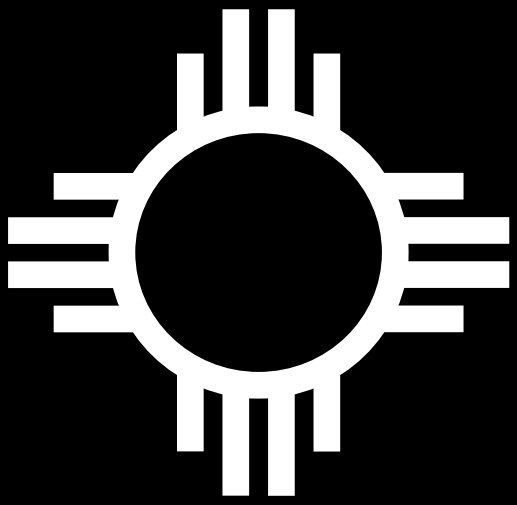
NEW MEXICO REGISTER



Volume XXIV
Issue Number 5
March 15 , 2013

New Mexico Register

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

The Commission of Public Records
Administrative Law Division
Santa Fe, New Mexico
2013

New Mexico Register

Volume XXIV, Number 5
March 15, 2013

Table of Contents

Notices of Rulemaking and Proposed Rules

Adopted Rules

Effective Date and Validity of Rule Filings

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

A=***Amended***, E=***Emergency***, N=***New***, R=***Repealed***, Rn=***Renumbered***

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Notices of Rulemaking and Proposed Rules

NEW MEXICO BOARD OF DENTAL HEALTH CARE

LEGAL NOTICE

Public Rule Hearing and Regular Board and Committee Meeting

The New Mexico Board of Dental Health Care will hold a Rule Hearing on Friday, April 26, 2013. Following the Rule Hearing the New Mexico Dental Hygienists Committee will convene a regular meeting; following the New Mexico Dental Hygienist Committee meeting the New Mexico Board of Dental Health Care will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Dental Health Care Rule Hearing will begin at 8:00 a.m. and the Regular Board Meetings will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, Toney Anaya Building, 2500 Cerrillos Road, Santa Fe, NM, 87505, in the Rio Grande Conference Room.

The purpose of the rule hearing is to consider adoption of proposed amendments, repeals and additions to the following Board Rules and Regulations in 16.5 NMAC: Part 1 General Provisions, Part 6 Dentists, Licensure by Examination, Part 8 Dentists, Licensure by Credentials; Part 9 Non- Dentists Owners, Part 16 Dentists Disciplinary Proceedings, Part 19 Dental Hygienist, Licensure by Examination , Part 30 Dental Hygienists, Disciplinary Proceedings, Part 39 Dental Assistants, Practice and Supervision , Part 40 Disciplinary Proceedings, Part 42 Expanded Function Dental Auxiliary, Requirements for Certification, Part 47 Expanded Function Dental Auxiliary, Disciplinary Proceedings, Part 55 Community Dental Health Coordinator, Disciplinary Proceedings and NEW PARTS: Part 14 Dentists, Adjunctive Dental Services and Part 57 Management of Pain with Controlled Substances.

You can contact the board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, call (505) 476-4680 or copies of the proposed rules are available on the Dental board's website: www.RLD.state.nm.us/boards/dental_health_care.aspx. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comment regarding the proposed rules must present them to the Board office in writing no later than April 11, 2013. Persons wishing to present their comments at the hearing will need fifteen (15) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, but you need a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to participate, please call the Board office at (505) 476-4680 at least two weeks prior to the meeting or as soon as possible.

Nicole Manning, Board Administrator
PO Box 25101- Santa Fe, New Mexico 87505

NEW MEXICO HUMAN SERVICES DEPARTMENT
INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing on March 29, 2013 at 10:30 am, to receive testimony on emergency interim regulations to adjust the New Mexico Combined Assistance Program benefit allotments. These amounts are adjusted in January and/or February to maintain cost neutrality in coordination with the Supplemental Nutrition Assistance Program.

The Human Services Register outlining the interim regulations is available on the Human Services Department website at http://www.hsd.state.nm.us/isd/registers/ISDRegisters.html.

Individuals wishing to testify or requesting a copy of the emergency interim regulations 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:

Sidonie Squier, Secretary
Human Services Department
P.O. Box 2348, Pollon Plaza
Santa Fe, NM 87504-2348

You may send comments electronically to: vida.tapia-sanchez@state.nm.us

NEW MEXICO HUMAN SERVICES DEPARTMENT
INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department will hold a public hearing on April 15, 2013 from 9:00 to 10:00 am, to receive testimony on proposed regulations to implement a mandatory Supplemental Nutrition Assistance Program (SNAP) Employment and Training Work Program (E&T). The Department is proposing mandatory participation in the E & T program for childless adults receiving SNAP benefits, as approved by the United States Department of Agriculture Food and Nutrition Services Office. A mandatory E & T Work Program will ensure SNAP recipients have the skills, training and work experience to obtain or keep employment.

The Human Services Register outlining the interim regulations is available on the Human Services Department website at http://www.hsd.state.nm.us/isd/registers/ISDRegisters.html.

Individuals wishing to testify or requesting a copy of the emergency interim regulations should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, NM 87505-2348, or by calling 505-827-7250.

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NEW MEXICO BOARD OF PHARMACY

NEW MEXICO BOARD OF PHARMACY

REGULAR BOARD MEETING

NOTICE TO THE PUBLIC

The New Mexico Board of Pharmacy will convene on **April 18th & 19th, 2013** at **9:00 a.m.** and continue until finished in the **Board of Pharmacy Conference Room located at 5200 Oakland Ave., NE, Albuquerque, NM** for the purpose of conducting a regular

Board meeting.

Interested persons wishing to comment and or present proposed language regarding rule hearings must submit documentation via fax (505)222-9845, mail or email to Larry Loring, Larry.Loring@state.nm.us or Debra Wilhite, debra.wilhite@state.nm.us no later than April 16, 2013, if in attendance please provide 15 copies for distribution to board members. To receive copies of the agenda and any proposed rule, you may access the links on the agenda for printing via our website listed below or contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or fax (505) 222-9845, e-mail debra.wilhite@state.nm.us

Anyone who needs special accommodations for the meeting should contact the board office at (505) 222-9830 as soon as possible.

The board may go into executive session at any time to discuss licensee and/or personnel matters.

The agenda (tentative) will be available starting April 8, 2013 through the board's website: www.rld.state.nm.us/boards/pharmacy

The Board will address:

Rule Hearings:

16.19.4 NMAC Pharmacists

16.19.10 NMAC Limited Drug Clinics

16.19.22 NMAC Supportive Personnel

16.19.30 NMAC Compounding of Non-Sterile Pharmaceuticals

Hearings, Board Orders and Surrenders:

Approval of Applications:

Other Board Matters:

Committee Reports:

Public Requests:

*Executive Director's Report:
Case presentations*

NEW MEXICO RACING COMMISSION

NEW MEXICO RACING COMMISSION NOTICE OF RULEMAKING AND PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the New Mexico Racing Commission will hold a Regular Meeting and Rule Hearing on March 28, 2013. The hearing will be held during the Commission's regular business meeting, beginning at 8:30 a.m. with executive session. Public session will begin at 10:30 a.m. The meeting will be held in the Boardroom at 4900 Alameda Blvd. NE, Albuquerque, NM.

The purpose of the Rule Hearing is to consider adoption of the proposed amendments and additions to the following Rules Governing Horse Racing in New Mexico No. 15.2.1 NMAC, 15.2.5 NMAC and 15.2.6 NMAC. The comments submitted and discussion heard during the Rule Hearing will be considered and discussed by the Commission during the open meeting following the Rule Hearing. The Commission will vote on the proposed rules during the meeting.

Copies of the proposed rules may be obtained from Vince Mares, Executive Director, New Mexico Racing Commission, 4900 Alameda Blvd NE, Albuquerque, New Mexico 87113, (505) 222-0700. Interested persons may submit their views on the proposed rules to the commission at the above address and/or may appear at the scheduled meeting and make a brief verbal presentation of their view.

Anyone who requires special accommodations is requested to notify the commission of such needs at least five days prior to the meeting.

Vince Mares
Executive Director

Dated: February 28, 2013

End of Notices and Proposed Rules Section

Adopted Rules

NEW MEXICO HUMAN SERVICES DEPARTMENT
INCOME SUPPORT DIVISION

This is an emergency amendment to 8.139.503 NMAC, Section 12, effective April 1, 2013.

8.139.503.12 BENEFIT DELIVERY

A. Effective date: Benefits for the initial month of certification shall be prorated from the date of application according to the standard food stamp program tables at 8.139.500 NMAC.

B. Benefit issuance: NMCAP are issued through a direct deposit into a household's electronic benefit transfer (EBT) food stamp account. EBT cards are issued and EBT accounts maintained as defined at 8.139.610 NMAC. A participating household has a definite issuance date so that food stamp benefits are received on or about the same time each month. The issuance date is based on the last two digits of the social security number of the individual to whom the food stamps are issued.

C. Benefit calculation: Benefits are issued based on the household's total monthly shelter costs as defined at Subsection F of 8.139.520.11 NMAC. Benefit amounts shall be subject to review and adjustment in coordination with the regular food stamp program and cost neutrality and may be adjusted each January. Monthly NMCAP benefit amounts are based on the following for:

(1) monthly shelter costs equal to or less than $315.00, the maximum benefit amount is [~~$50.00~~] $44.00; and

(2) monthly shelter costs greater than $315.00, the maximum benefit amount is [~~$85.00~~] $79.00.

[8.139.503.12 NMAC - N, 06/01/2009; A, 05/01/2012; A/E, 04/01/2013]

NEW MEXICO MIDDLE RIO GRANDE CONSERVANCY DISTRICT

Middle Rio Grande Conservancy District Rule MRGC 70-1, Policies, Rules and Regulations, filed 6/15/1970, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 20, Election of Directors for the Board of Directors of the Middle Rio Grande Conservancy District, filed 9/15/1994, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 21, Rules and Procedures Governing Disposition of District Policy (Land Sales Policy), filed 12/28/1989, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 22, Rules and Procedures Governing Disclosure of Information to Individual Members of the Board of Directors, filed 7/16/1993, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 23, Water Bank Rules, filed 12/15/1995, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 24, Water Service Charge Rules, filed 12/15/1995, is hereby repealed effective 3/15/2013.

Middle Rio Grande Conservancy District Rule No. 25, Bosque Vehicle Access Policy, filed 12/15/1995, is hereby repealed effective 3/15/2013.

NEW MEXICO BOARD OF PHARMACY

This is an amendment to 16.19.4 NMAC, Sections 10 and 17, effective 03-23-13.

16.19.4.10 CONTINUING PHARMACY EDUCATION REQUIREMENTS:

A. Continuing pharmacy education (CPE) shall include study in one or more of the general areas of socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology; characteristics and therapeutics of the disease state, or such other subjects as the board may from time to time approve. Continuing pharmacy education approved in New Mexico shall be limited to programs and activities offered by an ACPE approved provider or pharmacy law programs offered by the N.M. board of pharmacy.

B. Continuing pharmacy education, certified as completed by an approved provider will be required of a registered pharmacist who applies for renewal of New Mexico registration as follows: 3.0 CEU (30 contact hours) every two years. Effective January 1, 2013, pharmacist and pharmacist clinician renewal applications shall document.

(1) A minimum of 1.0 CEU (10 contact hours) excluding the law requirement, per renewal period shall be obtained through "live programs" that are approved as such by the ACPE or the accreditation council for continuing medical education (ACCME). Live programs provided by other providers (such as continuing nursing education) may be acceptable based on review and approval of the board.

(2) A minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the area of patient safety as applicable to the practice of pharmacy.

(3) A minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the subject area of pharmacy law offered by the New Mexico board of pharmacy.

(4) Effective January 1, 2015, a minimum of 0.2 CEU (2 contact hours) per renewal period shall be in the area of safe and appropriate use of opioids. An educational program consisting of a minimum of 0.2 CEU (2 contact hours) that addresses both patient safety as applicable to the practice of pharmacy and the safe and appropriate use of opioids will satisfy requirements of Paragraphs (2) and (3) of Subsection B of this section.

C. The number of CEU's to be awarded for successful completion shall be determined by the approved provider in advance of the offering of the activity.

D. The board of pharmacy will accept CPE education units for programs or activities completed outside the state; provided, the provider has been approved by the ACPE under its' criteria for quality at the time the program was offered.

E. Continuing pharmacy education will be required of all registrants holding an in-state status and out-of-state active status license. (61-11-13D). Pharmacists granted New Mexico initial licensure are exempt from CPE requirements. Inactive status licensees will be required to furnish CPE for the current licensing period, 1.5 CEU for each year the licensee was inactive, only for the purpose of reinstating to active status.

F. Not less than 10% of the registrants will be randomly selected each year by the board of pharmacy for audit of certificates by the state drug inspectors. Pharmacists and pharmacist clinicians without sufficient documentation of completion of CPE requirements shall.

(1) Be subject to a fine of not less that $1000.00.

(2) Be required to complete the deficient CPE in a satisfactory time period as determined by the board.

G. In the event a pharmacist makes an application for renewal and does not furnish necessary proof of compliance upon request, the board will afford the applicant opportunity for hearing pursuant to the Uniform Licensing Act.

H. [RESERVED]

I. [RESERVED]

J. Pharmacy law

requirement for.

(1) Active status: A minimum of 0.2 CEU (2 contact hours) of the 3.0 CEU (30 contact hours) required for registration renewal, shall be in the subject area pharmacy law as offered by the N.M. board of pharmacy. In lieu of a board program, pharmacists not residing and not practicing pharmacy in New Mexico, may complete an ACPE accredited course, in the subject area pharmacy law, meeting the CEU requirements of this paragraph.

(2) Effective date. Registration renewals due June 1996 and thereafter.

(3) Licensees may obtain 0.1 CEU (1 contact hour) per year, in the subject area pharmacy law, by attending one full day of a regularly scheduled New Mexico board of pharmacy board meeting or serving on a board approved committee.

(4) Licensees who successfully complete an open book test, administered by the board, shall receive credit for 0.2 CEU (2 contact hours) in the subject area pharmacy law.

K. Board of pharmacy law programs.

(1) Pharmacy law programs shall be offered in each of the five pharmacy districts, as defined in NMSA 61-11-4.E, a minimum of once every calendar year (January through December).

(2) Pharmacy law programs shall offer 0.2 CEU and be two contact hours in length.

[02-26-95; 16.19.4.10 NMAC - Rn, 16 NMAC 19.4.10, 03-30-02; A, 12-15-02; A, 01-31-07; A, 08-16-10; A, 03-23-13]

16.19.4.17 PHARMACIST CLINICIAN:

A. Purpose: The purpose of these regulations is to implement the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 through 61-11B-3 NMSA 1978 by providing minimum standards, terms and conditions for the certification, registration, practice, and supervision of pharmacist clinicians. These regulations are adopted pursuant to Section 61-11B-3 of the Pharmacist Prescriptive Authority Act.

B. Initial certification and registrants.

(1) The board may certify and register a pharmacist as a pharmacist clinician upon completion of an application for certification and satisfaction of the requirements set forth in these regulations.

(2) A pharmacist who applies for certification and registration as a pharmacist clinician shall complete application forms as required by the board and shall pay a fee. The fee shall be set by the board to defray the cost of processing the application, which fee is not returnable.

(3) To obtain initial certification and registration as a pharmacist clinician, she/he must submit the following:

(a) proof of completion of sixty (60) hour board approved physical assessment course, followed by a 150 hour, 300 patient contact preceptorship supervised by a physician or other practitioner with prescriptive authority, with hours counted only during direct patient interactions;

(b) the applicant will submit a log of patient encounters as part of the application;

(c) patient encounters must be initiated and completed within 2 years of the application;

(d) a pharmacist clinician requesting a controlled substance registration to prescribe controlled substance in Schedule II or Schedule III shall be trained in responsible opioid prescribing practices. Educational programs shall include an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction, and diversion, and awareness of the state and federal regulations of the prescribing of controlled substances.

(4) The board shall register each pharmacist certified as a pharmacist clinician.

(5) Upon certification and registration by the board, the name and address of the pharmacist clinician, (name of the supervising physician if applicable), and other pertinent information shall be enrolled by the board on a roster of pharmacist clinicians.

C. Biennial renewal of registration.

(1) Renewal applications shall be submitted prior to the license expiration.

(2) Applications for renewal must include:

(a) after January 1, 2013, documentation of continuing education hours, including proof of completion of 2.0 CEU twenty (20) contact hours of live CPE or continuing medical education (CME) approved by (ACPE) or AACME (live programs provided by other continuing education providers may be submitted for review and approval to the board), beyond the required hours in 16.19.4.10 NMAC (as amended), as required by the board; and;

(b) effective January 1, 2015, a pharmacist clinician with a controlled substance registration to prescribe controlled substances listed in Schedule II or Schedule III shall complete a minimum of 0.2 CEU (2 contact hours) per renewal period in the subject area of responsible opioid prescribing practices, and;

[~~(b)~~] **(c)** a current protocol of collaborative practice signed by the supervising physician (if prescriptive authority is sought); and

[~~(c)~~] **(d)** a copy of the pharmacist clinicians registration with the supervising physicians board (if prescriptive authority is sought); and

[~~(d)~~] **(e)** other additional information as requested by the board.

D. Prescriptive authority, guidelines or protocol.

(1) Only a registered pharmacist clinician with current protocols, registered with the New Mexico medical board or the New Mexico board of osteopathic medical examiners, may exercise prescriptive authority.

(2) A pharmacist clinician seeking to exercise prescriptive authority shall submit an application to the board. The application must include the supervising physicians' name and current medical license, protocol of collaborative practice and other information requested by the board. A pharmacist may submit the application with the initial application for certification or as a separate application after becoming certified and registered as a pharmacist clinician.

(3) The protocol will be established and approved by the supervising physician as set forth in these regulations and will be kept on file at each practice site of the pharmacist clinician and with the board.

(4) The protocol must include:

(a) name of the physician(s) authorized to prescribe dangerous drugs and name of the pharmacist clinician;

(b) statement of the types of prescriptive authority decisions the pharmacist clinician is authorized to make, including, but not limited to:

(i) types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case;

(ii) ordering lab tests and other tests appropriate for monitoring of drug therapy;

(iii) procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) activities to be followed by the pharmacist clinician while exercising prescriptive authority, including documentation of feedback to the authorizing physician concerning specific decisions made; documentation may be made on the prescriptive record, patient profile, patient medical chart or in a separate log book;

(d) description of appropriate mechanisms for consulting with the supervising physician, including a quality assurance program for review of medical services provided by the pharmacist clinician, (this quality assurance program will be available for board review); and

(e) description of the scope of practice of the pharmacist clinician.

E. Scope of practice.

(1) A pharmacist clinician shall perform only those services that are delineated in the protocol and are within the scope of practice of the supervising physician and/or alternate supervising physician(s).

(2) A pharmacist clinician may practice in a health care institution within the policies of that institution.

(3) A pharmacist clinician may prescribe controlled substances provided that the pharmacist clinician:

(a) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and

(b) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3, A. of the Pharmacist Prescriptive Authority Act.

(4) The board may, in its discretion after investigation and evaluation, place limitations on the tasks a pharmacist clinician may perform under the authority and direction of a supervising physician and/or alternate supervising physician(s).

F. Collaborative professional relationship between pharmacist clinicians and supervising physician(s).

(1) The direction and supervision of pharmacist clinicians may be rendered by approved supervising physician/designated alternate supervising physician(s).

(2) This direction may be done by written protocol or by oral consultation. It is the responsibility of the supervising physician to assure that the appropriate directions are given and understood.

(3) The pharmacist clinician must have prompt access to consultation with the physician for advice and direction.

(4) Upon any change in supervising physician between registration renewals, a pharmacist clinician shall submit to the board, within ten (10) working days, the new supervising physician's name, current medical license, and protocol; notification to and completion of requirements for the supervising physicians' board shall be completed per that boards requirements. This notice requirement does not apply to an alternate supervising physician who is designated to cover during the absence of the supervising physician.

G. Complaints and appeals.

(1) The chair of the board will appoint two (2) members of the board, and the president of the supervising physician respective board will appoint (2) members of the respective board to the oversight committee; the oversight committee will review complaints concerning the pharmacist clinician practice; the oversight committee will make a report that may include non-binding recommendations to both the board and respective board(s) regarding disciplinary action. Each board can accept or reject the recommendations.

(2) Any applicant for certification or any pharmacist clinician may appeal a decision of the board in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978.

[03-14-98; 16.19.4.17 NMAC - Rn, 16 NMAC 19.4.17, 03-30-02; 16.19.4.17 NMAC - Rn, 16.19.4.18 NMAC, 12-15-02; A, 09-30-03; A, 01-31-07; A, 05-14-10; A, 08-16-10; A, 10-25-12; A, 03-23-13]

End of Adopted Rules Section

Submittal Deadlines and Publication Dates
2013

Volume XXIV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	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 18	March 29
Issue Number 7	April 1	April 15
Issue Number 8	April 16	April 30
Issue Number 9	May 1	May 15
Issue Number 10	May 16	May 31
Issue Number 11	June 3	June 14
Issue Number 12	June 17	June 28
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 31
Issue Number 15	August 1	August 15
Issue Number 16	August 16	August 30
Issue Number 17	September 3	September 16
Issue Number 18	September 17	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 31
Issue Number 21	November 1	November 14
Issue Number 22	November 15	November 27
Issue Number 23	December 2	December 13
Issue Number 24	December 16	December 30

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