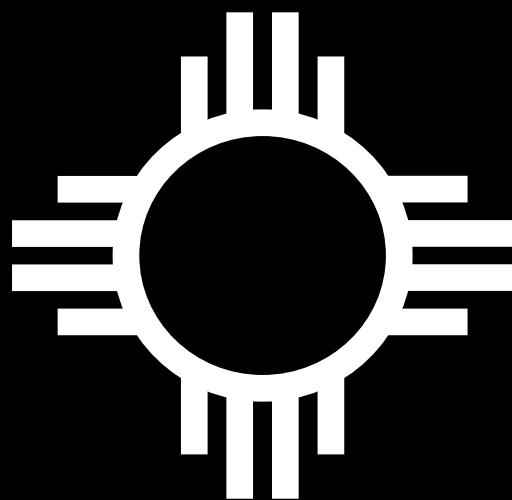


# **NEW MEXICO REGISTER**

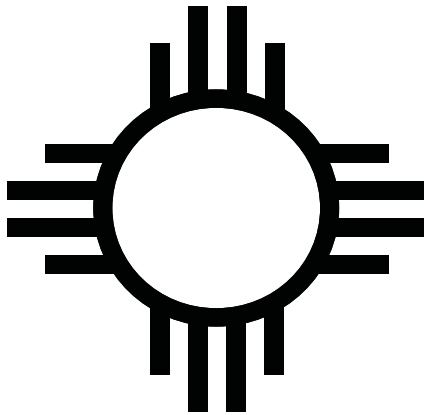


Volume XXII  
Issue Number 13  
July 15, 2011



# **New Mexico Register**

**Volume XXII, Issue Number 13**  
**July 15, 2011**



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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2011

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# New Mexico Register

Volume XXII, Number 13

July 15, 2011

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#### Effective Date and Validity of Rule Filings

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

*A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered*

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## Notices of Rulemaking and Proposed Rules

### NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT YOUTH AND FAMILY SERVICES DIVISION

#### Notice of Public Hearing

The Children, Youth and Families Department, Youth and Family Services, will hold a formal public hearing on September 7 from 10:00 to 12:00 p.m. in Room 565 on the 5<sup>th</sup> floor of the PERA building located at 1120 Paseo de Peralta, Santa Fe, New Mexico to receive public comments regarding proposed updated/revised regulations 8.14.14 NMAC, governing New Mexico Juvenile Detention Standards from CYFD, Youth and Family Services.

The proposed changes to the regulations may be obtained by contacting Ted Lovato at 505-827-9916. Interested persons may testify at the hearing or submit written comments no later than 12:00 p.m. on September 7, 2011. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to Ted Lovato, Youth and Family Services, P.O. Drawer 5160, Santa Fe, New Mexico 87502-5160, Fax Number 505-476-2225.

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 Ted Lovato 505-827-9916. The Department requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

### NEW MEXICO OFFICE OF THE STATE ENGINEER

#### NOTICE OF PROPOSED REGULATIONS AND PUBLIC HEARING

OFFICE OF THE STATE ENGINEER  
P.O. BOX 25102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6120  
[www.ose.state.nm.us](http://www.ose.state.nm.us)

The State Engineer has released proposed amendments to Rules and Regulations Governing the Use of Public Underground Waters for Household or Other Domestic Use (19.27.5 NMAC). The proposed amendments were developed to address the non-advertised transfer of consumptive use water rights to domestic wells within

domestic well management areas and changing the point of diversion from a domestic well to a mutual domestic water users association in accordance with NMSA 1978, section 72-12-1.1.

Amendments are proposed to the following sections of the Rules and Regulations Governing the Use of Public Underground Waters for Household or other Domestic Use: (7) Definitions, (9) Application for a 72-12-1.1 Domestic Well Permit, (10) Application for Permit to Transfer a Valid, Existing Water Right Into a 72-12-1.1 Domestic Well Permit - Maximum Diversion of Water from the 72-12-1.1 Domestic Well Not to Exceed Three Acre-Feet Per Annum, (11) Other 72-12-1.1 Domestic Well Permit Applications, (13) Action of the State Engineer, (14) Domestic Well Management Area, and (15) Enforcement.

The proposed regulations are available at the Office of the State Engineer in Santa Fe, Albuquerque, Las Cruces, Roswell, Deming, Aztec, and Cimarron. The proposed regulations are also posted on the Office of the State Engineer web site and may be accessed at [www.ose.state.nm.us/water\\_info\\_rights\\_rules.html](http://www.ose.state.nm.us/water_info_rights_rules.html). Click on the link under Proposed. To request that a copy of the rules and regulations be sent to you in the mail or by email, please contact David Heber at 505-827-6102 or e-mail [david.heber@state.nm.us](mailto:david.heber@state.nm.us).

A public hearing will be held on the above described proposed and amended regulations at the State Capitol (Roundhouse), Santa Fe, New Mexico, on July 21, 2011 beginning at 10:00 am. Any person who is or may be affected by these proposed rules and regulations may appear and testify. Written comments may be submitted at the public hearing. If you are an individual with a disability who is in need of special assistance or accommodation to attend or participate in the hearing, please contact David Heber at (505) 827-6102. The Office of the State Engineer requests ten days advance notice to provide any special accommodation.

### NEW MEXICO GAME COMMISSION

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

On **Thursday, July 21, 2011, beginning at 9:00 a.m.**, at the **Clayton Civic Center, 124 North Front St., Clayton, NM 88415**, the State Game Commission will meet in

public session to hear and consider action as appropriate on the following: Revocations; adoption of specific amendment to Trapping and Furbearer Rule dealing with the trapping ban on the Gila and Apache Sitgraves national forests; adoption of amendments to the Falconry Rule; adoption of the 2011-12 Migratory Game Bird Rule; adoption of amendments to the Hunting and Fishing License Application Rule; adoption of amendments to the Trapping and Furbearers Rule.

Discussion items include: Management of the Artesia/Karr Farm and 7 Rivers/Brantley wildlife management areas; fiscal year 2013 budget request development; Open Gate Program review; Guide and outfitter registration rule; Barbary sheep, oryx and Persian ibex rule; General public comments (comments limited to 3 minutes); closed executive session; update on H Bar V conservation easement purchase; 2010 bear and cougar harvest update.

The following rules are available for public comment and discussion by the Commission:

- \* Trapping and Furbearer Rule Amendment, (19.32.2, NMAC);
- \* Falconry Rule, (19.35.8, NMAC);
- \* 2011-2012 Waterfowl/Migratory Game Bird Rule (19.31.6, NMAC);
- \* Hunting and Fishing Application Rule, (19.31.3, NMAC);
- \* Guide and Outfitter Registration Rule, (19.30.8, NMAC); and
- \* Barbary sheep, oryx and Persian ibex Rule (19.31.12, NMAC).

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

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Sonya Quintana at (505) 476-8027. Please contact Ms. Quintana at least 3 working days before the meeting date. Public documents, including the Agenda and Minutes can be provided in various accessible forms upon request.

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

**NOTICE**

The New Mexico Human Services Department (HSD) is scheduling a public hearing on Thursday, August 18, 2011, at 9:00 a.m. in the South Park Conference Room, Ste. 500-590 in Santa Fe, NM.

**The subject of the hearing is Cost-Related Reimbursement of ICF/MR Facilities.**

Due to statewide budget constraints, the Human Services Department/Medical Assistance Division (HSD/MAD) is proposing to make changes to the cost-related reimbursement of ICF/MRs through rebasing pursuant to budget availability. The total financial impact on providers will be 3.5 million dollars.

Interested persons may submit written comments no later than 5:00 p.m., August 18, 2011, to Sidonie Squier, Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. All written and oral testimony will be considered prior to issuance of the final regulation.

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

Copies of all comments will be made available by the Medical Assistance Division upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

Copies of the Human Services Register and their proposed rules are available for review on our Website at [www.hsd.state.nm.us/mad/registers/2011](http://www.hsd.state.nm.us/mad/registers/2011) or by sending a self-addressed stamped envelope to Medical Assistance Division, Program Oversight & Support Bureau, P.O. Box 2348, Santa Fe, NM. 87504-2348.

**NEW MEXICO MEDICAL  
BOARD**

**NEW MEXICO MEDICAL BOARD**

**Notice**

The New Mexico Medical Board will convene a Board Meeting on Friday, August 12, 2011 at 9:00 a.m. in the Conference Room, 2055 S. Pacheco, Building 400, Santa Fe, New Mexico. A Public Rule Hearing will be held at this time. The Board will reconvene after the Hearing to take action on the proposed rules. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider new rules 16.6.1 thru 16.6.11 NMAC (Naprathic Practitioners)

Copies of the proposed rules will be available no later than August 5th on request from the Board office at the address listed above, by phone (505) 476-7220, or on the Internet at [www.nmmb.state.nm.us](http://www.nmmb.state.nm.us).

Persons desiring to present their views on the proposed amendments may appear in person at said time and place or may submit written comments no later than 5:00 p.m., August 5, 2011, to the board office, 2055 S. Pacheco, Building 400, Santa Fe, NM, 87505.

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

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

**STATE OF NEW MEXICO  
CONSTRUCTION INDUSTRIES  
DIVISION  
of the  
Regulation and Licensing Department**

**NOTICE OF PUBLIC HEARINGS**

Public hearings on the proposed changes to the following CID Rules: NMAC 14.10.4, 2011 NM Electrical Code; NMAC 14.6.6.10 B (1) (a-c), Electrical classifications for EE-98 and EL-01; NMAC 14.8.3, NM Swimming Pool, Spa and Hot Tub Code and

NMAC 14.9.6, NM Solar Energy Code will be held as follows:

**July 13, 2011, 9:00 a.m. - 12:00 p.m.: SANTA FE, NM - CID Conference Room, 2550 Cerrillos Road, Santa Fe, NM.**

**July 13, 2011, 9:00 a.m. - 12:00 p.m.: LAS CRUCES, NM - CID Conference Room, 505 South Main Street, Suite 150, Las Cruces, NM.**

**July 13, 2011, 9:00 a.m. - 12:00 p.m.: ALBUQUERQUE, NM - CID Conference Room, 5200 Oakland Avenue NE, Albuquerque, NM.**

Copies of the proposed rules are currently available on the Construction Industries Division's website: [www.rld.state.nm.us/cid](http://www.rld.state.nm.us/cid) and at the CID office in Santa Fe. You are invited to attend and express your opinion on these proposed rules changes. If you cannot attend the meeting, you may send your written comments to the Construction Industries Division, 2550 Cerrillos Road, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. FAX (505) 476-4685. **All comments must be received no later than 5:00 p.m., on July 13, 2011. If you require special accommodations to attend the hearing, please notify the Division by phone, email or fax, of such needs no later than May 27, 2011. Telephone: 505-476-4686. Email: [www.rld@state.nm.us/cid](mailto:www.rld@state.nm.us/cid) Fax No. 505-476-4685.**

**End of Notices and Proposed  
Rules Section**



## Adopted Rules

### NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

16 NMAC 14.1, General Provisions, filed 8/19/1996 is repealed and replaced by 16.14.1 NMAC, General Provisions, effective 08/01/2011.

16 NMAC 14.2, Fees, filed 8/19/1996 is repealed and replaced by 16.14.2 NMAC, Fees, effective 08/01/2011.

16 NMAC 14.4, Provisional Permits, filed 8/19/1996 is repealed and replaced by 16.14.4 NMAC, Provisional Permits, effective 08/01/2011.

16 NMAC 14.5, Examinations, filed 8/19/1996 is repealed and replaced by 16.14.5 NMAC, Examinations, effective 08/01/2011.

16 NMAC 14.6, License Renewal, filed 8/19/1996 is repealed and replaced by 16.14.5 NMAC, License Renewal, effective 08/01/2011.

16 NMAC 14.7, License Reinstatement, filed 8/19/1996 is repealed and replaced by 16.14.7 NMAC, License Reinstatement, effective 08/01/2011.

16 NMAC 14.10, Code of Ethics, filed 8/19/1996 is repealed and replaced by 16.14.10 NMAC, Code of Ethics, effective 08/01/2011.

16 NMAC 14.11, Disciplinary Proceedings, filed 8/19/1996 is repealed and replaced by 16.14.11 NMAC, Disciplinary Proceedings, effective 08/01/2011.

### NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

#### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 1 GENERAL PROVISIONS

**16.14.1.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, NM 87504. [16.14.1.1 NMAC - Rp, 16 NMAC 14.1.1 NMAC, 08/01/2011]

**16.14.1.2 SCOPE:** The provisions in Part 1 apply to all parts of Chapter 14,

and provide relevant information to anyone affected by or interested in the licensing and regulation of dietitians, nutritionists and nutrition associates.

[16.14.1.2 NMAC - Rp, 16 NMAC 14.1.2, 08/01/2011]

**16.14.1.3 STATUTORY AUTHORITY:** Sections 61-7A-1 through 61-7A-15 NMSA 1978 (Laws of 1996 and 1993 Repl. Pam.), Section 11 of Part 1 is authorized by Section 10-15-1, C (1993 Repl. Pam.). Sections 12 and 13 of Part 1 are authorized by Sections 14-2-1 through 14-2-16 NMSA 1978 (1993 Repl. Pam.). [16.14.1.3 NMAC - Rp, 16 NMAC 14.1.3, 08/01/2011]

**16.14.1.4 DURATION:** Permanent. [16.14.1.4 NMAC - Rp, 16 NMAC 14.1.4, 08/01/2011]

**16.14.1.5 EFFECTIVE DATE:** 8/01/2011, unless a later date is cited at the end of a section. [16.14.1.5 NMAC - Rp, 16 NMAC 14.1.5, 08/01/2011]

**16.14.1.6 OBJECTIVE:** To set forth the provisions which apply to all of Chapter 14, and to all persons and entities affected or regulated by Chapter 14 of Title 16. [16.14.1.6 NMAC - Rp, 16 NMAC 14.1.6, 08/01/2011]

**16.14.1.7 DEFINITIONS:**  
A. "Act" means the Nutrition and Dietetics Practice Act.  
B. "CDR" means the commission on dietetic registration.  
C. "American board of nutrition" referred to in the act is now known as American clinical board of nutrition.  
D. "American institute of nutrition" referred to in the act is now known as American society for nutrition. [16.14.1.7 NMAC - Rp, 16 NMAC 14.1.7, 08/01/2011]

**16.14.1.8 LICENSE DISPLAY:** A valid license or permit must be displayed and must be visible to the public in each place of employment or business of the licensee. Licensees who do not have a permanent office must have a valid license/permit available for public inspections during business hours. [16.14.1.8 NMAC - Rp, 16 NMAC 14.1.8, 08/01/2011]

**16.14.1.9 LICENSE RESPONSIBILITY:** The board assumes

no responsibility for renewal applications or other documents not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form or other required documents. [16.14.1.9 NMAC - Rp, 16 NMAC 14.1.9, 08/01/2011]

**16.14.1.10 CHANGE OF ADDRESS:** Any licensee or applicant who changes their mailing address must notify the board in writing within 30 days of the change. [16.14.1.10 NMAC - Rp, 16 NMAC 14.1.10, 08/01/2011]

**16.14.1.11 TELEPHONE CONFERENCES:** If it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate through a conference telephone. Each member participating by conference telephone must be identified when speaking, all participants must be able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting. [16.14.1.11 NMAC - Rp, 16 NMAC 14.1.11, 08/01/2011]

**16.14.1.12 PUBLIC RECORDS:** Except as otherwise provided by law, all applications, pleadings, petitions and motions are matters of public record at the time of filing with the board. [16.14.1.12 NMAC - Rp, 16 NMAC 14.1.12, 08/01/2011]

**16.14.1.13 INSPECTION OF PUBLIC RECORDS:** The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-16 NMSA 1978. The board administrator is the custodian of the board's records. [16.14.1.13 NMAC - Rp, 16 NMAC 14.1.13, 08/01/2011]

**16.14.1.14 CONFIDENTIAL RECORDS:** The following records are considered confidential and are not subject to public inspection:

- A. letters of reference concerning employment, licensing or permits;
- B. medical reports or records of chemical dependency, physical or mental examinations or treatment;
- C. examination scores;
- D. the contents of any examination used to test for an individual's knowledge or competence;
- E. investigative files; and
- F. letters or memorandum

which are matters of opinion in personnel files or students' cumulative files.  
[16.14.1.14 NMAC - Rp, 16 NMAC 14.1.14, 08/01/2011]

**16.14.1.15 SEVERABILITY:** If any part of these rules are held invalid by a court of competent jurisdiction, the remaining provisions of the rules shall remain in force and effect, unless otherwise determined by a court of competent jurisdiction.  
[16.14.1.15 NMAC - Rp, 16 NMAC 14.1.15, 08/01/2011]

#### **HISTORY OF 16.14.1 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:  
N&D Rule 90-1, Definitions, filed 2/28/90.  
N&D Rule 90-2, Licensure Requirements, filed 2/28/90.  
Rule 2, Licensure Requirements, filed 3/8/93.  
N&D Rule 90-3, License Period, filed 2/28/90.  
N&D Rule 91-3, License and License Period, filed 3/18/91.  
Rule 92-3, License and License Period, filed 3/26/92.  
Rule 3, Initial Licenses, License Period and Display, filed 3/8/93.  
N&D Rule 90-4, Annual Registration Displayed, filed 2/28/90.

#### **History of Repealed Material:**

16 NMAC 14.1, General Provisions, filed 8/19/1996 - Repealed effective 08/01/2011.

## **NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 2 FEES**

**16.14.2.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, NM 87504.  
[16.14.2.1 NMAC - Rp, 16 NMAC 14.2.1 NMAC, 08/01/2011]

**16.14.2.2 SCOPE:** The provisions of Part 2 apply to all individuals licensed or applying for licensure to practice as a dietitian, nutritionist, or nutrition associate and to anyone who requests a list or labels of licensees.  
[16.14.2.2 NMAC - Rp, 16 NMAC 14.2.2, 08/01/2011]

**16.14.2.3 STATUTORY AUTHORITY:** Section 61-7A-11 NMSA

1978 (1993 Repl. Pam.).  
[16.14.2.3 NMAC - Rp, 16 NMAC 14.2.3, 08/01/2011]

**16.14.2.4 DURATION:** Permanent.  
[16.14.2.4 NMAC - Rp, 16 NMAC 14.2.4, 08/01/2011]

**16.14.2.5 EFFECTIVE DATE:** 08/01/2011, unless a later date is cited at the end of a section.  
[16.14.2.5 NMAC - Rp, 16 NMAC 14.2.5, 08/01/2011]

**16.14.2.6 OBJECTIVE:** To establish fees to generate revenue adequate to fund the cost of program administration.  
[16.14.2.6 NMAC - Rp, 16 NMAC 14.2.6, 08/01/2011]

**16.14.2.7 DEFINITIONS:** [RESERVED]

**16.14.2.8 FEES:**  
A. All fees are non-refundable.  
B. Initial application fee of fifty dollars (\$50.00).  
C. Initial license fee of one hundred and fifty dollars (\$150.00) for each license must be paid after application approval and before license issuance, pursuant to Paragraph (1) of Subsection A of 16.4.3.11 NMAC.  
D. A license renewal fee of seventy-five dollars (\$75.00).  
E. A reinstatement fee of fifty dollars (\$50.00) must be paid in addition to any other fees due at the time of reinstatement.  
F. A duplicate license fee of twenty dollars (\$20.00).  
[16.14.2.8 NMAC - Rp, 16 NMAC 14.2.8, 08/01/2011]

**16.14.2.9 TRANSFER OF LICENSE CATEGORY:** Within the first year of licensure, the licensee may transfer categories for which he is eligible, by submitting an additional application form and application fee of fifty dollars (\$50.00).  
[16.14.2.9 NMAC - Rp, 16 NMAC 14.2.9, 08/01/2011]

#### **HISTORY OF 16.14.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:  
N&D Rule 90-9, Fees, filed 2/28/90.  
N&D Rule 90-9, Fees, filed 9/6/90.  
Rule 92-9, Fees, filed 3/26/92.  
Rule 6, Fees, filed 3/8/93.

#### **History of Repealed Material:**

16 NMAC 14.2, Fees, filed 8/19/1996 - Repealed effective 08/01/2011.

## **NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 4 PROVISIONAL PERMITS**

**16.14.4.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico 87504.  
[16.14.4.1 NMAC - Rp, 16 NMAC 14.4.1 NMAC, 08/01/2011]

**16.14.4.2 SCOPE:** All individuals applying for licensure to practice as a dietitian or nutritionist in New Mexico.  
[16.14.4.2 NMAC - Rp, 16 NMAC 14.4.2, 08/01/2011]

**16.14.4.3 STATUTORY AUTHORITY:** Section 61-7A-9 NMSA 1978 (1993 Repl. Pam.).  
[16.14.4.3 NMAC - Rp, 16 NMAC 14.4.3, 08/01/2011]

**16.14.4.4 DURATION:** Permanent.  
[16.14.4.4 NMAC - Rp, 16 NMAC 14.4.4, 08/01/2011]

**16.14.4.5 EFFECTIVE DATE:** 08/01/2011, unless a later date is cited at the end of a section.  
[16.14.4.5 NMAC - Rp, 16 NMAC 14.4.5, 08/01/2011]

**16.14.4.6 OBJECTIVE:** To establish procedures to issue provisional permits to applicants who have met all relevant education and experience requirements and who are waiting to take the required examination, or applicants who have met all the requirements but are waiting for board approval of the application.  
[16.14.4.6 NMAC - Rp, 16 NMAC 14.4.6, 08/01/2011]

**16.14.4.7 DEFINITIONS:** "Provisional permit" means a permit which allows the applicant to work as a dietitian or nutritionist while waiting for board approval of the application or for the applicant to take the examination required for licensure.  
[16.14.4.7 NMAC - Rp, 16 NMAC 14.4.7, 08/01/2011]

**16.14.4.8 PROCEDURE FOR ISSUANCE:** A provisional permit to practice as a dietitian or nutritionist may be issued by the board administrator upon receipt of a completed application. A provisional permit may not be issued until the

application is complete, except for required examinations, and the initial application fee has been paid.

[16.14.4.8 NMAC - Rp, 16 NMAC 14.4.8, 08/01/2011]

**16.14.4.9 DIETITIANS:** The application must include proof of completion of the education and experience required for registration as a dietitian with CDR.

[16.14.4.9 NMAC - Rp, 16 NMAC 14.4.9, 08/01/2011]

**16.14.4.10 NUTRITIONISTS:** The application must include proof of completion of the education or membership requirements for licensure in Paragraph (1) of Subsection A of 16.14.3.10 NMAC.

[16.14.4.10 NMAC - Rp, 16 NMAC 14.4.10, 08/01/2011]

**16.14.4.11 PERMIT PERIOD:** The provisional permit may be issued for a period not to exceed six months. This period will allow the applicant to take the exam, be notified of the results and the board to act on the request for licensure.

A. If the permit holder passed the exam and is approved for licensure, payment of the initial license fee must be received before the expiration of the permit.

B. If the permit holder fails the third exam taken, the provisional permit is null and void effective the date results are obtained, unless an exception is recognized by CDR.

C. Applications will be maintained for one year following the date of receipt by the board office.

[16.14.4.11 NMAC - Rp, 16 NMAC 14.4.11, 08/01/2011]

**16.14.4.12 RE-ISSUANCE OF PERMITS:** Individuals who do not pass the CDR examination after three attempts may not be issued an additional provisional permit. Individuals who are unable to take or complete the examination and have been excused by the board in accordance with 16.14.5.12 NMAC will be issued one additional provisional permit.

[16.14.4.12 NMAC - Rp, 16 NMAC 14.4.12, 08/01/2011]

#### **HISTORY OF 16.14.4 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

N&D Rule 90-6, Provisional Permit, filed 2/28/90.

Rule 92-6, Provisional Permit, filed 3/26/92.

Rule 4, Provisional Permit, filed 3/8/93.

#### **History of Repealed Material:**

16 NMAC 14.4, Provisional Permits, filed 8/19/1996 - Repealed effective 08/01/2011.

## **NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD**

### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 5 EXAMINATIONS**

#### **16.14.5.1 ISSUING AGENCY:**

Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico 87504.

[16.14.5.1 NMAC - Rp, 16 NMAC 14.5.1 NMAC, 08/01/2011]

**16.14.5.2 SCOPE:** All individuals applying for licensure to practice as a dietitian, nutritionist or nutrition associate in New Mexico.

[16.14.5.2 NMAC - Rp, 16 NMAC 14.5.2, 08/01/2011]

#### **16.14.5.3 STATUTORY**

**AUTHORITY:** Sections 61-7A-1 through 61-7A-15 NMSA 1978 (Laws of 1996).

[16.14.5.3 NMAC - Rp, 16 NMAC 14.5.3, 08/01/2011]

#### **16.14.5.4 DURATION:**

Permanent.

[16.14.5.4 NMAC - Rp, 16 NMAC 14.5.4, 08/01/2011]

#### **16.14.5.5 EFFECTIVE DATE:**

08/01/2011, unless a later date is cited at the end of a section.

[16.14.5.5 NMAC - Rp, 16 NMAC 14.5.5, 08/01/2011]

#### **16.14.5.6 OBJECTIVE:**

To establish the regulations regarding examination policies and procedures for licensure. The categories of licensed nutritionist and licensed dietitian share a basic scope of practice and therefore will be tested on the same material.

[16.14.5.6 NMAC - Rp, 16 NMAC 14.5.6, 08/01/2011]

#### **16.14.5.7 DEFINITIONS:**

[RESERVED]

[16.14.5.7 NMAC - Rp, 16 NMAC 14.5.7, 08/01/2011]

#### **16.14.5.8 REQUIRED EXAMINATION:**

A. For dietitians, the entry-level examination for registration as a dietitian developed and administered by CDR is required for licensure in New Mexico.

B. For nutritionists, the entry-level examination for registration as a dietitian developed and administered by CDR is required for licensure in New

Mexico.

C. For nutrition associates, the examination for registration as a dietetic technician developed and administered by CDR is required for licensure in New Mexico.

[16.14.5.8 NMAC - Rp, 16 NMAC 14.5.8, 08/01/2011]

#### **16.14.5.9 TEST ADMINISTRATION:**

Examinations are offered by CDR in a computerized format on dates and locations determined by the applicant. Individuals applying for licensure as a nutritionist or nutrition associate must make application through the board to be eligible to take the CDR exam. Dietitians who require a provisional permit to practice in New Mexico prior to passing the CDR exam must apply for the exam through the board. The names of applicants who are deemed eligible by the board to take the examination will be forwarded to CDR and their testing agency, ACT. The application to take the examination will then be sent directly to the applicant. Payment for the examination is sent directly to ACT in accordance with the procedures outlined in the candidate handbook.

[16.14.5.9 NMAC - Rp, 16 NMAC 14.5.9, 08/01/2011]

#### **16.14.5.10 PASSING SCORE:**

The passing score will be established by CDR based on the cut-score for the examination. A certified copy of the exam results submitted by the applicant will be accepted as proof of a passing score.

[16.14.5.10 NMAC - Rp, 16 NMAC 14.5.10, 08/01/2011]

#### **16.14.5.11 RE-EXAMINATION**

**POLICY:** Individuals who do not obtain a passing score on the examination may re-take the exam within the guidelines provided by CDR. However, applicants may not practice in New Mexico as a dietitian, nutritionist, or nutrition associate if they have failed the exam more than three times.

[16.14.5.11 NMAC - Rp, 16 NMAC 14.5.11, 08/01/2011]

#### **16.14.5.12 MISSED**

**EXAMINATION:** The board may excuse candidates who for circumstances beyond their control are unable to take or complete the exam within the provisional permit period.

[16.14.5.12 NMAC - Rp, 16 NMAC 14.5.12, 08/01/2011]

#### **HISTORY OF 16.14.5 NMAC:**

##### **History of Repealed Material:**

16 NMAC 14.5, Examinations, filed 8/19/1996 - Repealed effective 08/01/2011.



## NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 6 LICENSE RENEWAL

**16.14.6.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico 87504. [16.14.6.1 NMAC - Rp, 16 NMAC 14.6.1 NMAC, 08/01/2011]

**16.14.6.2 SCOPE:** All individuals licensed to practice as a dietitian, nutritionist or nutrition associate in the state of New Mexico. [16.14.6.2 NMAC - Rp, 16 NMAC 14.6.2, 08/01/2011]

**16.14.6.3 STATUTORY AUTHORITY:** Section 61-7A-10 NMSA 1978 (1993 Repl. Pam.). [16.14.6.3 NMAC - Rp, 16 NMAC 14.6.3, 08/01/2011]

**16.14.6.4 DURATION:** Permanent. [16.14.6.4 NMAC - Rp, 16 NMAC 14.6.4, 08/01/2011]

**16.14.6.5 EFFECTIVE DATE:** 08/01/2011, unless a later date is cited at the end of a section. [16.14.6.5 NMAC - Rp, 16 NMAC 14.6.5, 08/01/2011]

**16.14.6.6 OBJECTIVE:** To establish the policies, procedures and requirements for license renewal. [16.14.6.6 NMAC - Rp, 16 NMAC 14.6.6, 08/01/2011]

**16.14.6.7 DEFINITIONS:** [RESERVED]

**16.14.6.8 ANNUAL RENEWAL REQUIRED:** Every person licensed under the Nutrition and Dietetics Practice Act shall renew his license annually on or before the expiration date by submitting a renewal application, the renewal fee, proof of compliance with continuing education requirements and any other documentation required by the board. [16.14.6.8 NMAC - Rp, 16 NMAC 14.6.8, 08/01/2011]

**16.14.6.9 RENEWAL DEADLINE:** Failure to submit a renewal application, renewal fee and proof of compliance with continuing education requirements within thirty (30) days of

license expiration date shall result in a lapsed license. If the license is allowed to lapse the license holder shall no longer practice as a dietitian, nutritionist or nutrition associate until the license has been reinstated in accordance with 16.14.7 NMAC. [16.14.6.9 NMAC - Rp, 16 NMAC 14.6.9, 08/01/2011]

**16.14.6.10 CONTINUING EDUCATION REQUIREMENTS:** A. Dietitians must verify current registration with CDR as set in CDR guidelines. These guidelines are available from CDR website.

B. Nutritionists and nutrition associates must provide proof of completion of at least fifteen (15) clock hours or verify current registration with CDR. Excess hours, up to a total of fifteen (15) hours, may be carried over to the next licensing period. [16.14.6.10 NMAC - Rp, 16 NMAC 14.6.10, 08/01/2011]

#### HISTORY OF 16.14.6 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

N&D Rule 90-7, License Renewal, filed 2/28/90.

N&D Rule 91-7, License Renewal, filed 3/18/91.

Rule 92-7, License Renewal, filed 3/26/92.

Rule 5, License Renewal Requirements, filed 3/8/93.

N&D Rule 90-8, Continuing Education Requirements, filed 2/28/90.

Rule 992-8, Continuing Education Requirements, filed 3/26/92.

#### History of Repealed Material:

16 NMAC 14.6, License Renewal, filed 8/19/1996 - Repealed effective 08/01/2011.

## NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 7 LICENSE REINSTATEMENT

**16.14.7.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico 87504. [16.14.7.1 NMAC - Rp, 16 NMAC 14.7.1 NMAC, 08/01/2011]

**16.14.7.2 SCOPE:** All individuals licensed to practice as a dietitian, nutritionist or nutrition associate in New Mexico. [16.14.7.2 NMAC - Rp, 16 NMAC 14.7.2,

08/01/2011]

**16.14.7.3 STATUTORY AUTHORITY:** Section 61-7A-10 NMSA 1978 (1993 Repl. Pam.). [16.14.7.3 NMAC - Rp, 16 NMAC 14.7.3, 08/01/2011]

**16.14.7.4 DURATION:** Permanent. [16.14.7.4 NMAC - Rp, 16 NMAC 14.7.4, 08/01/2011]

**16.14.7.5 EFFECTIVE DATE:** 08/01/2011, unless a later date is cited at the end of a section. [16.14.7.5 NMAC - Rp, 16 NMAC 14.7.5, 08/01/2011]

**16.14.7.6 OBJECTIVE:** To establish policies and procedures for individuals who allow their license to lapse through non-renewal. [16.14.7.6 NMAC - Rp, 16 NMAC 14.7.6, 08/01/2011]

**16.14.7.7 DEFINITIONS:** [RESERVED]

**16.14.7.8 REINSTATEMENT OF A LAPSED LICENSE:** Any person who allows his license to lapse by failing to renew his license within thirty days of expiration may be reinstated by the board and issued a renewal license upon submission of a renewal application with proof satisfactory to the board of compliance with the continuing education and other requirements of 16.14.3 NMAC and payment of the annual renewal fee and the reinstatement fee. A license which has been allowed to lapse for more than three years must reapply as a new applicant, pay all initial licensing fees and meet all the requirements of 16.14.3 NMAC. [16.14.7.8 NMAC - Rp, 16 NMAC 14.7.8, 08/01/2011]

**16.14.7.9 REINSTATEMENT OF A REVOKED LICENSE:** A person whose license has been revoked by the board may apply for restoration of the license no earlier than one year after revocation. In addition to the required completed application and fees, the applicant may be required to provide additional documentation at the discretion of the board prior to issuing a license. Required documentation may include, but is not limited to, additional continuing education, re-examination, proof of rehabilitation, mandatory participation in a monitored treatment program or other type of alcohol or drug rehabilitation, or supervised practice. [16.14.7.9 NMAC - Rp, 16 NMAC 14.7.9, 08/01/2011]

**HISTORY OF 16.14.7 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

N&D Rule 90-10, Restoration of Revoked License, filed 2/28/90.

N&D Rule 90-11, Reinstatement of Lapsed License, filed 2/28/90.

Rule 7, Restoration and Reinstatement of License, filed 3/8/93.

**History of Repealed Material:**

16 NMAC 14.7, License Reinstatement, filed 8/19/1996 - Repealed effective 08/01/2011.

## NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 10 CODE OF ETHICS

**16.14.10.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico 87504. [16.14.10.1 NMAC - Rp, 16 NMAC 14.10.1 NMAC, 08/01/2011]

**16.14.10.2 SCOPE:** The provisions in Part 10 of Chapter 14 apply to any individual licensed to practice as a dietitian, nutritionist or nutrition associate in the state of New Mexico. [16.14.10.2 NMAC - Rp, 16 NMAC 14.10.2, 08/01/2011]

**16.14.10.3 STATUTORY AUTHORITY:** Nutrition and Dietetic Practice Act, Section 61-7A-6A(6) NMSA 1978 (1993 Repl. Pam.). [16.14.10.3 NMAC - Rp, 16 NMAC 14.10.3, 08/01/2011]

**16.14.10.4 DURATION:** Permanent. [16.14.10.4 NMAC - Rp, 16 NMAC 14.10.4, 08/01/2011]

**16.14.10.5 EFFECTIVE DATE:** 08/01/2011, unless a later date is cited at the end of a section. [16.14.10.5 NMAC - Rp, 16 NMAC 14.10.5, 08/01/2011]

**16.14.10.6 OBJECTIVE:** To establish a standard of ethical and professional practice for licensed dietitians, nutritionists, and nutrition associates. [16.14.10.6 NMAC - Rp, 16 NMAC 14.10.6, 08/01/2011]

**16.14.10.7 DEFINITIONS:** [RESERVED]

### 16.14.10.8 STANDARDS OF PRACTICE:

**A. Non-discrimination:** The licensee shall provide nutrition care service with objectivity and with respect for the unique needs and values of an individual.

(1) The licensee shall avoid discrimination on the basis of factors that are irrelevant to the provision of nutrition care services, including, but not limited to race, ethnicity, sexual orientation, religion, gender, age, physical disabilities.

(2) The licensee shall provide sufficient information to enable a client to make an informed decision.

**B. Credentials:**

(1) The licensee shall accurately represent his or her professional qualifications and credentials.

(2) The licensee shall permit use of that licensee's name for the purpose of certifying that nutrition care services have been rendered only if the licensee has provided or supervised those services.

**C. Product promotion:** The licensee shall promote or endorse products only in a manner that is true and not misleading.

**D. Competence:** The licensee shall assume responsibility and accountability for personal competence in practice.

(1) The licensee shall generate, interpret, and use research to enhance nutrition and dietetic practice.

(2) The licensee shall identify, monitor, analyze and justify the use of resources.

(3) The licensee shall maintain knowledge and skills required for continued professional competence. The licensee shall engage in life-long self-development to improve knowledge and skills.

(4) The licensee shall recognize the limits of that licensee's qualifications and seek counsel or make referrals as appropriate. The licensee shall utilize unique knowledge of nutrition, collaborate with other professionals, personnel and consumers, in integrating, interpreting and communicating nutrition care principles.

(5) The licensee shall adhere to acceptable standards for the licensee's area of practice.

(6) When providing supervision of another, a licensee shall assume responsibility for the supervision in a manner which protects the public.

(7) When a licensee approves a general program of weight control, the licensee assumes responsibility for the general program of weight control including the diet and the guidelines for instruction of customers.

**E. Compliance with law:** The licensee shall comply with all laws and

regulations concerning the profession.

**F. Professional conduct:**

(1) The licensee shall present substantiated information and interpret controversial information without personal bias, recognizing that a legitimate difference of opinion may exist.

(2) The licensee shall maintain the confidentiality of information consistent with legal obligations.

(3) The licensee shall conduct all practices with honesty, integrity, and fairness.

(4) The licensee shall inform the public and colleagues of services by use of factual information. The licensee shall not advertise in a misleading manner.

[16.14.10.8 NMAC - Rp, 16 NMAC 14.10.8, 08/01/2011]

### HISTORY OF 16.14.10 NMAC:

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

N&D Rule 90-15, Standards for Professional Responsibility and Practice (Code of Ethics), filed 2/28/90.

Rule 9, Standard for Professional Responsibility and Practice (Code of Ethics), filed 3/8/93.

### History of Repealed Material:

16 NMAC 14.10, Code of Ethics, filed 08/19/1996 - Repealed effective 08/01/2011.

## NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 14 NUTRITION AND DIETETIC PRACTITIONERS PART 11 DISCIPLINARY PROCEEDINGS

**16.14.11.1 ISSUING AGENCY:** Nutrition and Dietetic Practice Board, P.O. Box 25101, Santa Fe, New Mexico. [16.14.11.1 NMAC - Rp, 16 NMAC 14.11.1 NMAC, 08/01/2011]

**16.14.11.2 SCOPE:** All individuals licensed or applying for licensure to practice as a dietitian, nutritionist or nutrition associate in the state of New Mexico, as well as members of the public who wish to submit a complaint to the board.

[16.14.11.2 NMAC - Rp, 16 NMAC 14.11.2, 08/01/2011]

**16.14.11.3 STATUTORY AUTHORITY:** Section 61-7A-12 NMSA 1978 (Laws of 1996 and 1993 Repl. Pam.). [16.14.11.3 NMAC - Rp, 16 NMAC 14.11.3,

08/01/2011]

**16.14.11.4 DURATION:** Permanent.  
[16.14.11.4 NMAC - Rp, 16 NMAC 14.11.4, 08/01/2011]

**16.14.11.5 EFFECTIVE DATE:** 08/01/2011 unless a later date is cited at the end of a section.  
[16.14.11.5 NMAC - Rp, 16 NMAC 14.11.5, 08/01/2011]

**16.14.11.6 OBJECTIVE:** To establish procedures and guidelines for handling complaints consistent with the Uniform Licensing Act.  
[16.14.11.6 NMAC - Rp, 16 NMAC 14.11.6, 08/01/2011]

**16.14.11.7 DEFINITIONS:** [RESERVED]  
[16.14.11.7 NMAC - Rp, 16 NMAC 14.11.7, 08/01/2011]

**16.14.11.8 COMPLAINT PROCEDURE:**

A. Disciplinary proceedings may be instituted by the board upon the receipt of a sworn complaint of any person, including any member of the board.

B. After determining jurisdiction, the board shall cause an investigation to be made.

C. In accordance with the provisions of the Uniform Licensing Act, the board may refuse to issue, suspend, or revoke any license upon finding, after a hearing, that the licensee or applicant for licensure has violated the provisions set forth in the Nutrition and Dietetics Practice Act or board rules and regulations.  
[16.14.11.8 NMAC - Rp, 16 NMAC 14.11.8, 08/01/2011]

**16.14.11.9 DELEGATION OF AUTHORITY:** The authority of the New Mexico nutrition and dietetic practice board to refer any licensee/registrant or applicant for licensure/registration whose name appears on the certified list issued by the New Mexico department of human services, as provided in the Parental Responsibility Act, NMSA 1978, Sections 40-5A-1 to 40-5A-13, for administrative prosecution is delegated to the administrator of the board. This section shall not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act and to refer any such case for administrative prosecution.  
[16.14.11.9 NMAC - N, 08/01/2011]

**16.14.11.10 SAVINGS CLAUSE:** Neither the action or inaction of the board on any complaint shall preclude the initiation

of any private cause of action by the complainant.

[16.14.11.10 NMAC - Rp, 16 NMAC 14.11.10, 08/01/2011]

**HISTORY OF 16.14.11 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center:

Rule 8, Disciplinary Proceedings, filed 3/8/93.

**History of Repealed Material:**

16 NMAC 14.11, Disciplinary Proceedings, filed 08/19/1996 - Repealed effective 08/01/2011.

## NEW MEXICO NUTRITION AND DIETETIC PRACTICE BOARD

This is an amendment to 16.4.3 NMAC Sections 7 through 10 and 12, effective 08/01/2011.

**16.14.3.7 DEFINITIONS:** ["Certified copy" means a copy which has been certified as a true and correct copy of the original document by a notary public who has compared the documents and attests to the validity of the copy.] [RESERVED]  
[8/31/96; 16.14.3.7 NMAC - Rn, 16 NMAC 14.3.7, 11/22/2005; A, 08/01/2011]

**16.14.3.8 REQUIREMENTS FOR DIETITIAN LICENSE:**

A. Prerequisites:

(1) valid current registration with CDR which includes successful completion of the CDR examination and gives the applicant the right to use the term "registered dietitian" or "RD" or

(2) [be licensed] license in another state which has standards for licensure not less stringent than those in New Mexico.

B. Documentation: Each applicant for a license to practice as a dietitian must submit the required fees and following documentation:

(1) a completed [application:] and signed [and notarized] application;

(2) [certified] a copy of CDR card; and

(3) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed.

[3/30/90...8/31/96; 16.14.3.8 NMAC - Rn, 16 NMAC 14.3.8, 11/22/2005; A, 08/01/2011]

**16.14.3.9 REQUIREMENTS FOR NUTRITIONIST LICENSE:**

A. Education requirements: Each applicant for a license as a nutritionist

must have one of the following:

(1) master's degree or doctorate in human nutrition, nutrition education, foods and nutrition, or public health nutrition from a college or university accredited by a member of the council on post-secondary accreditation; or

(2) valid current evidence of membership in one of the following organizations: [~~American institute of nutrition; American society for clinical nutrition; or American board of nutrition~~] American clinical board of nutrition or American society for nutrition.

B. Additional requirements:

(1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or

(2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

C. Documentation: Each applicant for license to practice as a nutritionist must submit the required fees and following documentation:

(1) completed [application:] and signed [and notarized] application;

(2) official transcript verifying degree required in [Paragraph 9.1.1 of this Part] Paragraph (1) of Subsection A of 16.14.3.9 NMAC, mailed directly from the college or university; or

(3) proof of membership in the organizations specified in [Paragraph 9.1.2 of this Part] Paragraph (2) of Subsection A of 16.14.3.9 NMAC;

(4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed.  
[3/30/90...8/31/96; 16.14.3.9 NMAC - Rn, 16 NMAC 14.3.9, 11/22/2005; A, 08/01/2011]

**16.14.3.10 REQUIREMENTS FOR NUTRITION ASSOCIATE LICENSE:**

A. Education requirements: Each applicant for a license as a nutrition associate must have:

(1) a baccalaureate or higher degree from a college or university accredited by a member of the council on post-secondary accreditation; and

(2) completion of the academic requirements that qualify the applicant for an internship or equivalent program as approved by the commission on dietetic registration; and

B. Additional requirements:

(1) pass an examination related to entry level nutrition practice and nutrition care services which has been approved by the board; or



(2) be licensed in another state which has standards for licensure not less stringent than those in New Mexico.

C. Documentation: Each applicant for a license to practice as a nutrition associate must submit the required fees and following documentation:

(1) completed ~~[application,] and signed [and notarized] application;~~

(2) official transcript verifying degree required in ~~[Paragraph 10.1.1 of this Part] Paragraph (1) of Subsection A of 16.14.3.10 NMAC~~, mailed directly from the college or university; and

(3) American ~~[dietetics] dietetic~~ association verification statement completed by a program director which verifies eligibility for an internship or equivalent program approved by CDR; and

(4) applicants who are currently, or have previously been, licensed in another state(s) must provide a copy of each license and a verification of license status directly to the board from the state(s) where licensed; and

(5) completed employment information form documenting supervision by a New Mexico licensed dietitian or nutritionist; documentation is required for subsequent changes in employment or supervision.

[3/30/90...8/31/96; 16.14.3.10 NMAC - Rn, 16 NMAC 14.3.10, 11/22/2005; A, 08/01/2011]

#### **16.14.3.12 PROVISIONS FOR EMERGENCY LICENSURE:**

A. Nutrition and dietetic practitioners 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 (4) four months following the declared disaster at no cost upon satisfying the following requirements:

(1) receipt by the nutrition and dietetic practitioners board of a completed application that has been signed ~~[and notarized]~~ and that 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) other required verification may be obtained from the commission on dietetic registration;

(3) nothing in this section shall constitute a waiver of qualifications of the requirements for licensure contained in 16.14.3.8, 16.14.3.9, 16.14.3.10 NMAC; and

(4) sworn affidavit that the applicant was personally ~~[and/or]~~ or professionally affected by the disaster.

B. The board ~~[may waive only the application]~~ will waive fees.

C. The board may waive

the specific forms required under 16.14.3.8, 16.14.3.9, 16.14.3.10 NMAC only if the applicant is unable to obtain documentation from the federal declared disaster area.

D. Emergency provisional license shall expire one (1) year from the date of issue of the emergency issued license. Application for a permanent license shall be made before the one-year expiration date of the emergency license, at which time, license fees will be required.

E. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving the permanent license.

[16.14.3.12 NMAC - N/E, 11/22/2005; A, 08/01/2011]

### **NEW MEXICO BOARD OF PODIATRY**

**This is an amendment to 16.21.1 NMAC Section 7, Section 8, Section 10, Section 16, effective July 29, 2011.**

#### **16.21.1.7 DEFINITIONS:**

A. "APMLE" means American podiatric medical licensing examination.

B. "CPME" means the council on podiatric medical education.

C. "NBPMPE" means the national board of podiatric medical examiners.

[16.21.1.7 NMAC - N, 10-15-04; A, 7-15-07; A, 07-29-11]

#### **16.21.1.8 SCOPE OF PRACTICE:**

A. For the purpose of clarification of the Podiatry Act, Section 61-8-2(C) NMSA 1978, the practice of podiatry:

~~[A:]~~ (1) in regard to surgical treatment shall include the skin and subcutaneous tissues of the thigh and all structures distal to the tuberosity of the tibia;

~~[B:]~~ (2) does include amputation of any portion of the foot;

~~[C:]~~ (3) does allow the use of the services of a certified registered nurse anesthetist; and

~~[D:]~~ (4) a licensed podiatrist may assist a licensed medical or osteopathic physician in the performance of any surgery of the lower extremities.

B. A podiatric physician shall be recognized and permitted to supervise and administer hyperbaric oxygen following the published recommendations of the undersea and hyperbaric medical society, inc. "UHMS" and within the credentials and bylaws of the facility that operates the hyperbaric unit with the following stipulation: prior to administering hyperbaric

oxygen, a podiatric physician must have on file with the New Mexico board of podiatry, documentation certifying compliance with the above requirements.

[16.21.1.8 NMAC - Rp, Rule IX, 10-15-04; A, 7-15-07; A, 07-29-11]

#### **16.21.1.10 RESPONSIBILITY OF LICENSEE:**

It is the responsibility of the licensed podiatrist to keep the board informed of a current mailing address within 30 days of changes. All correspondence, including renewal forms, will be mailed to the last address on file. The board assumes no responsibility for renewal applications or other correspondence not received because of a change of address.

[16.21.1.10 NMAC - N, 10-15-04; A, 07-29-11]

#### **16.21.1.16 ADVERTISING GUIDELINES:**

A. All advertisements shall include the podiatrist's name or medical group name, address and telephone number consistent with the Health Care Advertising Act, Section 57-27-1.

B. Specialty practice: A podiatrist may only advertise a specialty practice if they qualify under one of the following provisions:

(1) the licensee is board certified or board eligible by a recognized certifying board; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement;

(2) the licensee is a fellow or an associate of a specialty organization which admits fellows and associates on the basis of an examination; if an abbreviation of the certifying board is used then the name of the certifying board must be included in the advertisement.

[16.21.1.16 NMAC - Rn, 16.21.1.15 NMAC & A, 7-15-07; A, 07-29-11]

### **NEW MEXICO BOARD OF PODIATRY**

**This is an amendment to 16.21.3 NMAC Section 8, Section 9, effective July 29, 2011.**

#### **16.21.3.8 REQUIREMENTS FOR LICENSE:**

Each applicant for a license as a podiatrist must possess the following qualifications:

A. graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8,(A)(3) NMSA 1978;

B. passed the ~~[podiatric medical examiners national board exams]~~ APMLE examinations, part 1 and 2;

C. completed a residency program as defined in the Podiatry Act, Section 61-8-8,(A),(4);

D. passed the podiatric medical licensing examination for states (PM Lexis or APMLE examination part 3) within the past five years; and

E. passed the New Mexico jurisprudence examination with a score of 75% or higher.

[16.21.3.8 NMAC - Rp, 16 NMAC 21.3.8, 10-15-04; A, 7-15-07; A, 07-29-11]

### 16.21.3.9 DOCUMENTATION REQUIREMENTS:

The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by examination must submit the required fees and following documentation:

A. completed application, signed and notarized with a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;

B. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

C. a certified copy of a certificate of completion of a residency program approved by the CPME [~~council on podiatric medical education~~];

D. proof that the applicant has passed the [~~American podiatric medical examiners national board examination~~]; APMLE examinations sent directly from the APMLE; and

E. [~~proof that the applicant has passed the PM Lexis examination; and~~]

[F.] verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office from the other state(s), and must attest to the status, issue date, license number, and other information contained in the form.

[16.21.3.9 NMAC - Rp, Rule V, 10-15-04; A, 7-15-07; A, 07-29-11]

## NEW MEXICO BOARD OF PODIATRY

This is an amendment to 16.21.4 NMAC Section 8, Section 9, effective July 29, 2011.

### 16.21.4.8 REQUIREMENTS FOR LICENSURE BY RECIPROCITY:

Each applicant for licensure as a podiatrist by reciprocity must possess the following qualifications:

A. graduated and received

a degree from an accredited podiatric school as defined in the Podiatry Act, 61-8-8(A)(3); NMSA 1978;

B. hold a valid license by examination in another state or territory of the United States, with requirements for licensure equal to or exceeding those in New Mexico;

C. provide proof of active practice for at least five consecutive years immediately preceding the date of application;

D. passed the [~~podiatric medical examiners national board~~] APMLE examinations part 1, 2 and 3, or equivalent exam for part 3 as determined by the board; and

E. passed the jurisprudence examination with a score of 75% or higher. [16.21.4.8 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 07-29-11]

### 16.21.4.9 DOCUMENTATION REQUIREMENTS:

The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources. Each applicant for a license by reciprocity must submit the required fees and submit or provide for the following documentation:

A. completed application, signed and notarized with a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;

B. official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

C. one letter of recommendation from a practicing podiatrist who is personally acquainted with the applicant and who can attest that the applicant is of good moral character;

D. a certified copy of a certificate of completion of a residency program accredited by the CPME [~~council on podiatric medical education~~];

E. proof that the applicant has passed the [~~American podiatric medical examiners national board examination~~] APMLE examinations part 1, 2 and 3 sent directly from APMLE;

F. proof that the applicant [~~has passed the PM Lexis or equivalent examination~~] who has not taken [APMLE] part 3 or the PM Lexis exam provide equivalent examination proof of passing;

G. proof of active practice for the five consecutive years immediately preceding the date of application (proof may include a letter from an accountant, the professional society, tax forms, or other documentation approved by the board);

H. verification of licensure in all states where the applicant holds or has

held a license to practice podiatry, or other health care profession; and verification must be sent directly to the board office from the other state(s), and must attest to the license status, issue date, license number, and other information requested in the verification form.

[16.21.4.9 NMAC - Rp, 16 NMAC 21.4.8, 10-15-04; A, 7-15-07; A, 07-29-11]

## NEW MEXICO BOARD OF PODIATRY

This is an amendment to 16.21.5 NMAC Section 8, Section 10, Section 11, Section 12, Section 14, effective July 29, 2011.

### 16.21.5.8 TEMPORARY

**LICENSE:** A temporary license may be issued by the board in the following situations.

A. In cases of emergency as determined by the board; a temporary license to practice podiatry may be issued under this rule for practice in the office of a New Mexico licensed podiatrist who is unable to continue his or her practice due to an emergency.

B. To facilitate educational programs; a temporary license to practice podiatry in New Mexico may be issued to:

(1) a participant in a residency training program located in New Mexico accredited by the [~~council on podiatric medical education~~] "CPME" and insure that at all times throughout the program the temporary license holder is supervised by a New Mexico licensed podiatrist; or

(2) a participant in a residency program that is located in a bordering state accredited by the [~~council on podiatric medical education~~] "CPME" and insure that at all times the temporary license holder is supervised by a New Mexico licensed podiatrist, if the program offers part of its program residency in New Mexico.

C. In cases to assist or perform surgical procedures with a licensed New Mexico podiatrist which is beyond the training and experience available in New Mexico.

[16.21.5.8 NMAC - Rp, 16.21.5.8 NMAC, 7-15-07; A, 07-29-11]

### 16.21.5.10 REQUIREMENTS FOR TEMPORARY LICENSURE AND TEMPORARY EMERGENCY

**LICENSURE:** The board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources.

A. Applicants for temporary license or temporary emergency license due to situations defined under 16.21.5.8 NMAC A or C must meet the



following qualifications:

(1) graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8,(A)(3) NMSA 1978;

(2) passed the ~~[podiatric medical examiners national board exams Part 1 and 2]~~ APMLE examinations parts 1, 2 and 3, or equivalent exam for part 3 as determined by the board;

(3) completed a residency program as defined in the Podiatry Act, Section 61-8-8,(A),(4); and

(4) passed the New Mexico jurisprudence examination with a score of 75% or higher.

B. Applicants for temporary licensure to facilitate an educational or residency program must meet the following qualifications:

(1) graduated and been awarded a doctor of podiatric medicine degree from an accredited college of podiatric medicine as defined in the Podiatry Act, Section 61-8-8(A)(3) NMSA 1978;

(2) passed the podiatric medical examiners national board exams Part 1 and 2; and

(3) passed the jurisprudence examination with a score of 75% or higher. [16.21.5.10 NMAC - Rp, 16.21.5.9 NMAC, 7-15-07; A, 07-29-11]

**16.21.5.11 TEMPORARY LICENSE DOCUMENTATION REQUIREMENTS:** Each applicant for a temporary license must submit the required fees and submit or provide for the following documentation:

A. a completed application signed and notarized with a passport quality photo taken within the past 6 months; applications are valid for one year from the date of receipt;

B. an official transcript from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

C. proof that the applicant has passed the ~~[podiatric medical examiners national board examinations unless still in the first two (2) years of a residency program]~~ APMLE examinations parts 1, 2 and 3, or equivalent exam for part 3 as determined by the board, with the exception of applicants who are in residency training programs for part 3 only;

D. verification of licensure in all states where the applicant holds or has held a license to practice podiatry, or other health care profession; verification must be sent directly to the board office by the licensing state and attest to the status, issue date, license number of the licensee;

E. in addition, applicants obtaining temporary licensure to work in an

existing practice due to an emergency must provide a certified copy of a certificate of completion of a residency program approved by the CPME ~~[council on podiatric medical education];~~

F. applicants for temporary licensure to facilitate an educational or residency program must submit proof of enrollment in the educational or residency training program.

[16.21.5.11 NMAC - Rp, 16.21.5.10 NMAC, 7-15-07; A, 07-29-11]

**16.21.5.12 [TEMPORARY] TEMPORARY EMERGENCY LICENSE DOCUMENTATION REQUIREMENTS:**

A. Podiatric physicians currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure, in a state in which a disaster has been declared by federal authorities, may apply for a license in New Mexico during the four months following the date the disaster was declared, at no cost, upon satisfying the following requirements:

(1) proof applicant resides and is in active practice in the federally declared disaster areas in the form of a signed and notarized affidavit, 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) official transcripts from the school of podiatric medicine or college, to be sent directly to the board office from the accredited program;

(3) one letter of recommendation from a practicing licensed podiatrist who is personally acquainted with the applicant and who can attest that the applicant is of good moral character;

(4) a certified copy of a certificate of completion of a residency program accredited by the ~~[council on podiatric medical education]~~ "CPME";

(5) proof that the applicant has passed the ~~[American podiatric medical examiners national board examination]~~ APMLE examinations, parts 1, 2 and 3, or equivalent exam for part 3, as determined by the board;

~~[(6) proof that the applicant has passed the PM lexis or equivalent examination];~~

~~[(7)]~~ (6) the board may waive the specific forms required under Paragraphs (1) through (6) of Subsection A of 16.21.5.12 NMAC if the applicant is unable to obtain documentation from the federally declared disaster areas;

~~[(8)]~~ (7) other required verification may be obtained online by board staff to include: current licensure status, national practitioner's data bank, federation of podiatric medical board's disciplinary database;

~~[(9)]~~ (8) the board may designate a professional background information service, which compiles background information regarding an applicant from multiple sources;

~~[(10)]~~ (9) nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.21.5 NMAC.

B. Upon receipt of a completed application, including all required documentation, the secretary-treasurer or the delegate of the board will review and may approve the application. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be reviewed by the complaint/review committee. The board may formally accept the recommendation of the complaint/review committee at the next scheduled meeting.

[16.21.5.12 NMAC - N, 7-15-07; A, 07-29-11]

**16.21.5.14 TEMPORARY LICENSE PROCEDURE:** Upon receipt of a completed application, including all required documentation and fees, the board secretary or the designee of the board will review and may approve the application.

A. The results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board. The board shall ratify the approval of the application at the next scheduled board meeting. Any application which cannot be approved by the designee of the board will be reviewed by the board at the next scheduled meeting. The board's decision in regard to the issuance of a temporary license shall be final.

B. When issued, a temporary license shall state on its face that the license only authorizes the individual to practice podiatry at the location or locations stated on the license and shall expire automatically on the date of the next board meeting or on the date the applicant's residency educational program terminates.

[16.21.5.14 NMAC - Rp, 16.21.5.12 NMAC, 7-15-07; A, 07-29-11]

## NEW MEXICO BOARD OF PODIATRY

**This is an amendment to 16.21.7 NMAC Section 9, Section 11, effective July 29, 2011.**

**16.21.7.9 R E N E W A L DEADLINE:** A completed renewal application accompanied by the required fees, ~~[the state tax ID certificate number,]~~ documentation of 14 hours of continuing education as defined in 16.21.8.13 NMAC and must be post-marked, received

electronically, or hand delivered on or before January 1 of each year.

[16.21.7.9 NMAC - Rp, Rule VI.A, 10-15-04; A, 07-29-11]

#### **16.21.7.11 LATE RENEWAL:**

Renewal applications that are not postmarked, received electronically or hand-delivered to the board office by January 1 must be accompanied by the completed renewal application as defined in 16.21.7.9 NMAC and late fees defined in Subsection F of 16.21.2.8 NMAC.

[16.21.7.11 NMAC - Rp, Rule VI.B, 10-15-04; A, 07-29-11]

## **NEW MEXICO BOARD OF PODIATRY**

**This is an amendment to 16.21.8 NMAC Section 9, Section 12, Section 13, effective July 29, 2011.**

#### **16.21.8.9 A P P R O V E D**

**COURSES:** Continuing education courses offered or sponsored by the following organizations are automatically approved by the board:

A. a college of podiatric medicine which is accredited by the ~~[council on podiatric medical education]~~ "CPME" of the American podiatric medical association;

B. constituent society of the American podiatric medical association;

C. an organization or sponsor approved by the ~~[council on podiatric medical education]~~ "CPME" of the American podiatric medical association; or

D. hospital sponsored in-service programs related to the practice of podiatry.

[16.21.8.9 NMAC - Rp, Rule VII.B, 10-15-04; A, 07-29-11]

#### **16.21.8.12 VERIFICATION OF**

**COURSE ATTENDANCE:** The following documents, or combination of documents, may be used to verify attendance in required continuing education.

A. Course certificate with the course title, content, presenter, sponsor and hours.

B. Pamphlet of course with same information as requested on certificate, along with ~~[a cancelled check]~~ proof of payment.

C. Course attendance sheet submitted by the sponsor.

D. Course code or statement of attendance from presenter or sponsor.

[16.21.8.12 NMAC - Rp, Rule VII.D, 10-15-04; A, 07-29-11]

#### **16.21.8.13 VERIFICATION OF CONTINUING EDUCATION HOURS:**

The board ~~[following]~~ during each renewal cycle will complete a random audit of continuing education hours. The board may select by accepted RLD random computer processes, up to 10% of the renewal applicants. Individuals selected for audit must submit proof of compliance with the continuing education requirements. The records indicated in 16.21.8.12 NMAC are acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned and they may be audited by the board at any time.

[16.21.8.13 NMAC - N, 10-15-04; A, 07-29-11]

## **NEW MEXICO BOARD OF PODIATRY**

**This is an amendment to 16.21.11 NMAC Section 10, and addition of Section 12, effective July 29, 2011.**

#### **16.21.11.10 S U S P E N S I O N , REVOCATION OR REFUSAL OF A**

**LICENSE:** For the purpose of the Podiatry Act, Section 61.8.11.10 NMSA 1978 of, the following ~~[definitions shall]~~ may apply.

A. "Gross ~~[malpractice]~~ negligence" or "gross incompetency" means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients, or any act or omission by a podiatrist such as to indicate a willful act or injury to the patient, or such incompetence on the part of the podiatrist as to render the podiatrist unfit to hold himself out to the public as a licensed podiatrist.

B. "Unprofessional conduct" means, but is not limited to:

(1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the profession;

(2) practicing beyond the scope of practice of a podiatrist as defined by the Podiatry Act, Section 61-8-1 NMSA 1978, or board rule;

(3) ~~[the use of false, fraudulent or misleading advertising]~~ failure of a podiatrist to comply with the following advertising guidelines:

(a) shall not advertize in a false, fraudulent or misleading manner;

(b) shall include in the advertisement the podiatrist's name or

medical group name, address and telephone number;

(4) the making of false or misleading statement in communication with patients or potential patients;

(5) the use of misleading or deceptive titles or designations in a name or title of a podiatric practice, including the unauthorized advertisement of a specialty designation;

(6) failure to release to a patient copies of that patient's records and x-rays; in a reasonable period of time;

(7) conviction of a felony; a certified copy of the record of the court of conviction shall be proof of such conviction;

(8) impersonating another person licensed to practice podiatry or permitting or allowing any person to use his license or certificate of registration;

(9) failure to obtain informed consent prior to incisional surgical treatment;

(10) deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another podiatrist licensed or applying for licensure by the board;

(11) accept rebates, or split fees or commissions from any source associated with the service rendered to a patient; provided, however, the sharing of profits in a professional partnership, association, HMO, or similar association shall not be construed as fee-splitting;

(12) injudicious prescribing, administration, or dispensing of any drug or medicine;

(13) sexual misconduct;

(14) the use of a false, fraudulent or deceptive statement in any document connected with the practice of podiatry;

(15) the falsifying of medical records, whether or not for personal gain;

(16) any intentional conduct or practice which is harmful or dangerous to the health of the patient;

(17) fraud, deceit or misrepresentation in any renewal or reinstatement application;

(18) obtaining or attempting to obtain a license through fraud, misrepresentation, or other dishonesty;

(19) cheating on an examination for licensure;

(20) violation of any order of the board, including any probation order;

(21) treating patients when the podiatrist is under the influence of alcohol, ~~[or] illegal drugs, or injudicious use of prescription medications;~~ or

(22) failure to report to the board the involuntary surrender of a license to practice in another state, or involuntary surrender of membership on any medical staff or in any podiatric or professional association or society, in lieu of, and while under disciplinary investigation by any

authority;

(23) willful abandonment of a patient;

(24) has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation;

(25) breach of ethical standards, an inquiry into which the board will begin by reference to the code of ethics of the American podiatric medical association. [16.21.11.10 NMAC - Rp, Rules VIII, X, & XV, 10-15-04; A, 7-15-07; A, 07-29-11]

**16.21.11.12 DELEGATION OF AUTHORITY:** The authority of the New Mexico board of podiatry to issue a notice of contemplated action against any licensee/registrant or applicant for licensure/registration whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978, 40-5A-1, et seq. and to refer cases in which notices of contemplated action have been issued for administrative prosecution, is delegated to the administrator of the board. This section shall be not be construed to deprive the board of its authority and power to issue a notice of contemplated action for any apparent violation of the Parental Responsibility Act, and to refer any such case for administrative prosecution. [16.21.11.12 NMAC - N, 07-29-11]

## NEW MEXICO BOARD OF PODIATRY

This is an amendment to 16.21.12 NMAC, addition of Section 10, effective July 29, 2011.

### **16.21.12.10 RETENTION, MAINTENANCE AND DESTRUCTION OF MEDICAL RECORDS:**

**A.** Improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records constitutes unprofessional conduct under the board's rules adopted pursuant to 61-8-11(H). Podiatric physicians must maintain and make available upon request a written copy of their policy or their employer's policy for medical record retention, maintenance and destruction.

**B.** Written medical record policy shall include:

(1) responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;

(2) how the records can be obtained or transferred;

(3) how long the records will be maintained before they are destroyed; and

(4) cost of obtaining copies of records, and of recovering records/transferring records.

**C.** Electronic medical record policy shall include:

(1) responsible entity/agent name of contact to obtain records or request transfer of records, telephone number and mailing address;

(2) how the records can be obtained or transferred;

(3) how long the records will be maintained before destroyed;

(4) a data backup plan, disaster recovery plan and storage which ensures retrievability into reasonably usable form on a timely basis upon any request; and

(5) transfer of data via electronic file with appropriate safeguards to ensure patient confidentiality.

**D.** Podiatric physicians must retain medical records that they own for at least seven years. Medical records for patients who are minors must be retained for at least two years beyond the date that the patient is 18 years old.

**E.** Podiatric physicians shall retain medical billing information for at least two years after the date of last treatment.

**F.** A log must be kept of all charts destroyed, including the patient's name and date of record destruction.

**G.** If conversion of hard copies of medical records occurs to electronic format, the hard copy shall be retained by the physician for a minimum of 30 days after electronic transfer has occurred.

**H.** Destruction of medical records must be such that confidentiality is maintained. Records must be destroyed by shredding, incinerating (where permitted) or by other method of permanent destruction, including purging of medical records from a computer hard drive, server hard drive or other computer media or disk in accordance with existing practices for data deletion then available.

[16.21.12.10 NMAC - N, 07-29-11]

## End of Adopted Rules Section

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## Other Material Related to Administrative Law

### NEW MEXICO BOARD OF EXAMINERS FOR ARCHITECTS

#### New Mexico Board of Examiners for Architects

PO Box 509  
Santa Fe, NM  
505-982-2869

#### Regular Meeting

The New Mexico Board of Examiners for Architects will hold a regular open meeting of the Board in Santa Fe, New Mexico on Friday, August 5, 2011. The meeting will be held in the Conference Room of the Board office, #5 Calle Medico, Ste. C in Santa Fe beginning at 9:00 a.m. Disciplinary matters may also be discussed.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the meeting, please contact the Board Office at 982-2869 at least one week prior to the meeting. Public documents, including the agenda and minutes can be provided in various accessible formats. Please contact the Board Office if a summary or other type of accessible format is needed.

### NEW MEXICO DEPARTMENT OF PUBLIC SAFETY

#### TRAINING AND RECRUITING DIVISION

Law Enforcement Academy

#### Notice

### NEW MEXICO DEPARTMENT OF PUBLIC SAFETY NM LAW ENFORCEMENT ACADEMY BOARD MEETING

On Wednesday August 3, 2011 at 9:00 a.m., the New Mexico Law Enforcement Academy Board will hold a Regular Board Meeting.

The NMLEA Board Meeting will be held at the Ruidoso Convention Center. 111 Sierra Blanca Dr. Ruidoso, NM 88345

Copies of the Regular Board Meeting Agenda's may be obtained by accessing our website at [www.dps.nm.org/training](http://www.dps.nm.org/training) or by calling Gil Najar at (505) 827-9265 or Monique Lopez at (505) 827-9255.

### End of Other Related Material Section

## Submittal Deadlines and Publication Dates 2011

<b>Volume XXII</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
Issue Number 1	January 4	January 14
Issue Number 2	January 18	January 31
Issue Number 3	February 1	February 14
Issue Number 4	February 15	February 28
Issue Number 5	March 1	March 15
Issue Number 6	March 16	March 31
Issue Number 7	April 1	April 15
Issue Number 8	April 18	April 29
Issue Number 9	May 2	May 16
Issue Number 10	May 17	May 31
Issue Number 11	June 1	June 15
Issue Number 12	June 16	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 18	July 29
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 31
Issue Number 17	September 1	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 3	October 17
Issue Number 20	October 18	October 31
Issue Number 21	November 1	November 15
Issue Number 22	November 16	November 30
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30