the ~~[commission]~~ department has sufficient evidence which, if not rebutted or explained, will justify the ~~[commission]~~ department in suspending or revoking the certificate;

(2) indicating the general nature of the evidence;

(3) that unless the certificate holder within twenty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the ~~[commission]~~ department and containing a request for a hearing, the ~~[commission]~~ department will take the contemplated action; and

(4) calling the certificate holder's attention to their rights under the Uniform Licensing Act, NMSA 1978, Section 61-1-8.

D. If the certificate holder does not mail a request for a hearing within the time and in the manner required by this section, the ~~[commission]~~ department may take the action contemplated in the notice and such action shall be final and not subject to judicial review.

E. If the certificate holder does mail a request for a hearing as required by this section, the ~~[commission]~~ department shall, within twenty days of receipt of such request, notify the certificate holder of the time and place of hearing, the name or names of the person or persons who shall conduct the hearing for the ~~[commission]~~ department and the statutes and regulations authorizing the ~~[commission]~~ department to take the contemplated action, which hearing shall be held not more than sixty nor less than fifteen days from the date of service of such notice.

F. Re-issuance of a revoked certificate shall be accomplished by reapplication as provided for in an original certificate. Any person whose certificate is revoked shall be ineligible for admission to any examination for certification for the entire period of revocation as set by the ~~[commission]~~ department.

G. A certificate may be suspended for a specified period of time to be determined by the ~~[commission]~~ department.

[20.7.4.27 NMAC - Rp, 20 NMAC 7.4.207, 1-26-01; A, 11-15-06]

20.7.4.28 ELIGIBILITY FOR OPERATOR TRAINING GRANT FUNDS: Each applicant for operator training grant funds administered by the department shall.

A. Submit evidence satisfactory to the department that the recipient of the training:

(1) is a person who is a candidate for employment as a "certified operator" as defined under ~~[Section]~~ 20.7.4.7 NMAC of this part; or

(2) is a person in a supervisory role responsible for the management of a public water supply system or public wastewater ~~[treatment]~~ facility; or

(3) is a person who is or will be involved in the instruction of operators.

B. Submit evidence satisfactory to the department that not less than ten percent of the training cost is provided by the employer of the utility operator; the cost of per diem and mileage may not be paid from grant funds but may be accounted in determining the training cost provided by the employer; and

C. Supply any other pertinent information deemed necessary by the department.

[20.7.4.28 NMAC - Rp, 20 NMAC 7.4.208, 1-26-01; A, 11-15-06]

20.7.4.29 UTILITY OPERATORS CERTIFICATION ADVISORY BOARD:

A. Pursuant to Section 61-33-4(G) of the ~~[Utility Operators Certification]~~ act, a board shall be appointed by the commission to function with the commission to establish qualifications of operators, classify systems and facilities, adopt ~~[regulations]~~ rules and advise the department on the administration of the ~~[Utility Operators Certification]~~ act.

B. The commission shall properly notify the board of all matters brought before the commission to which the ~~[Utility Operators Certification]~~ act is applicable.

~~[B-]~~ C. The board shall consist of seven certified operators. The commis-

sion shall also appoint two certified operators to serve as alternates to board members in their absence. All alternates appointed prior to the effective date of this part will be allowed to serve out the remainder of their three-year terms.

~~[C.]~~ D. Appointments to the board shall be for three-year terms. The commission shall appoint new board members at its first meeting of each fiscal year. The terms shall overlap so that no more than three terms shall expire in any one year.

~~[D.]~~ E. At the first meeting of each fiscal year, the board shall elect from its membership a chairman, a vice chairman, and two members to sit as commission members on all matters to which the ~~[Utility Operators Certification]~~ act is applicable.

~~[E.]~~ F. A quorum shall consist of a least four members.

~~[F.]~~ G. The duties of the board shall include:

(1) reviewing proposed rules, regulations and guidelines regarding the administration of the ~~[Utility Operators Certification]~~ act for action by the commission including:

(a) the basis for classifying public water supply systems and public wastewater facilities~~[-and];~~

(b) qualifications for the various classifications of operators~~[-and];~~

(c) proposing criteria for the evaluation of the minimum number of certified operators needed to operate a public water supply system or public wastewater facility; and

(d) developing criteria for the classification of wastewater laboratory technicians based on the complexity of analytical work performed;

(2) reviewing proposed examinations for each ~~[class]~~ level and type of certification;

(3) proposing criteria for the evaluation of applicant qualifications;

(4) reviewing applications for issuance of certificates by reciprocity or endorsement;

(5) proposing criteria for the evaluation of proposed training programs;

(6) making recommendations to the commission for replacement when a board vacancy occurs; and

(7) performing any other function in regard to the ~~[Utility Operators Certification]~~ act as directed by the commission.

~~[G.]~~ H. Any board member failing to attend three consecutive regular meetings is automatically removed as a member of the board. The commission may remove any member of the board for neglect of any duty required by law, for ~~[incompetency]~~ incompetence or for unprofessional conduct and shall remove any board member who violates any provision of the

~~[Utility Operators Certification]~~ act. The commission shall fill any vacancies on the board.

[20.7.4.29 NMAC - Rp, 20 NMAC 7.4.209, 1-26-01; A, 11-15-06]

NEW MEXICO YOUTH CONSERVATION CORPS

This is an amendment to 11.2.171 NMAC, Sections 7, 11, and 18. The Youth Conservation Corps (YCC) Program. Changes are as follows: 11.2.171.7 removes the words not-for-profit and replaces it with nonprofit. 11.2.171.11 removes the word not-for-profit and replaces it with nonprofit. 11.2.171.18 changes the tuition voucher amount from \$1,000 to \$1,500. Effective 10/31/06.

11.2.171.7 DEFINITIONS:

A. "basic employment skills" mean those attributes that assist people in seeking and securing permanent employment, such as promptness, dependability, ability to take direction and cooperation with peers at the work site.

B. "nonprofit organization" means any organization that has been granted an exemption from federal income tax by the United States commissioner of internal revenue as an organization described in section 501(c) of the United States internal revenue code of 1986, as amended or renumbered.

C. "project sponsor" means any local public body, state or federal agency, ~~[not for profit]~~ nonprofit entity or native American tribe that will agree to do projects consistent with the program.

D. "time of enrollment" means the day a corps member reports to work for the first time.

[5-31-97; 11.2.171.7 NMAC - Rn, 11 NMAC 2.YCC.7, 4/30/2001; A, 10/15/02; A, 10/31/06]

11.2.171.11 PROJECT REQUIREMENTS:

A. Classification of projects: the corps program may be made up of the following classes of projects:

(1) summer projects operated during the months of June, July and August;

(2) seasonal projects that may be operated at any time of the year and are six months or less in duration; and

(3) residential.

B. Project sites: Projects may be undertaken on:

(1) public lands, waters or structures located within the state of New

Mexico that are under the jurisdiction of the project sponsor or in accordance with a written agreement between the project sponsor and the agency that has jurisdiction over the public lands; waters or structures;

(2) by a ~~[not for profit entity]~~ nonprofit ~~[organization]~~ entity or native American tribe on any lands, waters or structures owned or administered by such entity or native American tribe provided that these facilities are open to the public on a reasonable basis, there is a public value or benefit to the project and the facilities are located within the state of New Mexico; or

(3) by a project sponsor on any lands, waters or structures owned or administered by a nonprofit organization or native American tribe in accordance with a written agreement between the project sponsor and the ~~[not for profit]~~ nonprofit entity or native American tribe provided that these facilities are open to the public on a reasonable basis, there is a public value or benefit to the project and the facilities are located within the state of New Mexico.

C. To the maximum extent possible, each conservation corps project shall have the following characteristics:

(1) a balanced work/learning program in which environmental awareness and work skills are learned primarily through meaningful work activities on public lands or facilities;

(2) a program to enhance the educational abilities and attitudes of corps members including, but not limited to basic education, literacy and high school or equivalency diplomas;

(3) youth of both sexes from various social, economic, ethnic and racial backgrounds that is representative of youth residing within the recruiting area;

(4) an enrollment of size sufficient to permit group learning and social interaction; components that will educate the corps members about our natural environment and cultural heritage, teach first aid and basic employment skills and encourage them to further their education; and

(5) crews that are easily recognized as members of the New Mexico youth conservation corps regardless of the identity of project sponsors.

[5-31-97, 2-28-98; 11.2.171.11 NMAC - Rn, 11 NMAC 2.YCC.11, 4/30/2001; A, 10/15/02; A, 10/31/06]

11.2.171.18 EDUCATIONAL TUITION:

A. Corps members shall be encouraged to increase their opportunities for employment by education and training. Project sponsors shall seek cooperative agreements with community colleges, vocational schools and other institutions of higher learning in an effort to aid corps members in achieving their educational goals.

Project sponsors shall provide opportunities for corps members to achieve basic education, literacy and high school or equivalency diplomas.

B.

(1) On completion of employment, a corps member who has twelve full months of employment as a corps member during a period not to exceed forty-eight months, and who has received satisfactory evaluations throughout his employment, is entitled to receive as additional compensation \$500.00 or a [~~\$1000.00~~] \$1500.00 educational tuition voucher at a New Mexico institution of higher education. The educational tuition voucher is valid for two years. If the corps member receives a satisfactory employment evaluation and the program manager determines that the corps member's employment was less than twelve months in a four-year period due to circumstances beyond the corps member's control, the program manager may authorize a partial compensation payment or a partial educational tuition voucher to that corps member.

(2) To qualify to receive a prorated cash bonus/tuition voucher, in addition to meeting the other requirements, the corps member must complete a minimum of six months employment as a corps member.

(3) The project sponsor shall certify that the corps member was employed for the duration of the project. If the corps member was not employed for the full duration, the project sponsor shall certify the time period the corps member was employed.

(4) Circumstances beyond a corps member's control include but are not limited to:

- (a) illness
- (b) death in the family
- (c) return to school
- (d) family relocates

(5) Circumstances beyond the corps member's control do not include the unavailability of projects or that the project sponsor did not select them for employment with the project.

[5-31-97; 11.2.171.18 NMAC - Rn, 11 NMAC 2.YCC.18, 4/30/2001; A, 10/15/02; A, 10/31/06]

End of Adopted Rules Section

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Other Material Related to Administrative Law

**NEW MEXICO BOARD OF
EXAMINERS FOR
ARCHITECTS****New Mexico Board of Examiners for
Architects**

PO Box 509
Santa Fe, NM
505-827-6375

Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, November 17, 2006. The meeting will be held in the Conference Room of the Board office, #5 Calle Medico, Ste. C in Santa Fe beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

**NEW MEXICO HUMAN
SERVICES DEPARTMENT
MEDICAL ASSISTANCE DIVISION****NMAC Chapter Name Change**

By request of the Human Services Department, the State Records Administrator considered and approved to change the name of Chapter 280 of Title 8 from "MEDICAID ELIGIBILITY - PREPACE (PROGRAM OF ALL INCLUSIVE CARE FOR THE ELDERLY)" to "MEDICAID ELIGIBILITY - PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)." This name change will take effect on 31 October 2006.

**End of Other Related
Material Section**

SUBMITTAL DEADLINES AND PUBLICATION DATES**2006**

Volume XVII	Submittal Deadline	Publication Date
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

2007

Volume XVIII	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 16
Issue Number 2	January 17	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 30
Issue Number 7	April 2	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 1	June 14
Issue Number 12	June 15	June 29
Issue Number 13	July 2	July 16
Issue Number 14	July 17	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	August 31	September 14
Issue Number 18	September 17	September 28
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 3	December 14
Issue Number 24	December 17	December 31

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.