

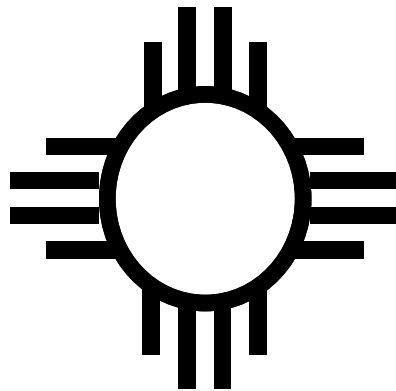
**NEW
MEXICO
REGISTER**



Volume XVII
Issue Number 21
November 15, 2006

New Mexico Register

**Volume XVII, Issue Number 21
November 15, 2006**



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

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Administrative Law Division
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New Mexico Register

Volume XVII, Number 21

November 15, 2006

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Effective Date and Validity of Rule Filings

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

A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered

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Notices of Rulemaking and Proposed Rules

ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD NOTICE OF HEARING AND REGULAR MEETING

On December 13, 2006, at 5:15 PM, the Albuquerque-Bernalillo County Air Quality Control Board (Air Board) will hold a public hearing in the Vincent E. Griego Chambers located in the basement level of the Albuquerque-Bernalillo County Government Center, 400 Marquette Avenue NW, Albuquerque, NM. The hearing will address:

* Proposal to amend 20.11.63 NMAC, New Source Performance Standards For Stationary Sources, by incorporating by reference new and modified New Source Performance Standards published in 40 CFR 60, *New Source Performance Standards* (NSPS) through October 28, 2006.

* Proposal to amend 20.11.64 NMAC, Emission Standards For Hazardous Air Pollutants For Stationary Sources, by incorporating by reference new and modified standards published in 40 CFR 61, *National Emission Standards For Hazardous Air Pollutants* (NESHAP), and 40 CFR 63, *National Emission Standards For Hazardous Air Pollutants By Source Category* (NESHAP by Source Category) through October 28, 2006.

The Environmental Health Department's Air Quality Division routinely updates these regulations to incorporate federal requirements so that new and modified standards can be incorporated in new source and operating permits. In addition, it is proposed that the EPA delegate to the Department the authority to locally administer and enforce the standards referenced above, throughout Albuquerque and Bernalillo County. Local delegation authorizes the Department to require local air pollution sources to comply with these standards.

Following the hearing, the Air Board will hold its regular monthly meeting during which the Air Board is expected to consider adopting the proposed revisions to 20.11.63 NMAC, New Source Performance Standards for Stationary Sources, and proposed revisions to 20.11.64 NMAC,

Emission Standards for Hazardous Air Pollutants for Stationary Sources.

The Air Quality Control Board is the federally-delegated air quality authority for Albuquerque and Bernalillo County. Local delegation authorizes the Air Board to administer and enforce the Clean Air Act and the New Mexico Air Quality Control Act, and to require local air pollution sources to comply with air quality standards and regulations.

Hearings and meetings of the Air Board are open to the public and all interested persons are encouraged to participate. All persons who wish to testify regarding the subject of the hearing may do so at the hearing and will be given a reasonable opportunity to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce exhibits and to examine witnesses in accordance with the Joint Air Quality Control Board Ordinances, Section 9-5-1-6 ROA 1994 and Bernalillo County Ordinance 94-5, Section 6.

Anyone intending to present technical testimony is asked to submit a written notice of intent before 5:00 pm on Wednesday December 6, 2006 to: Attn: December Hearing Record, Mr. Neal Butt, Albuquerque Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103, or in person in Room 3023, 400 Marquette Avenue NW. The notice of intent shall identify the name, address, and affiliation of the person.

In addition, written comments to be incorporated into the public record should be received at the above P.O. Box, or Environmental Health Department office, before 5:00 pm on December 6, 2006. The comments shall include the name, address and affiliation of the individual or organization submitting the statement. Written comments may also be submitted electronically to nbutt@cabq.gov and shall include the required name, address and affiliation information. Interested persons may obtain a copy of the proposed regulation amendments at the Environmental Health Department Office, or by contacting Mr. Neal Butt electronically at nbutt@cabq.gov or by phone (505) 768-2660.

NOTICE FOR PERSON WITH DISABILITIES: If you have a disability and/or require special assistance please call (505) 768-2600 [Voice] and special assistance will be made available to you to review any public meeting documents, including agendas and minutes. TTY users call the New Mexico Relay at 1-800-659-8331 and spe-

cial assistance will be made available to you to review any public meeting documents, including agendas and minutes

NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT FAMILY SERVICES DIVISION

CHILDREN, YOUTH AND FAMILIES DEPARTMENT NOTICE OF PUBLIC HEARING

The Children, Youth and Families Department, Family Services will hold a formal public hearing on Monday, December 18, 2006 from 2:00 p.m. to 4:00 p.m. in the fifth (5th) floor conference room located in the PERA Building, at 1120 Paseo de Peralta, Santa Fe, New Mexico to receive public comments regarding proposed changes to regulation 7.20.11 NMAC Certification Requirements for Child and Adolescent Mental Health Services.

The proposed regulation changes may be obtained at www.newmexicokids.org or by contacting Ken Warner at 505-827-7623. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. on December 18, 2006. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Ken Warner, Bureau Chief, Family Services, Children, Youth and Families Department, P.O. Drawer 5160 Room 209, Santa Fe, New Mexico 87502-5160, Fax Number: 505-476-0225.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact the Family Services, Children's Behavioral Health Services Bureau at 505-827-8018. Family Services requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

NEW MEXICO HOISTING OPERATOR'S LICENSURE EXAMINING COUNCIL

HOISTING OPERATOR'S LICENSURE EXAMINING COUNCIL SPECIAL MEETING

Notice is hereby given that the Hoisting Operator Licensure Examining Council will hold a special meeting on Wednesday,

December 20, 2006. The meeting will commence at 1:30 p.m. in the Construction Industries Division at 5200 Oakland Avenue NE in Albuquerque, New Mexico. Council Members will consider proposing rule changes to Subsection G of Section 16.43.2.24 and Subsection H of Section 16.43.2.24: General Examination Fee and Law and Safety Examination Fee of the Hoisting Operator Safety. A copy of the Agenda will be available at the office of the Executive Director prior to said meeting.

Anyone needing special accommodations is requested to notify the Executive Director at 505-222-9809 at the above address of such needs at least 10 days prior to the meeting.

NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing to consider adopting revised rules in the Food Stamp and Cash Assistance Programs. The hearing will be held at 1:30 P.M. on Friday, December 15, 2006. The hearing will be held at the Income Support Division conference room, 2009 S. Pacheco St., Santa Fe, NM. The conference room is located in Room 120 on the lower level.

The proposed regulation changes update and clarify rules for participants in the Food Stamp Program to receive their benefits via Electronic Benefit Transfer (EBT). The changes also include the federal requirement to expunge food stamp benefits that have been dormant for 365 days from the initial date of benefit activity. In order to align all programs of assistance the Department is proposing to implement changes to the delivery of Cash Assistance Benefits. The authorization of cash assistance benefits will be modified in conjunction with the Food Stamp Program and TANF State Plan. The changes correspond with card issuance and replacement.

The proposed regulation is available on the Human Services Department website at <http://www.hsd.state.nm.us/isd/ISDRegisterPlansTax.html>. Individuals wishing to testify or requesting a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

Individuals who do not wish to attend the hearing may submit written or recorded

comments. Written or recorded comments must be received by 5:00 P.M. on the date of the hearing. Please send comments to:

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

You may send comments electronically to: ted.roth@state.nm.us

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

NEW MEXICO PUBLIC EDUCATION DEPARTMENT

The Public Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Mabry Hall, Jerry Apodaca Education Building, 300 Don Gaspar, Santa Fe, New Mexico, 87501-2786, on **Tuesday**, January 9, 2007 from 1:00 until 3:00 P.M. The purpose of the public hearing will be to obtain input on the following rule:

Rule Number	Rule Name	Proposed Action
6.80.3 NMAC	CHARTER SCHOOL DISTRICTS	Adopt new rule to implement The Charter School District Act (Sections 22 -8E-1 to 22-8E-8)

Interested individuals may testify at the public hearing or submit written comments to Charter Schools Division, Public Education Department, 5600 Eagle Rock Ave. N.E., Albuquerque, N.M., 87113, Tel.: (505) 222-4762; Fax: (505) 222-4759 (don.duran@state.nm.us) Written comments must be received no later than 5 p.m. on January 9, 2007. However, the submission of written comments as soon as possible is encouraged.

A Notice of Proposed Rulemaking regarding 6.80.3 NMAC was previously published in the New Mexico Register Vol. XVII, Number 17 on September 15, 2006, and a hearing to receive public comment on the proposed rulemaking action was held on October 18, 2006. The rule now proposed and disseminated for public comment is the same as that noticed in the New Mexico Register on September 15 and that on which public comment was solicited on October 18, 2006. Comments submitted in response to the September 15 notice will be considered responsive to the current notice and, therefore, resubmission is unnecessary.

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

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

NEW MEXICO COMMISSION OF PUBLIC RECORDS

NOTICE OF REGULAR MEETING

The NM Commission of Public Records has scheduled a regular meeting for Tuesday, December 5, 2006, at 9:00 A.M. The meeting will be held at the NM State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM 87507. Pursuant to the New Mexico Open Meetings Act, Section 10-15-1(H)(2) NMSA 1978, a portion of the meeting may be closed to discuss a limited personnel matter. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the hearing, please contact Darlene A. Torres-Vigil at (505)476-7902 by November 27, 2006. Public documents, including the agenda and minutes, can be provided in various accessible for-

mats. A final copy of the agenda will be available 24 hours before the hearing.

NOTICE OF RULEMAKING

The Commission of Public Records may consider the following items of rulemaking at the meeting:

Repeals

1.17.215 NMAC JRRDS, New Mexico Court of Appeals

Replacements

1.17.215 NMAC JRRDS, New Mexico Court of Appeals

Amendments

1.18.430 NMAC E R R D S , Public Regulations Commission

1.18.521 NMAC E R R D S , Energy, Minerals and Natural Resources Department

1.18.630 NMAC E R R D S , Human Services Department

New

1.13.4 NMAC R e c o r d s Management Requirements for Electronic Messaging

WORKERS' COMPENSATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Notice is hereby given that on Wednesday, November 8, 2006, commencing at 1:30 p.m., the New Mexico Workers' Compensation Administration will conduct a public hearing on amendments to the in-patient hospital data collection provisions contained in Part 7 of the Workers' Compensation Rules, the safety rules, the rules governing OCIPs, and the individual and group self-insurance rules. The hearing will be conducted at the Workers' Compensation Administration, 2410 Centre Avenue S.E., Albuquerque, NM. Videoconferencing may also be made available in the WCA Field Offices. Please contact Renee Blechner at (505) 841-6083 by November 1, 2006, to reserve videoconferencing. The proposed rule changes will be available on October 25, 2006. Copies of proposed changes to the fee schedule will also be available on October 25, 2006.

Comments made in writing and at the public hearing will be taken into consideration. Written comments pertaining to these issues will be accepted until the close of business on Wednesday, November 15, 2006. Oral comments will be limited to five (5) minutes per speaker.

For further information call (505) 841-6000. Please inquire at the WCA Clerk's Office, 2410 Centre Avenue S.E., Albuquerque, NM, 87106, (505) 841-6000, for copies of the proposed rules. If you intend to request a copy by mail, please inquire at the WCA about the postage cost and envelope size needed to accommodate your request. Plan on including a post-paid, self-addressed envelope with your request.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or participate in the hearing or meetings, please contact Renee Blechner at (505) 841-6083. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-8331.

End of Notices and Proposed Rules Section

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Adopted Rules

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 3 ATHLETIC TRAINERS
PART 10 EMERGENCY LICENSURE

16.3.10.1 ISSUING AGENCY: Regulation and Licensing Department New Mexico Athletic Trainers Practice Board Post Office Box 25101 Santa Fe, New Mexico 87504.
 [16.3.10.1 NMAC - N, 11-23-06]

16.3.10.2 SCOPE: All individuals who wish to practice the profession of athletic training in the state of New Mexico and individuals offering services in association or associated with athletic training.
 [16.3.10.2 NMAC - N, 11-23-06]

16.3.10.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Athletic Trainers Practice Act, Section 61-14D-1 to 61-14D-19 NMSA 1978.
 [16.3.10.3 NMAC - N, 11-23-06]

16.3.10.4 DURATION: Permanent.
 [16.3.10.4 NMAC - N, 11-23-06]

16.3.10.5 EFFECTIVE DATE: November 23, 2006, unless a later date is cited at the end of a section.
 [16.3.10.5 NMAC - N, 11-23-06]

16.3.10.6 OBJECTIVE: The objective of 16.3.10 NMAC is to outline requirements, procedures, and criteria for issuance of an emergency license.
 [16.3.10.6 NMAC - N, 11-23-06]

16.3.10.7 DEFINITIONS: [RESERVED]
 [16.3.10.7 NMAC - N, 11-23-06]

16.3.10.8 APPLICATION FOR EMERGENCY LICENSURE AS AN ATHLETIC TRAINER:

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

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

(2) proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

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

(4) refer to 16.3.4 NMAC, athletic trainers, initial licensing requirements;

(5) verification of current licensure or certification (no access to national data base, board staff will verify).

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

(1) verification NATA-BOC certification;

(2) official university transcripts;

(3) proof of CPR/AED certification;

(4) New Mexico laws and regulation examination (jurisprudence examination).

C. Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.3.4 NMAC, 16.3.5 NMAC, and 16.3.6 NMAC.

D. Emergency licensure shall expire on August 31, unless renewed by the board. Application for renewal shall consist of the following:

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

(2) a 2" inch by 2" photograph of the applicant;

(3) an application fee of \$125.00 as provided in 16.3.8 NMAC;

(4) other documentation required in 16.3.4 NMAC through 16.3.9 NMAC;

(5) official transcripts in a sealed envelope;

(6) proof of current NATA-BOC certification;

(7) proof of current cardiopulmonary resuscitation (CPR); and automated electrical defibrillator unit (AED);

(8) demonstrates professional competence by satisfactorily passing the New Mexico jurisprudence examination.
 [16.3.10.8 NMAC - N, 11-23-06]

16.3.10.9 EMERGENCY LICENSE TERMINATION:

In accordance with the procedures established by the Uniform Licensing Act (61-1-1 to 61-11-31 NMSA 1978), the board may deny, suspend or revoke a license held or applied for under the Athletic Trainers Practice Act,

may fine or reprimand a licensee or take any other action provided for in the Uniform Licensing Act, upon grounds that the licensee:

(1) is guilty of fraud, deceit or misrepresentation in procuring or attempting to procure any license provided for the athletic trainers practice board;

(2) failure to apply or renew for permanent licensure;

(3) termination of an emergency license shall not preclude applicant from permanent licensure.

[16.3.10.9 NMAC - N, 11-23-06]

HISTORY OF 16.3.10 NMAC:
 [RESERVED]

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.4 NMAC Sections 5 and 8, effective 11-23-06.

16.3.4.5 EFFECTIVE DATE: January 16, 2000, unless a later date is cited at the end of a section [~~or paragraph~~].
 [1-16-00; 16.3.4.5 NMAC - Rn, 16 NMAC 3.4.5, 8-16-01; A, 11-23-06]

16.3.4.8 ~~INITIAL LICENSING REQUIREMENTS~~ APPLICANTS FOR LICENSURE: As an athletic trainer must possess the following qualifications and provide the required documentation with the application.

A. Application for licensure shall be made on forms prescribed by the board.

(1) [~~All applications must be accurate, complete, signed by the applicant and sworn to before a notary public.~~] Completed application signed, dated and notarized.

(2) Applications must be accompanied by the required [~~application~~] fee, which shall be non-refundable.

(3) [~~Initial licenses may be issued at any time.~~] Education requirements: holds a baccalaureate degree.

(4) Current NATA-BOC or show proof of three part exam registration through NATA-BOC.

(5) Current competence in cardiopulmonary resuscitation (CPR) and; use of automated electrical defibrillator units (AED).

B. [~~Applications for licensure must be accompanied by the following documentation.~~] Documentation required for licensure:

(1) [~~Proof of NATA or its success-~~

or organization's certification or] completed application;

(2) [~~Proof of NATA or its successor organization's eligibility;~~] one hundred twenty five (\$125.00) application fee (non-refundable);

(a) ~~official transcript verifying completion of a baccalaureate degree and any additional post graduation credit hours;~~

(b) ~~documentation of clinical experience under a supervisor certified as an athletic trainer and;~~

(c) ~~proof of current CPR certification;~~

(d) ~~a letter of recommendation by an athletic trainer licensed in New Mexico or a member of NATA or its successor organization.]~~

(4) proof of current NATA-BOC certification;

(5) proof of current competence in CPR and; use of AED;

(6) demonstrates professional competence by satisfactorily passing the New Mexico jurisprudence examination; and

(7) demonstrates professional competency by satisfactorily passing the NATA examination.

C. Applicants who are not NATABOC or its successor organization's exam or other exams offered by the board as demonstration of professional competence. Successful completion of either exam is a requirement for licensure.

D. Each applicant must, in addition to the other requirements, pass an examination on the New Mexico laws and regulations pertaining to the practice of athletic training before an initial license may be issued (jurisprudence examination).
[1-16-00; 16.3.4.8 NMAC - Rn & A, 16 NMAC 3.4.8, 8-16-01; A, 11-23-06]

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.5 NMAC Sections 5 and 8, effective 11-23-06.

16.3.5.5 EFFECTIVE DATE: January 16, 2000, unless a later date is cited at the end of a section [~~or paragraph~~].
[1-16-00; 16.3.5.5 NMAC - Rn, 16 NMAC 3.5.5, 8-16-01; A, 11-23-06]

16.3.5.8 PROVISIONAL PERMITS:

[A. ~~An applicant who meets the requirements for licensure as set forth in 16.3.4 NMAC, who has applied for examination, has paid the required fees and has passed the jurisprudence examination, may be issued a provisional permit. The~~

~~provisional permit allows the applicant to practice under the scope and authority of the act.~~

B. ~~The provisional permit shall be valid until the results of the first occurring examination are available. If the applicant fails the examination, his provisional permit becomes invalid immediately upon notification of the failure. If the applicant does not sit for the examination, the provisional permit becomes invalid on the date of the examination.~~

C. ~~Upon application and payment of required fees, a second provisional permit may be issued to a qualified applicant who has failed to take or pass the required examination.~~

D. ~~No applicant will be issued more than two provisional permits.] Will grant to individuals meeting all requirements except the national certification exam. The provisional permit will be valid no more than six months. No individual will be issued more than two provisional permits.~~

[1-16-00; 16.3.5.8 NMAC - Rn, 16 NMAC 3.5.8, 8-16-01; A, 11-23-06]

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.6 NMAC Sections 5 and 8, effective 11-23-06.

16.3.6.5 EFFECTIVE DATE: January 16, 2000, unless a later date is cited at the end of a section [~~or paragraph~~].
[1-16-00; 16.3.6.5 NMAC - Rn, 16 NMAC 3.6.5, 8-16-01; A, 11-23-06]

16.3.6.8 EXAMINATIONS

A. The board will accept the following examinations as proof of professional competence:

(1) the national athletic trainers association board of certification [~~or its successor organization's exam~~]; and

(2) [~~board examination on professional competence.]~~ New Mexico jurisprudence exam (70% passing score).

[B. ~~The required passing score for the jurisprudence is 70%. The passing score for the board exam is as determined by the board approved testing service.~~

C. ~~The jurisprudence exam will be offered within six weeks of approval and receipt of fees and the board exam on professional competence will be offered once every quarter. The exams will be held at a site approved by the board or its designee.]~~

[D.] B. [A] Candidate who wishes to appeal failure on an examination must notify the board in writing within ten

days of receipt of examination results.

[E.] C. [~~Applicants for examinations may request special facilities or other accommodations for existing disabilities. Special requests must be submitted in writing at the time of the application. The board will consider each request on a case-by-case basis.]~~ An ADA covered applicant who requests special accommodation (particularly when the request involves assistance in taking the examination) must make the request in writing; must support the request with a medical statement confirming the need for the accommodation and the board will either grant or deny the request. Requests must be submitted with the application. The board will consider each request on a case-by case basis.

[F.] D. [Qualified] Applicants who fail to obtain the minimum required passing score [~~may retake the exam until a passing score is achieved. Applicants must pay the examination fee for each administration of the examination. A new application must be submitted for each examination in accordance with 16.3.4 NMAC.]~~ must submit a new application, including the application fee and all documentation. Applicant must pay the examination fee for each administration of examination.

[1-16-00; 16.3.6.8 NMAC - Rn & A, 16 NMAC 3.6.8, 8-16-01; A, 11-23-06]

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.7 NMAC Sections 5, 8, 9 and adding new Section 10, effective 11-23-06.

16.3.7.5 EFFECTIVE DATE: January 16, 2000, unless a later date is cited at the end of a section [~~or paragraph~~].
[1-16-00; 16.3.7.5 NMAC - Rn, 16 NMAC 3.7.5, 8-16-01; A, 11-23-06]

16.3.7.8 ANNUAL RENEWAL OF LICENSES:

A. All licenses expire annually on August 31st.

B. Licensees shall be responsible for filing a current mailing address and name change with the board.

C. Each person licensed under the act shall renew his/her license annually on or before the expiration date by submitting a renewal application, the renewal fee, proof of current CPR certification, [~~and any other documentation required by the board~~] AED certification and proof of current NATA-BOC certification.

D. Failure to submit the required documents and fees by August 31st shall cause the license to lapse and the

license holder ~~[shall no longer practice as an athletic trainer until the license has been reinstated]~~ must refrain from practicing.

~~E. [A thirty day grace period is permitted for the renewal of lapsed licenses. This period is September 1 through September 30th. Renewal of licenses during the grace period requires payment of a late fee of \$75.00 in addition to the regular renewal fee and compliance with all renewal requirements. If the license is not renewed within the grace period it shall expire.] The licensee may renew within a thirty day grace period, by submitting payment of the renewal fee of \$165.00, late fee of \$75.00 and compliance with all renewal requirements. Failure to renew a license within the thirty-day grace period shall cause the license to automatically expire.~~

~~F. For the purposes of administering this act, a renewal application will be considered to have met the deadline if it is delivered to the board office or post-marked by August 31st.~~

~~G. Persons who have not renewed their licenses shall be notified by the board ten (10) days prior to the end of the grace period by certified mail at the address on file with the board that their license has lapsed.~~

~~H. A license that has expired may not be renewed or reinstated and the applicant must reapply as a new candidate.]~~

~~E. A license that has not renewed within the thirty days of expiration is automatically expired and the applicant must reapply as a new applicant. [1-16-00; 16.3.7.8 NMAC - Rn, 16 NMAC 3.7.8, 8-16-01; A, 11-23-06]~~

16.3.7.9 CONTINUING EDUCATION REQUIREMENTS:

A. Each licensee shall be required to earn 75 continuing education units (contact hours), during each three year reporting period. The reporting period will correspond to the NATA or its successor organization's reporting period of every 3 years. ~~[The first reporting period shall be from January 1, 2002 to December 31, 2002 and only 25 continuing education units (contact hours) need to be earned during this reporting period only.]~~ Subsequent reporting periods will be for a period of three years and reporting 75 continuing education units.

B. CEU's may be earned by completing CPR/AED certification, completing continuing education courses approved by the NATA-BOC or its successor organization, or by completing course work taken at an accredited college or university which falls within one of the performance domains identified in the current

NATA'S-BOC (or its successor organization) role delineation study. 10 CEU's are awarded for each credit hour earned in an applicable course taken at any accredited college or university.

C. Each license shall report CEU's earned during a reporting period at the next license renewal period. Reporting of CEU's may be by either submitting a copy of the status card which indicates that certified athletic trainer in good status with the NATA or its successor organization, by a letter from the NATA or its successor organization indicating completion of CEU's, or by submitting the actual documentation of completion of CEU courses.

~~D. Any licensee who has not been licensed by the athletic trainer practice board for an entire three year reporting period shall have the number of required CEU's prorated to 25 units per year.]~~ [16.3.7.9 NMAC - N, 8-16-01; A, 11-23-06]

16.3.7.10 INACTIVE STATUS:

A. A licensed person may request inactive status by notifying the board in writing before the expiration of current license.

B. An inactive status license may be restored, upon receiving the request for reinstatement; board staff shall send a reinstatement renewal notice.

C. Along with the completed reinstatement renewal application, must include renewal fee, reinstatement fee, proof of completing a current CPR/AED unit certification. [16.3.7.10 NMAC - N, 11-23-06]

NEW MEXICO ATHLETIC TRAINERS PRACTICE BOARD

This is an amendment to 16.3.8 NMAC Sections 5 and 8, effective 11-23-06.

16.3.8.5 EFFECTIVE DATE: January 16, 2000, unless a later date is cited at the end of a section ~~[or paragraph]~~.

[1-16-00; 16.3.8.5 NMAC - Rn, 16 NMAC 3.8.5, 8-16-01; A, 11-23-06]

16.3.8.8 FEES: The board will charge the following fees, which are non-refundable:

A. one hundred twenty five dollars (\$125.00) ~~[is the application fee which allows the applicant to sit for jurisprudence and/or board examinations.]~~ application fee;

B. one hundred dollars (\$100.00) ~~[is the fee for a provisional athletic trainer permit.]~~ fee for a provisional athletic trainer permit;

C. one hundred dollars (\$100.00) ~~[is the initial licensing fee for athletic trainer licenses which shall be issued for a period of one licensing year or portion thereof. This amount will be prorated on a quarterly basis. The pro-rated fees will be as follows:~~

- ~~(1) July - November \$100.00~~
- ~~(2) December - February \$75.00~~
- ~~(3) March - June \$50.00]~~ initial licensing fee;

~~D. Licenses issued after June 30th will expire on August 31st of the following year.]~~

~~E. D. one hundred and sixty five dollars (\$165.00) [is the] annual renewal fee;~~

~~F. E. seventy-five dollars (\$75.00) [is the late fee for annual renewals beyond the August 31 renewal deadline as defined in 16.3.7 NMAC.] late renewal fee;~~

~~G. E. ten dollars (\$10.00) [is the fee for replacement of an athletic trainer license or wallet card.] fee for replacement or duplicate of a license;~~

~~H. G. twenty dollars (\$20.00) [is the fee for address labels of New Mexico licensed athletic trainers. These labels can be obtained by contacting the board.] fee for address labels of the New Mexico licensed athletic trainers;~~

~~I. H. ten dollars (\$10.00) [is the] fee for address lists of New Mexico licensed athletic trainers;~~

~~J. I. ten dollars (\$10.00) [is the fee for written verification of licensure from the board.] fee for written license verification;~~

~~K. J. [CEU approval fee is] fifty dollars (\$50.00) fee for CEU approval;~~

~~L. twenty-five dollars (\$25.00) charge for return checks;~~

~~M. ten dollars (\$10.00) administrative fee.~~

[1-16-00; 16.3.8.8 NMAC - Rn, 16 NMAC 3.8.8, 8-16-01; A, 8-9-02; A, 11-23-06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.1 NMAC Sections 7 and 8, effective 11/25/06.

16.62.1.7 DEFINITIONS: The following rules and regulations are for the purpose of implementing the provisions of the New Mexico Real Estate Appraisers Act.

A. "Acceptable" appraisal experience includes, but is not limited to the following: fee and staff appraisal, ad valorem tax appraisal, review appraisal, market analysis, real estate counseling/consulting, highest and best use analysis[;] and feasibility

ity analysis, ~~and teaching of appraisal courses~~. All experience claimed after December 1, 1990, must be in conformance with applicable [USPAP] national uniform standards of professional appraisal practice (USPAP). Appraisal experience acceptable toward licensing or certification must have been gained under the supervision of an appraiser who is certified at a level equal to or greater than the license or certificate the applicant is seeking.

B. "Appraisers act" or "act" means the New Mexico Real Estate Appraisers Act as defined in Section 61-30-1 NMSA 1978.

C. "Complaint committee" shall be appointed by the board. The chairperson of the committee shall be an appraiser board member. The board appointed complaint committee is for the purpose of review of complaints and shall make recommendations to the board as to its findings. No real estate appraiser organization shall have a majority membership on the committee.

D. "Complex" means one to four family residential property appraisal one in which the property to be appraised, the form of ownership, or the market conditions are atypical (bank holding company supervision manual, 1999, page 10, section 2231.0.9.3).

E. "Content approval for distance education" non-academic credit college courses provided by a college shall be approved by the appraiser qualifications board (AOB) and the New Mexico real estate appraisers board.

~~[D-] E.~~ "Duly made application" means an application to the New Mexico real estate appraisers board including paragraphs (1-7) set out below, in addition to any other requirements of the board:

(1) completed application on the form provided by the board; the form must be signed by the applicant attesting to the truthfulness of the information provided in the application;

(2) letters of verification from at least three individuals who are not related to the applicant but who are acquainted personally and professionally with him/her and who can attest that the applicant is of good moral character; and is competent;

(3) a statement attesting that he/she is a native, a naturalized citizen or a legal resident of the United States;

(4) transcripts or certificates or statements showing successful completion of the required appraisal courses;

(5) a recent photograph of the applicant in which the applicant clearly is discernible; the photograph must be at least two inches by three inches in size;

(6) a check or money order for the fees set out in 16.62.12.8 NMAC;

(7) an appraiser experience log

recorded on the forms approved by the board or on another approved form, if required.

~~[E-] G.~~ "Education advisory committee" shall be appointed by the board for the purpose of review of applications for course approval and sponsorship approval of appraiser educational offerings and shall make recommendations to the board as to its findings. Membership in a professional organization or association shall not be a prerequisite to serve on the committee. No real estate appraiser organization shall have a majority membership on the committee.

~~[E-] H.~~ "Ethics provision" emphasizes the personal and professional obligations and responsibilities of the individual appraiser.

~~[G-] I.~~ "Experience" is defined as verifiable time spent in performing tasks in accordance with the definition of "appraisal" and "appraisal assignment", as stated in the act, Section 61-30-3 NMSA 1978. Such tasks include inspecting and analyzing properties; assembling and analyzing relevant market data; forming objective opinions as to the value, quality or utility of such properties; and preparing reports or file memoranda showing data, reasoning and conclusions. Professional responsibility for the valuation function is essential for experience credit.

~~[H-] J.~~ "Experience" will be submitted to the board in the form of a log, which indicates assignment information and type, compensation status, time spent on the assignment and whether the applicant signed the report. Experience credit claimed on the log must be attested to by the supervising appraiser. Experience logs are subject to review and request for supporting documentation.

~~[I-] K.~~ "Experience review process" is the method by which appraiser experience is approved for credit toward licensure or certification. The process includes the review of the experience log submitted by the applicant; selection of three or more entries for review of the reports and any additional file memoranda; and approval of experience hours claimed and conformance of reports with applicable [USPAP] national uniform standards of professional appraisal practice (USPAP) standards.

~~[I-] L.~~ "FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and its amendments.

~~M.~~ "License" means an apprentice, license, residential certificate or general certificate.

~~[K-] N.~~ "Location" means the offices of the New Mexico real estate appraisers board will be located in Santa Fe, New Mexico

~~[L-] O.~~ "Non-complex" means

~~one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than \$250,000. Complex one to four family residential property appraisal means one in which the property to be appraised, the form of ownership, or the market conditions are atypical (Bank Holding Company Supervision Manual, 1999, page 10, section 2231.0.9.3-)]~~

~~O.~~ "Module" is an appraisal subject matter area (and required hours of coverage) as identified in the required core curriculum. All modules identified in the required core curriculum for a specific classification must be successfully completed to satisfy the educational requirements as set forth in the appraiser qualifications board (AOB) real property appraiser qualification criteria.

~~[M-] P.~~ "Nonresident" for the ~~[purposed]~~ purpose of 61-30-20 of the New Mexico Real Estate Appraisers Act, nonresident applicants; reciprocity, means an individual who holds a current apprentice registration, license, or certificate, and is good standing, in another state.

~~Q.~~ "Required core curriculum" is a set of appraisal subject matter (known as 'modules') which require a specified number of educational hours at each credential level; as set forth in the appraiser qualifications board (AOB) real property appraiser qualification criteria.

~~[N-] R.~~ "Supervising appraiser" means a certified residential or certified general appraiser in good standing in the training jurisdiction and not subject to any disciplinary action within the last two (2) years that ~~[effects]~~ affects the supervisor's legal eligibility to engage in appraisal practice. A supervising appraiser may not supervise more than three (3) appraisers at one time regardless of level of licensure.

~~[O-] S.~~ "The board" may reject any application for an apprentice license or certificate for:

(1) incomplete, inaccurate or fraudulent application;

(2) application not submitted on the proper board-approved form;

(3) failure to pay the fees in full in a form acceptable to the board.

~~[P-] T.~~ "Uniform standards of professional appraisal practice" (USPAP) deal with the procedures to be followed in which an appraisal, analysis, or opinion is communicated.

[1/14/00; 16.62.1.7 NMAC - Rn & A, 16 NMAC 62.1.7, 09/13/2004; A, 11/25/06]

16.62.1.8 STANDARDS OF PROFESSIONAL PRACTICE, CODE OF PROFESSIONAL RESPONSIBILITY AND ADOPTION OF FIRREA:

A. The ~~[USPAP and the]~~

national uniform standards of professional appraisal practice (USPAP) as promulgated by the appraisal standards board of the appraisal foundation, and adopted and incorporated by reference are the minimum requirements. The appraisal standards board's code of professional responsibility, as filed in the federal register, are the minimum professional and ethical standards that will govern appraisers practicing in New Mexico.

B. The Financial Institutions Reform, Recovery and Enforcement Act (FIRREA, 12 U.S.C. 3351) and its current amendments are adopted and incorporated into these regulations by reference.

[1/14/00; 16.62.1.8 NMAC - Rn & A, 16 NMAC 62.1.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.2 NMAC Section 8, effective 11/25/06.

16.62.2.8 APPRENTICE: A holder of an apprentice registration, but not a license or certificate, is authorized to prepare appraisals of all types of real estate or real property, provided such appraisals are not described or referred to as "state licensed" or "state certified" and provided further, the apprentice appraiser does not assume or use any title, designation or abbreviation likely to create the impression that he/she is a state-licensed or state-certified real estate appraiser. Apprentices are not qualified to perform under FIRREA, Title XI.

A. Applicants for apprentice real estate appraisers in the state of New Mexico must:

- (1) be a legal resident of the United States;
- (2) have reached the age of majority;

(3) prove successful completion of real estate appraisal education of at least 75 board-approved classroom hours; real estate appraisal education programs completed for credit toward this requirement shall include coverage of the following topics, with emphasis on ethics, and basic appraisal principles and procedures in: basic appraisal principles - 30 hours; basic appraisal procedures - 30 hours; and the 15-hour national USPAP course or its equivalent [~~15 hours~~];

(4) courses taken in satisfying the qualifying education requirements shall not be repetitive in nature; each course credited toward the required number of qualifying education hours shall represent a progres-

sion in which the appraiser's knowledge is increased and none may be taken on-line;

(5) demonstrate to the board that he/she is honest, trustworthy and competent;

(6) successful completion of a written examination on the New Mexico Real Estate Appraisers Act, administered by the board;

(7) pay the fees set out in 16.62.12.8 NMAC;

(8) submit a duly made application to the board office;

B. Training: The apprentice appraiser shall be subject to direct supervision by a supervising appraiser. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the apprentice appraiser by:

(1) accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP;

(2) reviewing and signing the apprentice appraiser appraisal report(s);

(3) personally inspecting each appraised property with the apprentice appraiser until the supervising appraiser determines the apprentice appraiser is competent, in accordance with the *competency* rule of [USPAP] the national uniform standards of professional appraisal practice (USPAP) for the property type;

(4) the apprentice appraiser is permitted to have more than one supervising appraiser [~~but a supervising appraiser may not supervise more than three licensed appraisers at one time~~];

(5) an appraisal log shall be maintained by the apprentice appraiser and the supervising appraiser jointly on the experience log as approved by the board.

[1/14/00; 16.62.2.8 NMAC - Rn & A, 16 NMAC 62.2.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.3 NMAC Section 8, effective 11/25/06.

16.62.3.8 LICENSE: [~~A holder of a state license may prepare appraisals of non-complex residential real estate for federally related transactions or other uses.~~ He/she] A holder of a license may appraise complex residential or nonresidential real estate provided such appraisals are not described or referred to as meeting the requirements of FIRREA. The holder of a license may not assume or use any title, designation or abbreviation likely to create the impression of certification.

A. [~~The~~] For federally related transactions, the licensed real estate

appraiser classification applies to the appraisal of non-complex one to four residential units having a transaction value less than \$1,000,000 and complex one to four residential units having a transaction value less than \$250,000.

B. Complex one-to four-family residential property appraisal means one in which the property to be appraised, the form of ownership, or the market conditions are atypical. For non-federally related transaction appraisals, transaction value shall mean market value.

C. All licensed real estate appraisers must comply with the competency rule of [USPAP] the national uniform standards of professional appraisal practice (USPAP).

D. Applicants for licensure in the state of New Mexico must:

(1) be a legal resident of the United States;

(2) have reached the age of majority;

(3) prove successful completion

[~~of real estate appraisal education of at least 90 board-approved classroom hours~~] prior to November 15, 2007, of 90 classroom hours of board approved real estate appraisal education; real estate appraisal education programs completed for credit toward this requirement shall include coverage of the following topics, with emphasis on ethics, and basic appraisal principle and procedures in: basic principles - 30 hours; basic appraisal procedures - 30 hours; the 15-hour national [USPAP] uniform standards of professional appraisal practice (USPAP) course or its equivalent [~~15 hours~~]; and a minimum of 15 hours from one or more of the following:

(a) residential market analysis and highest and best use;

(b) residential appraiser site valuation and cost approach;

(c) residential sales comparison and income approaches;

(d) residential report writing and case studies;

(4) submit application for acceptance of appraisal courses no later than November 15, 2007; education courses which do not meet the appraiser qualifications board (AOB) criteria effective January 1, 2008 cannot be carried forward after December 31, 2007;

(5) prove (effective January 1, 2008 and thereafter an applicant for licensure, not completing their education requirement prior to December 31, 2007) successful completion of real estate appraisal education of at least 150 board-approved classroom hours as outlined in the required core curriculum of the appraiser qualifications board (AOB); real estate appraisal education programs completed for credit

toward this requirement shall include coverage of the following modules (no more than 50% of the courses from courses d. through g. may be from courses offered over the internet or distance learning modalities):

(a) basic appraisal principles 30 hours

(b) basic appraisal procedures 30 hours

(c) the 15 hour national USPAP course and examination 15 hours

(d) residential market analysis and highest and best use 15 hours

(e) residential appraiser site valuation and cost approach 15 hours

(f) residential sales comparison and income approaches 30 hours

(g) residential report writing and case studies 15 hours

~~[(4)] (6) [examination:] successfully complete the [AOB] appraiser qualifications board (AOB) approved licensed real estate appraiser examination [must be successfully completed]; there is no alternative to successful completion of the examination; successful completion of the examination is valid for a period of 24 months, and the applicant must meet the requisite experience requirement within 24 months;~~

~~[(5)] (7) courses taken in satisfying the qualifying education requirements shall not be repetitive in nature; each course credited toward the required number of qualifying education hours shall represent a progression in which the appraiser's knowledge is increased;~~

~~[(6)] (8) demonstrate to the board that he/she is honest, trustworthy and competent;~~

~~[(7)] (9) [successful completion of] successfully complete a written examination on the New Mexico Real Estate Appraisers Act, administered by the board;~~

~~[(8)] (10) pay the fee set out in 16.62.12.8 NMAC;~~

~~[(9)] (11) meet the minimum criteria for state licensure issued by the appraisers qualifications board of the appraisal foundation;~~

~~[(10)] (12) submit a duly made application to the board office.~~

E. Experience: applicants for state licensure must have a minimum of 2,000 hours of experience obtained in no fewer than twelve (12) months in real property appraisal as defined in Part 1, submitted on a form prescribed by the board and attested to by the supervising appraisers under whose supervision the experience was obtained.

F. Upgrade in licensure: Moving up in licensure shall be subject to direct supervision by a supervising appraiser. The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the licensed appraiser by:

(1) accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP;

(2) reviewing and signing the licensed appraiser appraisal report(s);

(3) personally inspecting each appraised property with the licensed appraiser until the supervising appraiser determines the licensed appraiser is competent, in accordance with the *competency rule* of USPAP for the property type;

(4) the licensed appraiser is permitted to have more than one supervising appraiser [~~but a supervising appraiser may not supervise more than three licensed appraisers at one time~~];

(5) an appraisal log shall be maintained by the licensed appraiser and the supervising appraiser jointly on the experience log as approved by the board.

[10/1/97; 16.62.3.8 NMAC - Rn & A, 16 NMAC 62.3.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.4 NMAC Section 8, effective 11/25/06.

16.62.4.8 RESIDENTIAL CERTIFICATION: A holder of a residential certificate is eligible to prepare appraisals of all residential real estate for federally related transactions or other uses. He/she may appraise nonresidential real estate provided such appraisals are not described or referred to as meeting the requirements of FIRREA. The holder of a residential certificate may not assume or use any title, designation or abbreviation likely to create the impression of general certification.

A. The certified residential real estate appraiser classification qualifies the appraiser to appraise one to four residential units without regard to value or complexity. The classification includes the appraisal of vacant or unimproved land that is utilized for one to four family purposes or for which the highest and best use is for one to four family purposes. The classification does not include the appraisal of subdivisions for which a development analysis/appraisal is necessary.

B. All certified residential real estate appraisers must comply with the competency rule of [USPAP] the national uniform standards of professional appraisal practice (USPAP).

C. Applicants for certification in residential appraisal in the state of New Mexico must:

(1) be a legal resident of the United States;

(2) have reached the age of majority;

(3) prove successful ~~[completion of real estate appraisal education of at least 120 board approved classroom hours;]~~ completion, prior to November 15, 2007 of 120 classroom hours of board approved real estate appraisal education; real estate appraisal programs completed for credit toward this requirement shall include coverage of the following topics, with emphasis on ethics, and basic appraisal principles and procedures in: basic appraisal principles - 30 hours; basic appraisal procedures - 30 hours; the 15-hour national [USPAP] uniform standards of professional appraisal practice (USPAP) course or its equivalent [15 hours]; and a minimum of 45 hours from one or more of the following:

(a) residential market analysis and highest best use;

(b) residential appraiser site valuation and cost approach;

(c) residential sales comparison and income approaches;

(d) residential report writing and case studies;

(e) statistics, modeling and finance;

(f) advanced residential applications and case studies;

(g) appraisal subject matter electives;

~~[(4) examination: the AOB approved certified real estate appraiser examination must be successfully completed; there is no alternative to successful completion of the examination;]~~

(4) prove successful completion of the appraiser qualifications board (AOB) approved certified residential or certified general real estate appraiser examination; there is no alternative to successful completion of the examination; application for the examination must be made no later than November 15, 2007;

(5) submit application for acceptance of appraisal courses no later than November 15, 2007; education courses which do not meet the appraiser qualifications board (AOB) criteria effective January 1, 2008 cannot be carried forward after December 31, 2007;

(6) prove (effective January 1, 2008 and thereafter an applicant for licensure, not completing their education requirement prior to December 31, 2007) successful completion of real estate appraisal education of at least 200 board-approved classroom hours as outlined in the required core curriculum of the appraiser qualifications board (AOB); real estate appraisal education programs completed for credit toward this requirement shall include coverage of the following modules (no more than 50% of the courses from courses d. through j. may be from courses offered over the internet or distance learning modalities):

(a) basic appraisal principles 30

hours

(b) basic appraisal procedures

30 hours

(c) the 15 hour national USPAP course and examination 15 hours

(d) residential market analysis and highest and best use 15 hours

(e) residential appraiser site valuation and cost approach 15 hours

(f) residential sales comparison and income approaches 30 hours

(g) residential report writing and case studies 15 hours

(h) statistics, modeling and finance 15 hours

(i) advanced residential applications and case studies 15 hours

(j) appraisal subject matter electives 20 hours

(7) hold (effective January 1, 2008 and thereafter applicants for residential certification not completing their education requirement prior to December 31, 2007) an associates degree or higher from an accredited college, junior college, community college or university unless the requirements of Paragraph (8) of Subsection D of 16.62.4.8 NMAC are satisfied;

(8) in lieu of the associate degree, an applicant for the residential certification license shall have successfully passed each of the following collegiate subject matter courses from an accredited college, junior college, community college or university:

(a) English composition;

(b) principles of economics (micro or macro);

(c) finance;

(d) algebra, geometry or higher mathematics;

(e) statistics;

(f) computers, word processing and spreadsheets;

(g) business or real estate law;

(9) total hours of equivalent college courses in lieu of an associates degree; 21 semester credit hours or its equivalent for the residential certified appraiser; if an accredited college or university (accredited by the commission of colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. secretary of education) accepts the college-level examination program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course;

(10) pass examination: the appraiser qualifications board (AOB) approved certified real estate appraiser examination must be successfully completed; there is no alternative to successful completion of the examination; the requisite experience requirement must be met within 24 months, successful completion of the

examination is valid for a period of 24 months;

~~[(5)]~~ (11) assure courses taken in satisfying the qualifying education requirements ~~[shall not be]~~ are not repetitive in nature; each course credited toward the required number of qualifying education hours shall represent a progression in which the appraiser's knowledge is increased;

~~[(6)]~~ (12) demonstrate to the board that he/she is honest, trustworthy and competent;

~~[(7)]~~ (13) successfully complete a written examination on the New Mexico Real Estate Appraisers Act, administered by the board;

~~[(8)]~~ (14) pay the fee set out in 16.62.12.8 NMAC;

~~[(9)]~~ (15) meet the minimum criteria for the state residential certificate classification issued by the ~~[appraisers]~~ appraiser qualifications board (AOB) of the appraisal foundation;

~~[(10)]~~ (16) submit a duly made application to the board office.

D. Experience: applicants for state residential certification must have a minimum of 2,500 hours of experience in real property appraisal obtained during no fewer than twenty-four (24) months as defined in 16.62.1 NMAC, submitted on a form prescribed by the board and attested to by the supervising appraiser under whose supervision the experience was obtained.

E. Upgrade in licensure.

(1) Moving up in licensure shall be subject to direct supervision by a supervising appraiser.

(2) The supervising appraiser shall be responsible for the training, guidance, and direct supervision of the licensed appraiser by:

(a) accepting responsibility for the appraisal report by signing and certifying the report complies with USPAP;

(b) reviewing and signing the residential certified appraisal report(s);

(c) personally inspecting each appraised property with the residential certified appraiser until the supervising appraiser determines the residential certified appraiser is competent, in accordance with the competency rule of [USPAP] the national uniform standards of professional appraisal practice (USPAP) for the property type;

(d) the residential certified appraiser is permitted to have more than one supervising appraiser [~~but a supervising appraiser may not supervise more than three licensed appraisers at one time~~];

(e) an appraisal log shall be maintained by the residential certified appraiser and the supervising appraiser jointly on the experience log as approved by the board.

[10/1/97; 16.62.4.8 NMAC - Rn & A, 16

NMAC 62.4.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.5 NMAC Section 8, effective 11/25/06.

16.62.5.8 GENERAL CERTIFICATE: A holder of a general certificate may prepare appraisals on all real estate and may indicate that such appraisals are state certified.

A. All certified general real estate appraisers must comply with the competency rule of [USPAP] the national uniform standards of professional practice (USPAP).

B. Applicants for the general certificate in the state of New Mexico must:

(1) be a legal resident of the United States;

(2) have reached the age of majority;

(3) prove successful completion prior to November 15, 2007 of ~~[real estate appraisal education of at least]~~ 180 ~~[board approved]~~ classroom hours of real estate appraisal education; real estate appraisal education programs completed for credit toward this requirement shall include coverage of the following topics, with emphasis on ethics, and basic appraisal principles and procedures in: basic appraisal principles - 30 hours; basic appraisal procedures - 30 hours; the 15 hour-national [USPAP] uniform standards of professional appraisal practice (USPAP) course or its equivalent [~~15 hours~~]; and a minimum of 105 hours from one or more of the following:

(a) general appraiser market analysis and highest and best use;

(b) statistics, modeling and finance;

(c) general appraiser sales comparison approach;

(d) general appraiser site valuation and cost approach;

(e) general appraiser income approach;

(f) general appraiser report writing and case studies;

(g) appraisal subject matter electives;

~~[(4) examination: the AOB approved uniform state certified general real estate appraiser examination must be successfully completed; there is no alternative to successful completion of the examination.]~~

(4) successful completion of the appraisal qualifications board (AOB) approved general certified real estate

appraiser examination is required; there is no alternative to successful completion of the examination; application for the examination must be made no later than November 15, 2007;

(5) submit application for acceptance of appraisal courses no later than November 15, 2007; education courses which do not meet the appraiser qualifications board (AQB) criteria effective January 1, 2008 cannot be carried forward after December 31, 2007;

(6) prove (effective January 1, 2008 and thereafter an applicant for licensure, not completing their education requirement prior to December 31, 2007) successful completion of real estate appraisal education of at least 300 board-approved classroom hours as outlined in the required core curriculum of the appraiser qualifications board (AQB); real estate appraisal education programs completed for credit toward this requirement shall include coverage of the following modules (no more than 50% of the courses from courses d. through j. may be from courses offered over the internet or distance learning modalities):

(a) basic appraisal principles 30 hours

(b) basic appraisal procedures 30 hours

(c) the 15 hour national USPAP course and examination 15 hours

(d) general appraiser market analysis and highest and best use 30 hours

(e) statistics, modeling and finance 15 hours

(f) general appraiser sales comparison approach 30 hours

(g) general appraiser site valuation and cost approach 30 hours

(h) general appraiser income approach 60 hours

(i) general appraiser report writing and case studies 30 hours

(j) appraisal subject matter electives 30 hours

(7) hold (effective January 1, 2008 and thereafter applicants for general certification not completing their education requirement prior to December 31, 2007) a bachelors degree or higher from an accredited college, junior college, community college or university unless the requirements of Paragraph (8) of Subsection C of 16.62.5.8 NMAC are satisfied;

(8) in lieu of the bachelors degree, an applicant for the general certification license shall have successfully passed each of the following collegiate subject matter courses from an accredited college, junior college, community college or university:

(a) English composition;

(b) micro economics;

(c) macro economics;

(d) finance;

(e) algebra, geometry or higher mathematics;

(f) statistics;

(g) computers, word processing and spreadsheets;

(h) business or real estate law;

(i) two elective courses in accounting, geography, ageconomics, business management or real estate

(9) total hours of equivalent college courses in lieu of an associates degree; 30 semester credit hours or its equivalent for the general certified appraiser; if an accredited college or university (accredited by the commission of colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. secretary of education) accepts the college-level examination program (CLEP) examination(s) and issues a transcript for the exam, showing its approval, it will be considered as credit for the college course.

(10) pass examination: the appraiser qualifications board (AQB) approved certified real estate appraiser examination must be successfully completed; there is no alternative to successful completion of the examination; the requisite experience requirement must be met within 24 months, successful completion of the examination is valid for a period of 24 months;

~~(11)~~ (11) assure courses taken in satisfying the qualifying education requirements ~~[shall not be]~~ are not repetitive in nature; applicants must demonstrate that their education includes the core courses listed in the criteria for certified general as identified by the appraiser qualifications board (AQB) required core curriculum, with particular emphasis on non-residential properties; residential is defined as "composed of one to four residential units"; each course credited toward the required number of qualifying education hours shall represent a progression in which the appraiser's knowledge is increased;

~~(12)~~ (12) demonstrate to the board that he/she is honest, trustworthy and competent;

~~(13)~~ (13) ~~[successful completion of]~~ successfully complete a written examination on the New Mexico Real Estate Appraisers Act, administered by the board;

~~(14)~~ (14) pay the fee set out in 16.62.12.8 NMAC;

~~(15)~~ (15) meet the minimum criteria for state general certification classification issued by the ~~[appraisers]~~ appraiser qualifications board (AQB) of the appraisal foundation;

~~(16)~~ (16) submit a duly made application to the board office.

C. Experience: applicants for state general certification must have a minimum of 3,000 hours of experience in real property appraisal obtained during no

fewer than thirty (30) months, of which, one thousand five hundred (1,500) hours must be in non-residential appraisal work as defined in Part 1, submitted on a form prescribed by the board and attested to by the duly certified general supervising appraiser under whose supervision the experience was obtained.

[10/1/97; 16.62.5.8 NMAC - Rn & A, 16 NMAC 62.5.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.7 NMAC Sections 7, 10, 11, 12, effective 11/25/06. The part name has also been changed from "Issuance/Renewal of Registrations/Licenses/Certificates".

PART 7 ISSUANCE/RENEWAL OF ~~[REGISTRATIONS]~~ APPRENTICE REGISTRATION/LICENSES/CERTIFICATES

16.62.7.7 DEFINITIONS: ~~["License" for the purposes of this part means an apprentice, license, residential certificate, or general certificate.]~~ [RESERVED]

[10/1/97; 16.62.7.7 NMAC - Rn & A, 16 NMAC 62.7.7, 09/13/2004; A, 11/25/06]

16.62.7.10 RENEWAL PROCESS: ~~[A completed renewal application, accompanied by the required fee as defined in 16.62.12.8 NMAC and documentation of 28 hours of continuing education. Renewal applications must be post marked or delivered to the board office on or before April 30 of the renewal year.]~~

A. A completed renewal application, accompanied by the required fee as defined in 16.62.12.8 NMAC and documentation of 28 hours of continuing education. Renewal applications must be post-marked or delivered to the board office on or before April 30 of the renewal year.

B. Deferrals may not be granted to credential holders, except in the case of individuals returning from active military duty. Licensees returning from active military duty may be placed in active status for a period of up to 180 days pending completion of all continuing education requirements.

[10/1/97; 16.62.7.10 NMAC - Rn & A, 16 NMAC 62.7.10, 09/13/2004; A, 11/25/06]

16.62.7.11 LICENSEE RESPONSIBILITY: ~~[The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make a timely request for the renewal form if one~~

~~has not been received thirty days prior to license expiration.]~~

~~A. The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make a timely request for the renewal form if one has not been received thirty days prior to license expiration.~~

~~B. It is the sole responsibility of the licensee to maintain records of the qualifying education they have completed.~~
[10/1/97; 16.62.7.11 NMAC - Rn & A, 16 NMAC 62.7.11, 09/13/2004; A, 11/25/06]

16.62.7.12 REQUIRED CONTINUING EDUCATION: ~~[Twenty-eight (28) classroom hours of continuing education in courses approved by the board are required in each two-year renewal period. Each license holder is required to submit a list of continuing education courses with each renewal with copies of certificate(s) of successful completion for the continuing education taken. Continuing education requirements are pro-rated at fourteen hours per full year and 1.17 hours for each additional month of the initial licensing period. Effective with the first biennial renewal period and each subsequent renewal, a seven (7) hour class in uniform standards of professional appraisal practice is required as part of the continuing education requirement.]~~

~~A. Twenty-eight (28) classroom hours of continuing education in courses approved by the board are required in each two-year renewal period. Each license holder is required to submit a list of continuing education courses with each renewal with copies of certificate(s) of successful completion for the continuing education taken. Continuing education requirements are pro-rated at fourteen hours per full year and 1.17 hours for each additional month of the initial licensing period. Effective with the first biennial renewal period and each subsequent renewal, a seven (7) hour class in the national uniform standards of professional appraisal practice update course is required as part of the continuing education requirement. Successful completion includes passing an exam, if required, by the appraiser qualifications board (AQB).~~

~~B. Educational offerings taken by an individual in order to fulfill the class hour requirement for a different classification than his/her current classification may be simultaneously counted towards the continuing education requirement of his/her current classification.~~

~~C. Credit towards the continuing education hour requirements for each appraiser classification may be granted~~

~~only where the length of the educational offering is at least two (2) hours.~~

~~[10/1/97; 16.62.7.12 NMAC - Rn & A, 16 NMAC 62.7.12, 09/13/2004; A, 11/25/06]~~

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.8 NMAC Sections 6, 8, 9, 11, 12, 14, 15, 17 effective 11/25/06.

16.62.8.6 OBJECTIVE: This part provides requirements for approval of educational courses for ~~[pre-registration]~~ pre-apprentice, pre-licensing, and pre-certification and continuing education credit. It establishes requirements for continuing education courses and sponsors. It establishes an education advisory committee to approve courses and sponsors and make recommendations to the board.
[3/14/00; 16.62.8.6 NMAC - Rn, 16 NMAC 62.8.6, 09/13/2004; A, 11/25/06]

16.62.8.8 ACCEPTABLE COURSEWORK: All coursework for original apprentice registration, licensing and certification shall be given in fifteen hour segments and have an examination administered at the end of the course. Successful completion of the examination is a requirement to submit the course for original apprentice registration, licensure or certification credit.
[3/14/00; 16.62.8.8 NMAC - Rn, 16 NMAC 62.8.8, 09/13/2004; A, 11/25/06]

16.62.8.9 RELEVANCE OF COURSEWORK: All coursework for original apprenticeship, licensing or certification shall be in courses closely related to real estate appraisal. The board will not accept an applicant's completion of a course of a kind, which is designed to prepare students for examination, commonly known as a "cram course". All real estate appraisal coursework credited toward original apprenticeship, licensure or certification shall have been completed no more than ten (10) years prior to the date of the application filed with the board.
[3/14/00; 16.62.8.9 NMAC - Rn & A, 16 NMAC 62.8.9, 09/13/2004; A, 11/25/06]

16.62.8.11 ACCEPTABLE CONTINUING EDUCATION: Courses approved for continuing education credit shall have significant intellectual or practical content and shall deal primarily with matters directly related to appraisal practice or to the ethical obligations of apprentices, licensees and certificate holders. The primary objective of such courses shall be con-

sistent with the board's charge to protect the public and to increase the professional competence of apprentices, licensees and certificate holders. No more than ~~[fourteen (14)]~~ twenty-one (21) hours may be from courses offered over the internet or other distance learning modalities.

[3/14/00; 16.62.8.11 NMAC - Rn & A, 16 NMAC 62.8.11, 09/13/2004; A, 11/25/06]

16.62.8.12 CONTINUING EDUCATION REQUIREMENTS: Twenty-eight (28) hours of continuing education are required each biennial renewal period. Continuing education requirements for initial apprentices, licenses or certificates issued for less than two full years are prorated as defined in 16.62.7.12 NMAC.

~~[~~ **A. Seven (7) hour uniform standards of professional appraisal practice (USPAP) course (or its equivalent, as approved by the appraiser qualifications board (AQB), and include passing an examination as a condition of course completion.]**

~~A. Individuals must successfully complete the seven (7) hour national uniform standards of professional appraisal practice (USPAP) update course, or its equivalent as approved by the appraiser qualifications board (AQB). Successful completion includes passing an exam if required by the appraiser qualifications board (AQB).~~

~~[~~ **B. Successful completion of this seven (7) hour course will be required of every apprentice, licensee and certificate holder as a condition of renewal in each biennial renewal. Licenses renewing in April 2005 and thereafter must have successfully completed the seven (7) hour USPAP update course within two (2) years of renewal date.]**

~~B. Successful completion of this seven (7) hour course will be required of every apprentice, license and certificate holder as a condition of renewal in each biennial renewal.~~

[3/14/00; 16.62.8.12 NMAC - Rn & A, 16 NMAC 62.8.12, 09/13/2004; A, 11/25/06]

16.62.8.14 APPROVAL OF SPONSORS: The board may approve individuals or organizations as course sponsors. Colleges and universities offering credit courses in real estate appraisal are also considered approved sponsors.

A. Requests for approval must be made on board approved forms and include a code of conduct for instructors.

B. The instructor selection and retention policy will include, at a minimum, the following requirements:

(1) instructors must be licensed by exam or certified at the same or a higher category than the level of classes they are

engaged to teach;

(2) instructors engaged to teach the [USPAP] national uniform standards of professional appraisal practice (USPAP) course must qualify under the instructor evaluation policy for instructor selection for the national USPAP course developed by the appraisal foundation;

(3) instructors must teach only the appraisal foundation-approved national [USPAP] uniform standards of professional appraisal practice (USPAP) course;

(4) student critiques must be requested and maintained for each class given;

(5) a summary of the critiques and the pass rate of the class must be submitted to the board within 30 days after the course is completed;

(6) the sponsor shall provide a procedure for periodic monitoring of instructors in the classroom setting along with the sponsor application.

C. Approved sponsors shall comply with the following requirements to maintain approved status; the school must be conducted in accordance with these rules:

(1) to permit the board or its representative access to the school or classes being conducted and to make available to the board, upon request, all information pertaining to the activities of the school required for the administration of the rules and regulations, including its financial condition;

(2) to advertise the school at all times in a form and manner free from misrepresentation, deception or fraud;

(3) assure that all representations made by anyone authorized by the school to act as its agent or solicitor for prospective students are free from misrepresentation, deception or fraud;

(4) when a school closes, all student records shall be submitted to the board within 30 days;

(5) to maintain current, complete, and accurate student records and instructor critiques or summaries which shall be accessible at all times to the board or its authorized representative; these records shall include, in addition to other information, a record of payments made, a record of attendance, and a record of units of work completed;

(6) to conduct all courses in accordance with outlines submitted to and approved by the board;

(7) to only certify course completion for students who have successfully taken and passed the course; credit cannot be given for students who pass a course by challenging the course;

(8) sponsors will be subject to renewal of approval every three (3) years; the board assumes no responsibility for

renewal courses not received from the sponsor for any reason; it is the sponsor's responsibility to make timely request(s) for the renewal of course(s) for board approval;

(9) sponsors must assure that all instructors:

(a) conduct all classes in accordance with board rules;

(b) ensure that all instruction is free from misrepresentation;

(c) instruct only from board-approved outlines;

(d) allow access to any class being instructed to any duly appointed representative of the board; and

(e) certify to his/her sponsor a true and correct record of students' attendance in his/her classes;

(10) failure to comply with this rule may result in the loss of approval of the sponsor; and

(11) the board reserves the right to disapprove an instructor.

[3/14/00; 16.62.8.14 NMAC - Rn, 16 NMAC 62.8.14, 09/13/2004; A, 11/25/06]

16.62.8.15 APPROVAL OF COURSES:

~~[A. All real estate appraisal courses except those offered for credit in a degree program at a college or university must have prior approval by the board if they are to be approved for credit.]~~

A. All real estate appraisal courses must have prior approval by the board if they are to be approved for credit towards continuing education or qualifying education. Beginning January 1, 2008 all qualifying education courses for pre-apprentice, pre-licensing and pre-certification must have been approved through the appraiser qualifications board (AOB) course approval program.

~~[B. All board approved real estate appraisal courses accepted for pre-apprenticeship, pre-licensing or pre-certification credit must include passing a final examination.]~~

B. All board approved real estate courses accepted for pre apprentice, pre-licensing and pre-certification credit must be a minimum length of at least fifteen (15) hours and include successful completion of an approved closed-book examination pertinent to that educational offering.

C. Application for course approval must be made to the board. No classes for credit may commence prior to board approval. The education advisory committee will review the application [and] and make a recommendation [made] to the board in accordance with 16.62.8.13 NMAC.

D. All course outlines approved by the board for pre-apprenticeship, pre-licensing, pre-certification or continuing education credit shall become the

property of the board and the outlines shall be available to all those board approved sponsors wishing to teach said courses.

E. All existing courses are subject to periodic review by the board. The board may at any time change the approval status of any course.

[3/14/00; 16.62.8.15 NMAC - Rn & A, 16 NMAC 62.8.15, 09/13/2004; A, 11/25/06]

~~**16.62.8.17 [APPROVAL WITHOUT COMMITTEE REVIEW: Real estate appraisal courses offered by an accredited college or university may be approved on an hourly basis for continuing education credit for apprenticeship, license or certificate renewal without further review by the board or the committee, provided the instructional content of the course conforms to the requirements of the board.]**~~

[RESERVED]

[3/14/00; 16.62.8.17 NMAC - Rn & A, 16 NMAC 62.8.17, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.9 NMAC Section 8, effective 11/25/06.

16.62.9.8 CERTIFICATE OF GOOD STANDING/FEE: The board shall issue a certificate of good standing to any state apprentice, licensed or certified real estate appraiser who ~~[is in good standing]~~ is currently or has been credentialed under the act by virtue of having met the following requirements.

A. The apprenticeship, license or certificate of the applicant ~~[must be current with all required fees paid in full and any required continuing education hours completed by the date required by law.]~~ must pay the required fees in full.

B. The applicant's appraiser apprenticeship, license or certificate must not be under suspension or revocation as a result of disciplinary action by the board, and the ~~[registration]~~ apprenticeship, license or certificate holder must not be the subject of a pending notice of contemplated action issued by the board.

C. The certificate of good standing shall specify the current license status and license history of the applicant. Verification of license history and good standing may also be obtained from the national registry of real estate appraisers.

D. The applicant must pay a fee set by the board for issuance of the certificate of good standing.

[2/28/94; 3/15/00; 16.62.9.8 NMAC - Rn & A, 16 NMAC 62.9.8, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.10 NMAC Sections 8, 9, 10, effective 11/25/06

16.62.10.8 APPLICANTS FOR TEMPORARY PRACTICE MUST SUBMIT ON A BOARD APPROVED FORM THE FOLLOWING:

~~[A. a written notification of good standing from the state in which the applicant is licensed or certified;]~~

A verification of license history and good standing as obtained from the national registry of real estate appraisers;

B. the classification of the license or certification they hold;

C. whether they are subject to disciplinary action in the state in which they are licensed or certified;

D. a statement certifying that the applicant's business in New Mexico is temporary and will not exceed 180 days;

E. a statement identifying the specific assignment to which the temporary license will apply;

F. an irrevocable statement consenting that suits and actions may be commenced against him/her in the proper court of any county of New Mexico arising from the applicant's actions as a state licensed or certified appraiser; and

G. a check or money order for the fee specified in 16.62.12 NMAC.

H. a temporary permit extension may be obtained upon the written request submitted to the board office by the temporary permit holder, a 30-day extension will be granted to the established expiration date to complete the specified assignment.

[3/15/00; 16.62.10.8 NMAC - Rn, 16 NMAC 62.10.8, 09/13/2004; A, 11/25/06]

16.62.10.9 PROVISIONS FOR EMERGENCY LICENSURE:

A. Licensed real estate appraisers currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure in a state in which a federal disaster has been declared, may be licensed in New Mexico during the four months following the declared disaster with the same level of licensure they currently hold at no cost upon satisfying the following requirements:

(1) receipt by the board of a completed application which has been signed and notarized and which is accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental

entity;

(2) refer to 16.62.2.8 NMAC, apprentice; 16.62.3.8 NMAC, licensed; 16.62.4.8 NMAC, residential; and 16.62.5.8 NMAC, general;

(3) other required verification will be to contact the applicants prior licensing board by email, mail or telephone.

B. The board may waive the following requirements for licensure:

(1) application fees;

(2) taking and passing the NM state exam; the applicant will be required to take and pass the NM state exam within 60 days from the date the emergency license is issued.

C. The board may waive the specific forms required under 16.62.2.8, 16.62.3.8, 16.62.4.8 and 16.62.5.8 NMAC if the applicant is unable to obtain documentation from the federal declared disaster areas.

D. Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.62.2.8, 16.62.3.8, 16.62.4.8 and 16.62.5.8 NMAC.

E. Licenses issued under (the emergency provision) shall expire on April 30 ~~[-2006]~~ following the date of issue, unless the board or an agent of the board approves a renewal application. Application for renewal shall be made on or before April 30 ~~[-2006]~~ following the date of issue to avoid late renewal fees. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving license renewal.

[16.62.10.9 NMAC - N/E, 11/10/05; A, 11/25/06]

16.62.10.10 EMERGENCY LICENSE TERMINATION:

A. The emergency license shall terminate upon the following circumstances:

(1) the issuance of a permanent license under Sections 16.62.2.8, 16.62.3.8, 16.62.4.8 and 16.62.5.8 NMAC; or

(2) proof that the emergency license holder has engaged in fraud deceit, misrepresentation in procuring or attempting to procure a license under this section.

B. Termination of an emergency license shall not preclude application for permanent licensure.

[16.62.10.10 NMAC - N/E, 11/10/05; Repr, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.11 NMAC Section 8, effective 11/25/06.

16.62.11.8 APPLICATION FOR RECIPROCITY:

A. Applications for New Mexico state licensed appraiser, residential or general certified appraisers must hold an appraisers license or certificate in another state and that state must extend the privilege of licensure or certification to New Mexico licensed or certified appraisers.

B. Applicants for reciprocity in the state of New Mexico must:

(1) meet or exceed the New Mexico board of real estate appraisers requirements;

(2) complete an application for New Mexico state licensed appraiser or certified appraiser, including the first page, the personal history questionnaire, three letters of verification, a 2" X 2" photograph;

~~[(3) letter of verification and good standing from applicant's home state or other state where applicant holds a current license or certificate; verification of the state's required educational hours and experience hours, issuance and expiration date, and discipline record; verification and good standing must have original signature, notarized, and the state's seal;]~~

(3) verification of license history and good standing as obtained from the national registry of real estate appraisers;

(4) submit copy of current license;

(5) ~~[payment of]~~ pay the appropriate fee by check or money order;

(6) file an irrevocable consent in accordance with the provisions of NMSA 1978 Section 61-30-20.B. in that suits and actions may be commenced against the applicant under the process so described;

(7) comply with all the New Mexico board of real estate appraisers statutes, rules and regulations.

[16.62.11.8 NMAC - N, 09/13/2004; A, 11/25/06]

NEW MEXICO REAL ESTATE APPRAISERS BOARD

This is an amendment to 16.62.13 NMAC, Sections 6, 14 and the addition of new Section 10, effective 11/25/06.

16.62.13.6 OBJECTIVE: This part lists actions which can be the cause of disciplinary action by the board against [a

~~registrant~~ an apprentice, licensee or certificate holder and provides a procedure for a respondent to accept a letter of reprimand pursuant to violations of law or regulations. [10/1/97; 16.62.13.6 NMAC - Rn, 16 NMAC 62.13.6, 09/13/2004; A, 11/25/06]

16.62.13.10 RESPONDING TO COMPLAINT:

A. Upon receipt of a sworn complaint against any person who is an apprentice, licensed or certified under the real estate appraisers act the respondent must respond within ten (10) days of receipt as allowed by the uniform licensing act.

B. Failure to respond within time frame specified, may result in disciplinary action up to and including revocation of license at the discretion of the board. [16.62.13.10 NMAC - N, 11/25/06]

[16.62.13.10] 16.62.13.11 [RESERVED]

16.62.13.14 REFUSAL, SUSPENSION OR REVOCATION:

A. Disciplinary proceedings may be instituted by the sworn complaint of any person, including members of the board, filed with the board. The complaint shall conform with the provisions of the Uniform Licensing Act, Section 61-1-1 et seq., NMSA 1978.

B. In accordance with the procedures contained in the Uniform Licensing Act, the board may deny, revoke or suspend any apprentice, license or certificate held or applied for upon finding, after a hearing, that the apprentice appraiser, licensee, certificate holder or applicant has violated any provision of the Real Estate Appraisers Act (Section 61-30-1 et seq., NMSA 1978) or regulations or continually or repeatedly or persistently or willfully violated any of the prohibitions found hereinafter:

(1) obtaining or attempting to obtain any fee through fraud, misrepresentation, or other dishonesty;

(2) impersonating another person apprenticed, licensed or certified to practice real estate appraisal or permitting or allowing any person to use his/her registration, license or certificate;

(3) aiding or abetting the practice of real estate appraisal by a person not apprenticed, licensed or certified by the board;

(4) the suspension or revocation by another state of an apprentice registration, license or certificate to practice real estate appraisal based upon acts by the ~~registered~~ apprentice appraiser, certificate holder or licensee similar to acts described in the section;

(5) the solicitation of any person either by an apprentice appraiser, licensee

or certificate holder or by one in his/her employ or under his/her control under circumstances suggesting that the appraiser or other person was taking advantage of the person being solicited from making a rational independent decision as to whether or not to obtain the services of an appraiser, or any particular appraiser;

(6) falsifying of real estate appraisal records, whether or not for personal gain;

(7) practicing beyond the scope of the ~~apprenticeship~~ apprenticeship, license or certificate as defined by state law and/or regulations;

(8) advertising in any manner that violates the board's regulation on advertising, as provided in 16.62.16 NMAC; or

(9) making false statements in any application for apprenticeship, licensure or certification.

[10/1/97; 16.62.13.14 NMAC - Rn & A, 16 NMAC 62.13.14, 09/13/2004; A, 11/25/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 63 SOCIAL WORKERS PART 17 TEMPORARY LICENSE

16.63.17.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Social Work Examiners P.O. Box 25101, Santa Fe, NM 87504. [16.63.17.1 NMAC - N, 11/30/06]

16.63.17.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers. [16.63.17.2 NMAC - N, 11/30/06]

16.63.17.3 STATUTORY AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Section 61-31-8A, 14-2-1, 61-31-19 NMSA 1978. [16.63.17.3 NMAC - N, 11/30/06]

16.63.17.4 DURATION: Permanent [16.63.17.4 NMAC - N, 11/30/06]

16.63.17.5 EFFECTIVE DATE: November 30, 2006, unless a later date is cited at the end of a section. [16.63.17.5 NMAC - N, 11/30/06]

16.63.17.6 OBJECTIVE: To state the minimum requirements for a temporary license, the duration of the license. [16.63.17.6 NMAC - N, 11/30/06]

16.63.17.7 DEFINITIONS: [Reserved]

16.63.17.8 APPLICABILITY: A temporary license may be issued only when an applicant has submitted an application for licensure, provide documentation of passing the national licensing exam for the level of licensure sought and has not fulfilled or is unable to adequately documented the completion of one or more of the requirements for licensure specified in 16.63.6, 16.63.10 and 16.63.11 NMAC. The applicant must fulfill the requirements within six months or less. [16.63.17.8 NMAC - N, 11/30/06]

16.63.17.9 DURATION: Six months or fulfillment of the requirements which ever comes first. Only one temporary license will be issued for each level of licensure sought by the applicant, except in extenuation circumstances as defined in 16.63.17.10 NMAC. [16.63.17.9 NMAC - N, 11/30/06]

16.63.17.10 EXTENUATING CIRCUMSTANCES: A qualified temporary licensed applicant may apply for an extension of a temporary license or the issuance of an additional temporary license if they were unable to fulfill the requirement due to extenuating circumstances; these extenuating circumstances are defined as; serious physician-verified illness; death in immediate family; and military service. The extenuating circumstances must be presented for the board's administrator's consideration on a case-by-case basis. [16.63.17.10 NMAC - N, 11/30/06]

16.63.17.11 FEE: The applicant shall pay a license fee as set forth in Part 8. [16.63.17.11 NMAC - N, 11/30/06]

HISTORY OF 16.63.17 NMAC: [Reserved]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.3 NMAC, Sections 8, 10, 11 and 12, effective 11/30/06.

16.63.3.8 APPLICATION FOR LICENSURE: Applicants, other than those applying for licensure by credentials, must submit or cause to be submitted the following documentation to the board:

- A. completed application;
- B. two (2) personal character references;
- C. one (1) 2" x 2" original

photograph of the applicant taken within the preceding six (6) months affixed to the application;

D. license fee as provided in Part 8;

E. official transcripts directly from the university or college or by other means approved by the board verifying the following:

(1) bachelors or masters degree in social work; and

(2) a three credit hour course in New Mexico cultures;

F. verification of supervision must be received directly from the supervisor or by other means approved by the board;

G. if currently or previously licensed in another state you must submit verification of licensure, which must be sent directly to the board by the issuing jurisdiction; and

H. official exam scores; proof of passing the licensure exam must be received directly from the association of social work boards or from the jurisdiction in which the applicant is licensed.

[5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.3.8 NMAC - Rn, 16 NMAC 63.3.8, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.3.10 INITIAL LICENSE/RENEWAL OF LICENSE:

A. ~~[By July 1 of each year, each licensed social worker shall apply for license renewal and pay the annual renewal fee as set forth in Part 8.]~~ Initial license

(1) Initial licenses issued between January 1 and June 30 shall expire on July 1 of the next calendar year.

(2) Initial licenses issued between July 1 and December 31 shall expire on July 1 of the second calendar year following the date of issuance.

B. No license will be issued for longer than 24 months.

C. Renewal of license

(1) Each licensed social worker shall apply for license renewal and pay the annual renewal fee as set forth in Part 8.

(2) Licenses that expire July 1, 2007 will renew according to the following schedule:

(a) If the last digit of the license number ends in an even number the license will expire on July 1, 2008 and biennially thereafter. The renewal fee will be prorated.

(b) If the last digit of the license number ends in an odd number the license will expire on July 1, 2009 and biennially thereafter.

~~[B.]~~ D. A 30-day grace period, running from July 1 - July 30, of the renewal year allows the social worker to submit a renewal without a renewal fee penalty. However the social worker's license shall

be considered expired and the social worker will refrain from practicing.

~~[E.]~~ E. From July 31 to September 29 of the renewal year the social worker may renew ~~[his] the~~ license, however a penalty fee will be assessed (16.63.8.17 NMAC).

~~[D-]~~ E. After September 29 the social worker's license will be considered revoked. If revoked for non-renewal, then the licensee will be required to pay previous penalties, complete a new application and pay another application fee. The applicant will also have to take an exam prescribed by the board.

[5/15/91, 6/22/92, 1/5/95; 5/1/99, 16.63.3.10 NMAC - Rn, 16 NMAC 63.3.10, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.3.11 QUALIFIED APPLICANTS:

As per 16.63.4.12 NMAC "Qualified applicants who fail to obtain the minimum required score may retake the (ASWB ~~[or NMBSWE Cultural]~~) exam an unlimited number of times. Applicants must pay the examination fee for each administration of the examination." Prior to the re-examination a new application must be submitted to the board by the applicant. A non-refundable application fee must accompany the new application. Qualifications for examination will be evaluated based on the most recent application. Initial applications are valid for a period of six months; additional, applications shall be valid for a period not to exceed twelve (12) months from the date of initial submission.

[5/15/91, 6/22/92, 1/15/95, 5/1/99; 16.63.3.11 NMAC - Rn & A, 16 NMAC 63.3.11, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.3.12 EXAMINATION REQUIRED:

No license, other than a provisional license, will be issued without passing exam scores for ASWB at the appropriate level ~~[and successful completion of the New Mexico Board of Social Work Examiners Cultural Awareness Examination]~~. The scores of ASWB examination may be submitted by ASWB, or by the state board from which the applicant is currently licensed, directly to the New Mexico board of social work examiners.

[5/15/91, 6/22/92, 1/15/95, 5/1/99; 16.63.3.12 NMAC - Rn & A, 16 NMAC 63.3.12, 06/19/02; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.4 NMAC, Sections 8, 10 and 14, effective 11/30/06.

16.63.4.8 EXAMINATIONS:

The board adopts as its examination the examination as administered by the association of social work boards at the appropriate license level ~~[and the New Mexico board of social work examiners cultural awareness examination]~~.

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95; 16.63.4.8 NMAC - Rn, 16 NMAC 63.4.8, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.4.10 REQUIREMENTS:

In order to sit for ~~[either] the ASWB [or the cultural awareness]~~ examination, applicants must submit, to the board, a completed examination application and supporting documentation.

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.4.10 NMAC - Rn & A, 16 NMAC 63.4.10, 06/19/02; A, 11/30/06]

16.63.4.14 NOTIFICATION:

~~[The board shall make every effort to notify applicants of the results of cultural examination within 30 days of testing.]~~ The applicant will receive the results of the national exam immediately ~~[upon completion of the exam]~~ from ASWB.

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.4.14 NMAC - Rn, 16 NMAC 63.4.14, 06/19/02; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.6 NMAC, Sections 8 and 9 effective 11/30/06. The part name is also amended.

PART 6 LICENSURE BY CREDENTIALS; RECIPROCITY

16.63.6.8 QUALIFICATION FOR LICENSURE:

Applicants for licensure by credentials must possess the following:

A. a current valid social work license issued by an appropriate examining board under the laws of any other state or territory of the United States or the District of Columbia or any sovereign nation ~~[that in the judgment of the board has substantially equivalent requirements as the state of New Mexico, as outlined in the Social Work Practice Act,]~~ at the level of licensure being sought for a minimum of five years;

B. a passing test score from the ~~[American]~~ association of ~~[state]~~ social work boards for licensure level sought; ~~[Test scores to be sent from ASWB directly to the board or from the state board of social work examiners currently holding applicant's license.]~~

C. a baccalaureate degree in social work from a CSWE accredited

program, if applying for the LBSW;

D. a master's degree in social work from a CSWE accredited program, if applying for the LMSW or LISW;

E. successful completion of the New Mexico board of social work examiners cultural awareness examination;

F. have presented to the New Mexico board documentation as required by the New Mexico board that any other license granted to the applicant by any other state has not been suspended, revoked, voluntarily surrendered or otherwise restricted for any reason except non-renewal or for the failure to obtain the required continuing education credits.

[1/1/90, 5/15/91, 6/22/92, 5/1/99; 16.63.6.8 NMAC - Rn & A, 16 NMAC 63.6.8, 06/19/02; A, 11/30/06]

16.63.6.9 APPLICATION FOR LICENSURE: Applicants for licensure by credentials; reciprocity must submit or cause to be submitted the following documentation to the board:

A. completed application;

B. two (2) personal character references;

~~C. a copy of current license;~~

~~D.] C.~~ a 2" x 2" photograph of the applicant taken within the preceding six months affixed to the application;

~~E.] D.~~ completed form titled "statement of registration, or certification of licensure in another state", to be submitted directly to the board from the conferring agency;

~~F.] E.~~ test scores from ASWB and the New Mexico cultural exam;

~~G. official transcripts mailed directly to the board from the conferring institution;]~~

~~H.] E.~~ non-refundable license fee as set forth in *Part 7* to be assessed at the time of application.

[1/1/90, 5/15/91, 6/22/92, 5/1/99; 16.63.6.9 NMAC - Rn & A, 16 NMAC 63.6.9, 06/19/02; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.7 NMAC, Sections 8 and 9 effective 11/30/06.

16.63.7.8 APPLICABILITY

A. When an applicant has submitted all documentation required for the license sought and the application is complete except that the applicant has not completed ~~[either component of]~~ the licensure exam or the required three credit hour course in New Mexico cultures, the board may issue a provisional license to the applicant at the level sought.

B. The board will accept, in the absence of an official transcript, certification bearing official seal and attesting to completion of degree requirements from the registrar, mailed directly to the board from the conferring institution.

[1/1/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.7.8 NMAC - Rn, 16 NMAC 63.7.8, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.7.9 DURATION: The provisional license shall be valid for 6 months ~~[or until the applicant passes/fails the national examination and the New Mexico cultural examination, whichever comes first]~~ unless the applicant fails the national exam at which point the provisional license will become null and void.

A. The provisional license shall become immediately invalid if the provisional licensee fails to submit an official transcript of certification.

B. ~~[The provisional licensee must pass the national and New Mexico cultural exam during this 6 month period]~~ During this 6 month period the provisional licensee must provide documentation that the individual has passed the national examination and provide documentation that verifies the individual has completed the required three credit hour course in New Mexico cultures.

C. Only one provisional license will be issued for each level of licensure except in extenuating circumstances as defined in 16.63.7.10 NMAC.

[1/1/90, 5/15/91, 6/22/92, 1/5/95, 5/1/99; 16.63.7.9 NMAC - Rn & A, 16 NMAC 63.7.9, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.8 NMAC, Section 14, 15 and 16 effective 11/30/06.

16.63.8.14 RENEWAL BACCALAUREATE: For renewal of license as a baccalaureate social worker, ~~[fifty dollars (\$50.00)]~~ one hundred dollars (\$100.00).

[1/1/90, 9/13/90, 5/15/91, 6/22/92; 16.63.8.14 NMAC - Rn, 16 NMAC 63.8.14, 06/19/02; A, 11/30/06]

16.63.8.15 RENEWAL MASTERS: For renewal of a license as a master social worker, ~~[seventy five dollars (\$75.00)]~~ one hundred fifty dollars (\$150.00).

[1/1/90, 9/13/90, 5/15/91, 6/22/92; 16.63.8.15 NMAC - Rn, 16 NMAC 63.8.15, 06/19/02; A, 11/30/06]

16.63.8.16 RENEWAL INDEPENDENT: For renewal of a license as an

independent social worker, ~~[one hundred dollars (\$100.00)]~~ two hundred dollars (\$200.00).

[1/1/90, 9/13/90, 5/15/91, 6/22/92; 16.63.8.16 NMAC - Rn, 16 NMAC 63.8.16, 06/19/02; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.9 NMAC, Sections 8, effective 11/30/06.

16.63.9.8 QUALIFICATION OF LICENSURE: Applicants for licensure as baccalaureate social worker must possess the following minimum qualifications:

A. be at least 18 years of age;

B. possess a bachelor's degree in social work from a program accredited by the council on social work education;

C. successfully pass the association of social work board examination ASWB;

D. ~~[successfully pass the New Mexico board of social work examiners cultural awareness examination]~~ documents completion of the required three credit hour course in New Mexico cultures.

[1/1/90, 5/15/91, 6/22/92; 16.63.9.8 NMAC - Rn & A, 16 NMAC 63.9.8, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.10 NMAC, Section 8, effective 11/30/06.

16.63.10.8 QUALIFICATION FOR LICENSURE: Applicants for licensure as master social worker must:

A. be at least 18 years of age;

B. possess a master's degree in social work from a graduate program of social work accredited by the council on social work education;

C. successfully pass the association of social work board examination ASWB;

D. ~~[successfully pass the New Mexico board of social work examiners cultural awareness examination]~~ documents completion of the required three credit hour course in New Mexico cultures.

[1/1/90, 9/13/90, 5/15/91, 6/22/92; 16.63.10.8 NMAC - Rn & A, 16 NMAC 63.10.8, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.11 NMAC, Section 8, effective 11/30/06.

16.63.11.8 QUALIFICATION FOR LICENSURE:

Applicants for licensure as independent social workers must:

A. be at least eighteen (18) years of age;

B. possess at least a master's degree in social work from a graduate program of social work accredited by the council on social work education;

C. complete not less than two years of post graduate social work experience (employed or volunteer), under appropriate supervision; as defined in 16.63.1.7 NMAC for the purposes of this part, 3600 hours of post graduate social work practice is required under appropriate supervision; applicants and supervisors will engage the process of supervision in accordance with the guidelines established by the board of social work examiners;

D. ~~[successfully pass the New Mexico board of social work examiners cultural awareness examination]~~ documents completion of the required three credit hour course in New Mexico cultures; and

E. successfully pass the association of social work board examination, (ASWB) clinical or advanced, as determined by the board.

[1/1/90, 9/13/90, 5/15/91, 6/22/92, 1/5/95; 5/1/99, 16.63.11.8 NMAC - Rn & A, 16 NMAC 63.11.8, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.12 NMAC, Sections 9 and 13, effective 11/30/06.

16.63.12.9 CONTINUING EDUCATION CREDIT:

~~[Fifteen (15)]~~ Thirty (30) hours of continuing education will be required [annually] biennially. Six of the 30 hours must be in the subject area of cultural awareness. Proof of participation in or presentation of continuing education activity must be submitted with the license renewal request if the licensee is audited.

[5/15/91, 6/22/92, 5/1/99; 16.63.12.9 NMAC - Rn, 16 NMAC 63.12.9, 06/19/02; A, 4/24/06; A, 11/30/06]

16.63.12.13 DOCUMENTATION OF PARTICIPATION:

The board shall

audit a percentage of renewal applications each year to verify the continuing education requirement. The licensee must maintain proof of continuing education courses taken for the past ~~[three (3) years]~~ four (4) years.

A. If a notice of audit letter is received with the annual renewal form, evidence of continuing education hours earned during the renewal ~~[year]~~ period must be submitted to the board as requested and as required in the Social Work Practice Act and by this rule.

B. If the licensee is not audited, all documentation of attendance and agendas must be retained by the licensee for a minimum of ~~[three (3) years]~~ four (4) years immediately preceding the current renewal.

C. The board reserves the right to audit a licensee's continuing education records as it deems necessary.

[5/15/91, 6/22/92, 16.63.12.13 NMAC - Rn, 16 NMAC 63.12.13, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO BOARD OF SOCIAL WORK EXAMINERS

This is an amendment to 16.63.15 NMAC, Section 8, effective 11/30/06.

16.63.15.8 PROCEDURE

A. Any person licensed under the Social Work Practice Act (NMSA 1978 Sections 61-31-1 to 61-31-24) who wishes to retire from practice shall notify the board's administrator in writing prior to the July 1 expiration of his current license. As part of the written request for retirement status, the licensee must show proof of having completed the required continuing education hours defined in Part 12 of these rules. If the licensee has not met the continuing education requirements, retirement status may be granted but the licensee will be subject to all rules related to continuing education if reinstatement of license is requested. The administrator shall acknowledge receipt of the request ~~[and place the request on the agenda for the next board meeting].~~

B. Upon approval by the board of the request, the licensee shall assume retirement status and shall be exempt from payment of the yearly renewal fees during the period of retirement.

C. The practice of social work in New Mexico under a retired license is strictly prohibited. Any person licensed under the Social Work Practice Act who has retired as provided in this section, may notify the board, in writing, of his desire to resume active practice.

D. Upon receipt of the

notice required in Subsection C of 16.63.15.8 NMAC, the administrator shall send to the retired licensee an application for reinstatement of license.

E. The application must be completed and returned to the board's administrator with the appropriate fee as required in sections 8, 9, 10 and 11 of 16.63.8 NMAC.

F. The applicant must, in addition provide satisfactory proof of:

(1) completion of no less than ten (10) hours of continuing education for each year of retirement; such continuing education to be accumulated in accordance with Part 12;

(2) completion of all continuing education requirements determined to have been unmet at the time retirement status was granted.

G. The board may, in its discretion, require that an applicant for reinstatement take and pass a written examination as prescribed by the board.

H. If the board finds the application in order and is satisfied that the applicant has fulfilled his continuing education requirements as outlined in Subsection F of 16.63.15.8 NMAC, the board shall issue the applicant a new license.

I. No person licensed under the Social Work Practice Act who has retired shall reactivate his practice until he receives his new license certificate.

J. The board will not accept applications for retirement from licensees who are under investigation for violations of the Social Work Practice Act or who have an active complaint pending with the board.

K. The board will accept applications under this section from any social worker who is impaired as further defined in this section and who is participating in a rehabilitation plan approved by the board. For purposes of this section, impaired means inability to practice social work with reasonable skill or safety to clients by reason of one or more of the following:

(1) mental illness;

(2) habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act (NMSA Sections 30-31-1 to 30-31-40) or alcohol.

[6/22/92, 1/5/95, 5/1/99; 16.63.15.8 NMAC - Rn, 16 NMAC 63.15.8, 06/19/02; A, 4/24/06; A, 11/30/06]

NEW MEXICO TAXATION AND REVENUE DEPARTMENT

This is an amendment to 3.9.1 NMAC, Sections 7 and 9 through 18, effective 11/15/06.

3.9.1.7 **DEFINITIONS:**

SMALL CIGARS DEFINED: For purposes of the Cigarette Tax Act, small cigars are subject to the same requirements that apply to cigarettes. A "small cigar" is a roll of tobacco or any substitute for tobacco wrapped in paper or in anything that is not one hundred percent tobacco and weighs less than three pounds per thousand. [3.9.1.7 NMAC - N, 11/15/06]

3.9.1.9 **DOCUMENTATION TO SUBSTANTIATE THE ISSUANCE OF A TRIBAL LICENSE:**

Any documentation showing that a governing body or, if the governing body has delegated the licensing function to an administrative agency, the appropriate administrative agency, has authorized the enrolled tribal member to use or sell cigarettes on that tribe's reservation or pueblo grant is sufficient to claim the exemption under Section 7-12-4 NMSA 1978. [3.9.1.9 NMAC - N, 11/15/06]

3.9.1.10 **DOCUMENTATION TO SUBSTANTIATE SALES OF CIGARETTES TO EXEMPT ENTITIES:**

A. A distributor shall sell packages of cigarettes bearing a tax-exempt stamp only to:

- (1) the United States or any agency or instrumentality thereof;
- (2) the State of New Mexico or any political subdivision thereof;
- (3) an Indian tribe, as defined in Subsection A of 3.2.4.7 NMAC, for use or sale on that tribe's reservation or pueblo grant; or

(4) a person who is recognized by the governing body of an Indian tribe to be an enrolled member of that Indian tribe and who is authorized by that Indian tribe to sell cigarettes on the reservation or pueblo grant of that Indian tribe for use or sale on that tribe's reservation or pueblo grant.

B. The distributor must maintain records demonstrating that the sale is to an entity or person described in Subsection A above.

C. For sales to a purchaser described in Paragraphs (1) and (2) of Subsection A above, the distributor shall retain documentation related to the transaction showing the governmental entity's name, such as purchase orders, copies of warrants issued in payment and contracts related to the cigarettes sold.

D. For sales to a purchaser described in Paragraph (3) of Subsection A above, the distributor shall obtain a statement, signed by the purchaser of the cigarettes that the purchaser is an Indian tribe, as defined by Subsection A of 3.2.4.7 NMAC, and that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant. The statement must be attested to by a tribal official.

E. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall obtain a statement signed by an official of the purchaser's Indian tribe confirming that the purchaser is an enrolled member of that Indian tribe. The statement of membership may also be provided to the distributor by the Indian tribe on behalf of one or more of its members, if attested to by a tribal official. This documentation shall be conclusive evidence, and the only material evidence, that the purchaser is an enrolled member of an Indian tribe.

F. For sales to a purchaser described in Paragraph (4) of Subsection A above, the distributor shall also obtain documentation that the purchaser is authorized by, or under, the authority of the governing body of the purchaser's Indian tribe to sell or use cigarettes on the reservation or pueblo grant of that Indian tribe. This documentation must be attested to by a tribal official. The purchaser of the cigarettes shall also affirm in writing to the distributor that the cigarettes are being purchased for use or sale on that tribe's reservation or pueblo grant. [3.9.1.10 NMAC - N, 11/15/06]

3.9.1.11 **QUALIFICATIONS FOR A STAMP TO BE CONSIDERED AFFIXED:**

In order for a stamp to be considered affixed, a package must have at least 60% of the stamp visible, including the entire serial number. Packages of cigarettes that do not meet these requirements shall be considered contraband cigarettes and may be subject to the penalties imposed under Section 7-12-13.1 NMSA 1978. [3.9.1.11 NMAC - N, 11/15/06]

CIGARETTE STAMP QUANTITIES: The minimum order for cigarette stamps is 1,500, and the minimum order for tax-exempt stamps is 15,000. [3.9.1.12 NMAC - N, 11/15/06]

CIGARETTE DISTRIBUTOR AND MANUFACTURER LICENSE - LICENSING FEE: Any person that applies for a cigarette distributor's license or a manufacturer's license shall pay a licensing fee of one hundred dollars (\$100.00). The licensing fee will be imposed for every license, including annual

renewals.

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

3.9.1.14 **CIGARETTES NOT PURCHASED FROM A LICENSED DISTRIBUTOR:**

If a cigarette retailer has in its possession cigarettes determined by the department to have been purchased from a source other than a licensed distributor, the retailer may be subject to penalties under Section 7-12.13.1 NMSA 1978.

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

3.9.1.15 **CIVIL PENALTIES:**

The department will impose the penalties authorized by Section 7-12-13.1 NMSA 1978 in accordance with the following schedule.

A. The penalty for a first offense shall be imposed as follows:

(1) one hundred dollars (\$100) for a violation involving a quantity of fewer than two cartons of contraband cigarettes;

(2) two hundred fifty dollars (\$250) for a violation involving a quantity of between two cartons and not more than twenty-five cartons of contraband cigarettes;

(3) five hundred dollars (\$500) for a violation involving a quantity of between twenty-six cartons and not more than two hundred ninety-nine cartons of contraband cigarettes; or

(4) one thousand dollars (\$1,000) for a violation involving a quantity of three hundred or more cartons of contraband cigarettes.

B. The penalty for a second offense shall be imposed as follows:

(1) one thousand five hundred dollars (\$1,500) for a violation involving a quantity of fewer than two cartons of contraband cigarettes;

(2) one thousand seven hundred fifty dollars (\$1,750) for a violation involving a quantity of between two cartons and not more than twenty-five cartons of contraband cigarettes;

(3) two thousand dollars (\$2,000) for a violation involving a quantity of between twenty-six cartons and not more than two hundred ninety-nine cartons of contraband cigarettes; or

(4) two thousand five hundred dollars (\$2,500) for a violation involving a quantity three hundred or more cartons of contraband cigarettes.

C. The penalty for a third offense shall be imposed as follows:

(1) five thousand dollars (\$5,000) for a violation involving a quantity of fewer than two cartons of contraband cigarettes;

(2) seven thousand five hundred dollars (\$7,500) for a violation involving a quantity of more than two cartons and not more than twenty-five cartons of contraband cigarettes;

~~B. For each sale the person transporting or seeking to transport the unstamped cigarettes shall deliver a copy of the affidavit to the person selling the unstamped cigarettes.~~

~~C. Any person selling unstamped cigarettes to an Indian nation, tribe or pueblo, or to an enrolled tribal member licensed by the governing body to sell cigarettes, shall require such an affidavit for each sale and shall retain a copy in its records for three years from the end of the year in which the sale took place.~~

~~D. Section 3.9.2.8 NMAC is applicable to transportation of unstamped cigarettes on or after May 20, 1992.]~~

TRANSPORTING UNSTAMPED CIGARETTES INTO NEW MEXICO: A person filing a notice with the department, pursuant to Subsection A of Section 7-12-12 NMSA 1978, shall include in the notice the following information:

A. name and address of the person receiving the unstamped cigarettes in New Mexico;

B. the quantity of unstamped cigarettes being shipped into the state to that person;

C. the brands of the cigarettes being shipped into the state to that person; and

D. the date of shipment.
[5/20/92, 9/14/96; 3.9.2.8 NMAC - Rn & A, 3 NMAC 9.2.8, 12/14/00; A, 11/15/06]

End of Adopted Rules Section

Other Material Related to Administrative Law

**NEW MEXICO LIVESTOCK
BOARD**

NEW MEXICO LIVESTOCK BOARD

**NOTICE OF REGULAR BOARD
MEETING**

NOTICE IS HEREBY GIVEN that a regular board meeting will be held on Thursday, November 30 and December 1, 2006, at the Albuquerque Hilton, 1901 University Blvd, NE, Albuquerque, New Mexico, at 9:00 a.m. The Board will discuss matters of general business.

Copies of the agenda can be obtained by contacting Daniel Manzanares, Executive Director, New Mexico Livestock Board, 300 San Mateo Blvd. NE, Suite 1000, Albuquerque, NM 87108-1500, (505) 841-6161.

Anyone who requires special accommodations is requested to notify the New Mexico Livestock Board office at (505) 841-6161 of such needs at least five days prior to the meeting.

**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

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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

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