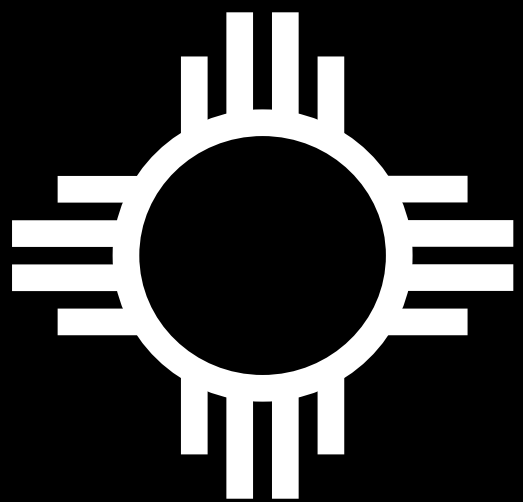


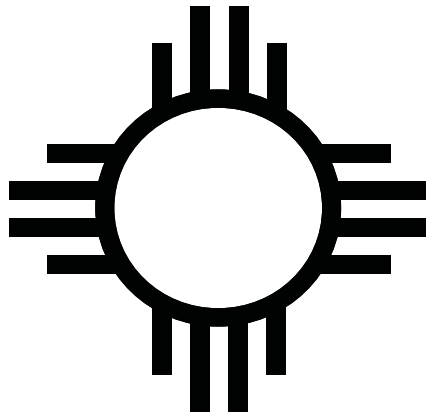
**NEW
MEXICO
REGISTER**



Volume XXV
Issue Number 7
April 15, 2014

New Mexico Register

**Volume XXV, Issue Number 7
April 15, 2014**



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
2014

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New Mexico Register

Volume XXV, Number 7

April 15, 2014

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

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Notices of Rulemaking and Proposed Rules

NEW MEXICO ATHLETIC COMMISSION

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Athletic Commission Board will hold a Rule Hearing on Friday, May 16, 2014. The New Mexico Athletic Commission Board Rule Hearing will begin at 9:00 a.m. The meeting will be held at the Tony Anaya Building, located at 2550 Cerrillos Rd., in the Hearing Room 2, Santa Fe, New Mexico.

The purpose of the Rule Hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 15.6.1 NMAC General Provisions, 15.6.2 NMAC Contracts, 15.6.3 NMAC Tickets for Contests and Exhibitions, 15.6.4 NMAC Duties and Conduct of Licensees, 15.6.5 NMAC Requirements to Safeguard Health, 15.6.6 NMAC The Officials, 15.6.7 NMAC The Premises, Its Facilities and Equipment, 15.6.8 NMAC Conduct of Boxing Contests, 15.6.9 NMAC Scoring System, 15.6.10 NMAC Boxing Classes and Championships, 15.6.12 NMAC Contest Requirements for Full Contact Karate and Kickboxing, 15.6.14 NMAC Fee Schedule, 15.6.15 NMAC Drugs and Foreign Substances- Penalties, 15.6.16 NMAC Disciplinary Actions, 15.6.17 NMAC Licensure Provisions, 15.6.20 NMAC Mixed Martial Arts Contests and Exhibitions.

Persons desiring to present their views on the proposed rules may obtain a copy from the Boards website at www.rld.state.nm.us, write to request draft copies from the Board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico, 87505, or call (505) 476-4622 after April 15, 2014. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing by close of business day on May 2, 2014. Persons wishing to present their comments at the Rule Hearing will need (7) copies of any comments or proposed changes for distribution to the Board and staff.

A copy of the agenda will be available at least 72 hours prior to the meeting and may be obtained at the Board office located on the 2nd Floor of the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM, or by calling the Board office at (505) 476-4622 and will

also be posted on our website at www.rld.state.nm.us New Mexico Athletic Commission Board, under Members and Meetings.

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) 476-4622 at least two weeks prior to the meeting or as soon as possible.

NEW MEXICO HIGHER EDUCATION DEPARTMENT

NEW MEXICO HIGHER EDUCATION DEPARTMENT

The Higher Education Department ("Department") hereby gives notice that the Department will conduct a public hearing at Room 311 of the New Mexico State Capitol, 491 Old Santa Fe Trail Santa Fe, NM 87501, on May 19 & 20, 2014, from 8:00 a.m. to 4:00 p.m. The purpose of the public hearing will be to obtain input on the following rule(s):

- | | |
|--------------------|---|
| 5.3.4 NMAC | Operating Budgets-Approval by Commission on Higher Education (Rule Amendment) |
| 5.3.5 NMAC | Operating Budgets-Funding Recommendations (Rule Repeal and Replace) |
| 5.3.7 NMAC | Building and Improvement Bonds (Rule Amendment) |
| 5.3.9 NMAC | Capital Budgets-Planning and Funding Recommendations (Rule Amendment) |
| 5.3.10 NMAC | Capital Projects Approval by Commission on Higher Education (Rule Amendment) |
| 5.3.12 NMAC | Instructional Funding (Rule Amendment) |
| 5.7.20 NMAC | Legislative Lottery Scholarship Program (Rule Repeal and Replace) |

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Mr. David Mathews, Office of General Counsel, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402 (telefax (505) 476-8454).

Written comments must be received no later than 5:00 pm on May 5, 2014 (10 days prior to hearing). However, the submission of written comments as soon as possible is encouraged. Any rule may be removed from the agenda prior to the scheduled hearing.

The proposed rulemaking action may be accessed on the Department's website (<http://hed.state.nm.us/>) or obtained from David Mathews, Office of General Counsel, Higher Education Department, 2048 Galisteo Street, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402(telefax (505) 476-8454). The proposed rule will be made available at least thirty (30) days prior to the hearings.

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

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing to amend the following rules that are part of the New Mexico Administrative Code (NMAC): 8.227.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid Due to Child or Spousal Support*,

Benefit Description, 8.228.600 NMAC, *Transitional Medicaid Eligibility - Loss of JUL Family Medicaid*, *Benefit Description*, 8.291.410 NMAC, *Medicaid Eligibility - Affordable Care, General Recipient Requirements*, 8.291.430 NMAC, *Medicaid Eligibility - Affordable Care, Financial Responsibility Requirements* and 8.293.500 NMAC, *Medicaid Eligibility - Pregnant Women, Income and Resource Standards*. The register for the amendment of these rules and the proposed amendments are available on the HSD/MAD web site at

<http://www.hsd.state.nm.us/>. If you do not have Internet access, copies of the proposed register and amendments may be requested by contacting MAD at 505-827-3152.

A public hearing to receive testimony on these proposed rules will be held in the South Park Conference Room, 2055 S. Pacheco, Santa Fe on Wednesday, May 14, 2014 at 1 p.m.

Interested parties may submit written comments directly to: Sidonie Squier, Secretary, Human Services Department, P.O. Box 2348, Santa Fe, New Mexico 87504-2348. Recorded comments may be left by calling 505-827-3152. Electronic comments may be submitted to Emily.Floyd@state.nm.us. Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. Mountain Standard Time Wednesday, May 14, 2014.

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 the public hearing, please contact MAD toll free at 1-888-997-2583 and ask for extension 7-3152. In Santa Fe call 827-3152. The Department's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD 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.

**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 Thursday May 15, 2014 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 Albuquerque Police Academy 5412 2nd Street, NW Albuquerque, NM 87102

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

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

**STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES
COMMISSION**

NOTICE OF PUBLIC HEARING

The Construction Industries Commission will convene a public hearing on proposed changes to Rule 14.10.4 NMAC (New Mexico Electrical Code) and Rule 14.10.5 NMAC (New Mexico Electrical Safety Code), before its designated hearing officer, at which any interested person is invited submit data, views or arguments on the proposed changes, either orally or in writing, and to examine witnesses testifying at the hearing. The public hearing is scheduled as follows:

9:00 a.m. – 12:00 Noon, May 1, 2014 at the NM Regulation and Licensing Department (Main Conference Room), located at 5200 Oakland Avenue NE, in Albuquerque, NM.

Please Note: All persons wishing to attend or participate in the public hearing remotely may do so by going to the Las Cruces or Santa Fe Construction Industries Division ("CID") offices (CID Conference Room) and appearing at the Albuquerque hearing telephonically. The Santa Fe CID office is located at 2550 Cerrillos Road, Santa Fe, NM 87505 and the Las Cruces Office is located at 505 South Main Street, Suite 118, Las Cruces, NM 88001.

Interested persons may secure copies of the proposed changes by accessing the CID website (www.rld.state.nm.us/construction) or by request from the Santa Fe CID Office (address above). If you cannot attend the hearing, you may send your written comments to: Construction Industries Division, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, Attention: Public Comments. Written comments may also be faxed to (505) 476-4619. All comments must be received no later than 5:00 p.m., on May 9, 2014. If you require special

accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs no later than April 28, 2014. Telephone: 505-476-4700 (option "0"). Email: james.hunt@state.nm.us; Fax No. (505) 476-4619.

**NEW MEXICO
REGULATION AND
LICENSING DEPARTMENT
PRIVATE INVESTIGATIONS
ADVISORY BOARD**

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Private Investigations Advisory Board will hold a Rule Hearing on Tuesday, May 20, 2014. Following the rule hearing the Board will convene a regular meeting to adopt the rules and take care of regular business. The rule hearing will begin at 10:00 a.m. and the regular board meeting will convene immediately following the hearing. The meeting will be held at the Regulation & Licensing Department, 2nd Floor, Hearing Room 1, located at 2550 Cerrillos Road, Santa Fe, New Mexico.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.48.1 NMAC – General Provisions; 16.48.2 NMAC – Requirements for Licensure; New Part 16.48.8 NMAC – Licensure for Military Service Members, Spouses and Veterans

Persons desiring to present their views on the proposed rules may write to request draft copies from the Board office at the Toney Anaya Building located at 2550 Cerrillos Road in Santa Fe, New Mexico 87505, or call (505) 476-4615 after April 18, 2014. In order for the Board members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rules must present them to the Board Office in writing by close of business day on May 2, 2014. Persons wishing to present their comments at the Rule Hearing will need 10 copies of any comments or proposed changes for distribution to the Board and staff.

A copy of the agenda will be available at least 72 hours prior to the meeting and may be obtained at the Board office located on the 2nd Floor of the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM, or by calling the Board office at (505) 476-4630

and will also be posted on our website at www.rld.state.nm.us Private Investigations Advisory Board, under Members and Meetings.

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) 476-4650 at least two weeks prior to the meeting or as soon as possible.

**End of Notices and Proposed
Rules Section**

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Adopted Rules

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD

20.2.85 NMAC MERCURY EMISSION STANDARDS AND COMPLIANCE SCHEDULES FOR ELECTRIC GENERATING UNITS (filed 5/15/07) repealed 5/5/14.

NEW MEXICO DEPARTMENT OF GAME AND FISH

This is an amendment to 19.30.9 NMAC, Section 8, effective 4/15/2014

19.30.9.8 LICENSE VENDORS:

A. Assessment of financial liability:

(1) First occurrence during a license year: A dollar value per missing license or stamp document shall be levied upon the license vendor. The dollar value shall be an amount equal to the average dollar value of that vendor's licenses sold the previous license year.

(2) Subsequent occurrences during a license year: A dollar value equal to the maximum value of the missing document(s) may be levied upon any license vendor unable to account for any license documents issued.

(3) A license vendor must appear before a hearing officer in order to have a hearing with respect to financial liability. A vendor may waive his right to a hearing and when he does so he agrees to pay to the department the appropriate amount as specified in Paragraphs 1 and 2 of Subsection A of 19.30.9.8 NMAC within ten (10) working days.

(4) In the case of unusual mitigating or extraordinary circumstances, the state game commission may determine, and the hearing officer may recommend, financial liability in an amount other than the amounts described in Paragraphs 1 and 2 of Subsection A of 19.30.9.8 NMAC. The decision of the state game commission shall be final.

B. Vendor procedures and bonding requirements:

~~(1) A list of vendor procedures, including bonding requirements shall be established and maintained by the director of New Mexico department of game and fish. A new license vendor must have a minimum of three (3) years as an established business in the same location prior to becoming a license vendor and~~

~~must meet the minimum point criteria as set forth in the license vendor application. A reduction to the minimum years established as a business may be allowed if it is determined that the license vendor will be the sole vendor in the area and the license vendor provides a reasonable method to reduce any financial risk to the agency as specified by vendor procedures. A bonding requirement may be required of all approved vendors. The director of the New Mexico department of game and fish will determine the bond level based on the critical need for the vendorship and financial risk.~~

~~(2) Each vendor shall follow the procedures set forth in the New Mexico department of game and fish license vendor manual:~~

~~C. Vendor fee:~~

~~(1) Standard fee: Each license vendor shall collect and retain \$1.00 per license, permit or stamp document sold or issued.~~

~~(2) Telephone sales fee: Each license vendor may collect the actual cost of shipping and handling not to exceed \$5.00 per license, permit or stamp document sold or issued.]~~

~~(1) Each vendor shall follow the procedures set forth in the most current New Mexico department of game and fish license vendor manual and agreement.~~

~~(2) Bonding requirements shall be established and maintained by the director of New Mexico department of game and fish. A surety bond shall be required of vendors who elect to remit the statutory license and permit fees pursuant to 17-3-7(D) NMSA 1978.~~

~~(3) Vendors may obtain a waiver of the bonding requirement subject to the following conditions:~~

~~(a) Vendors must participate in the department's web-based sales system and submit payment when the total amount due (including license and vendor fees) to the department reaches \$5,000 or every two weeks, whichever comes first.~~

~~(b) Vendors must be party to a current license vendor agreement with the department on a form approved by the department.~~

~~(c) If a vendor is more than one day delinquent in its payment, its privileges to sell department licenses and permits shall be immediately suspended, and the department shall only reactivate the vendor's sales account once payment is received in full.~~

~~(d) Vendors that are delinquent more than three times in any twelve (12) month period shall have their privileges to sell department licenses and permits~~

evaluated by the director, who shall determine if such vendors may retain those privileges, and whether the department will continue to waive the bonding requirement. The director shall have full discretion as to whether to suspend such privileges and bonding requirements.

(e) Vendors whose license and permit sales privileges or bonding waiver privileges are suspended shall be entitled to appear before a hearing officer in order to have a hearing with respect to those issues. Vendors seeking a hearing to challenge the suspension of their license and permit privileges or bonding waiver privileges must request a hearing no later than ten (10) working days after receipt of notice of contemplated action from the department.

C. Vendor fee:

(1) Standard fee: Each license vendor shall collect \$1.00 per license, permit or stamp document sold or issued.

(2) The department will pay the vendor fees earned by the vendor for the previous month license sales, no later than the tenth business day of the next month, to the vendor.

(3) The vendor shall be required to be registered in the state of New Mexico's central accounting system. [12-20-94, 3-31-98; 19.30.9.8 NMAC - Rn, 19 NMAC 30.1.8 & A, 7-16-01; A, 1-31-02; A, 4-15-14]

NEW MEXICO HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

This is an amendment to 8.200.400 NMAC, the addition of Section 16, effective April 15, 2014.

8.200.400.16 AUTHORIZED REPRESENTATIVE: HSD must permit applicants and beneficiaries to designate an individual or organization to act responsibly on their behalf in assisting with the individual's application and renewal of eligibility and other ongoing communications.

A. Such a designation must be in writing including the applicant's signature, and must be permitted at the time of application and at other times. Legal documentation of authority to act on behalf of an applicant or beneficiary under state law, such as a court order establishing legal guardianship or a power of attorney, shall serve in the place of written authorization by the applicant or beneficiary.

B. Representatives may be authorized to:

(1) sign an application on the

applicant's behalf;

(2) complete and submit a renewal form;

(3) receive copies of the applicant or beneficiary's notices and other communications from the agency; and

(4) act on behalf of the applicant or beneficiary in all other matters with the agency.

C. The power to act as an authorized representative is valid until the applicant or beneficiary modifies the authorization or notifies the agency that the representative is no longer authorized to act on his or her behalf, or the authorized representative informs the agency that he or she is no longer acting in such capacity, or there is a change in the legal authority upon which the individual's or organization's authority was based. Such notice must be in writing and should include the applicant or authorized representative's signature as appropriate.

D. The authorized representative is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual he or she represents, and must agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the applicant or beneficiary provided by the agency.

E. As a condition of serving as an authorized representative, a provider, staff member or volunteer of an organization must sign an agreement that he or she will adhere to the regulations relating to confidentiality (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information. (42 CFR 435.923)

[8.200.400.16 NMAC - N, 4-15-14]

NEW MEXICO BOARD OF OPTOMETRY

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 16 OPTOMETRIC PRACTITIONERS PART 15 MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.16.15.1 ISSUING AGENCY:
New Mexico Board of Optometry.
[16.16.15.1 NMAC - N, 04-24-2014]

16.16.15.2 SCOPE: The provisions in Part 15 of Chapter 16 apply to

all New Mexico licensed optometrists.
[16.16.15.2 NMAC - N, 04-24-2014]

16.16.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Section 61-2-3, NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 through 24-2D-1-6, NMSA 1978.

[16.16.15.3 NMAC - N, 04-24-2014]

16.16.15.4 DURATION:
Permanent.

[16.16.15.4 NMAC - N, 04-24-2014]

16.16.15.5 EFFECTIVE DATE:
April 24, 2014, unless a later date is cited at the end of a section.

[16.16.15.5 NMAC - N, 04-24-2014]

16.16.15.6 OBJECTIVE: The objective of Part 15 of Chapter 16 is to set forth rules related to the prescribing and dispensing of controlled substances. It is the position of the board that optometrists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough evaluation has been completed.

[16.16.15.6 NMAC - N, 04-24-2014]

16.16.15.7 DEFINITIONS:

A. "Addiction" means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. "Acute pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and is generally time-limited.

C. "Chronic pain" means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. "Chronic pain" does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

D. "Clinical expert" means a person who, by reason of specialized education or substantial relevant

experience in pain management, has knowledge regarding current standards, practices and guidelines.

E. "Drug abuser" means a person who takes drugs or controlled substances for other than legitimate purposes.

F. "Pain" means acute or chronic pain or both.

G. "Physical dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. "Prescription monitoring program (PMP)" means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.

I. "Therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical treatment that conforms substantially to accepted guidelines for pain management.

J. "Tolerance" means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.

[16.16.15.7 NMAC - N, 04-24-2014]

16.16.15.8 GUIDELINES: The following regulations shall be used by the board to determine whether an optometrist's prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with drugs or controlled substances is a legitimate optometric practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance, who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following:

(1) An optometrist shall complete an evaluation. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication for or contra-indication against

the use of controlled substance.

(2) An optometrist shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The optometrist shall consider an integrative approach to pain management.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) The optometrist shall discuss the risks and benefits of using controlled substances with the patient, his surrogate or guardian, and shall document this discussion in the record.

(5) Complete and accurate records of care provided and drugs or controlled substances prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for controlled substances shall include indications for use.

(6) The management of patients needing chronic pain control requires monitoring by the optometrist. The optometrist shall periodically review the course of treatment for chronic pain, the patient's state of health, and any new information about the etiology of the chronic pain at least every six months. Chronic pain patients shall receive all chronic pain management prescriptions from one optometrist and one pharmacy whenever possible.

(7) In addition, an optometrist shall consult, when indicated by the patient's condition, with health care professionals who are experienced in the area of chronic pain control; such professionals need not be those who specialize in pain control.

(8) If, in an optometrist's opinion, a patient is seeking pain medication for reasons that are not medically justified, the optometrist is not required to prescribe controlled substances for the patient.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate indication for the treatment prescribed; documented change or persistence of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge

the validity of prescribing based on the optometrist's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

D. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection.

E. An optometrist who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Optometry Act or board rules.

[16.16.15.8 NMAC - N, 04-24-2014]

16.16.15.9 OPTOMETRISTS TREATED WITH CONTROLLED SUBSTANCES:

Optometrists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic, an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on controlled substances while continuing to practice.

[16.16.15.9 NMAC - N, 04-24-2014]

16.16.15.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:

The intent of the optometry board requiring participation in the PMP is to assist optometrists in balancing the safe use of controlled substances with the need to impede illegal and harmful activities involving these pharmaceuticals.

A. An optometrist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. An optometrist shall, before prescribing, ordering, administering or dispensing a controlled substance listed in Schedule III or IV, obtain a patient PMP report for the preceding 12 months when one of the following exists:

(1) for a new patient of the optometrist, a patient PMP report for the previous 12 months shall only be required when Schedules III or IV drugs are prescribed for a period greater than 10 days; and

(2) for an established patient during the continuous use of controlled substances, a PMP shall be requested a minimum of once every six months.

[16.16.15.10 NMAC - N, 04-24-2014]

16.16.15.11 PAIN MANAGEMENT CONTINUING EDUCATION:

This section applies to all New Mexico optometrists who hold a federal drug enforcement administration registration to prescribe controlled substances. Pursuant to the Pain Relief Act in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

A. This requirement is effective for the 2015 renewal period beginning July 2, 2014. No later than July 1, 2015 all board licensees shall have completed at least one continuing education hour in a course that shall cover topics related to pain management, pharmacology and risks of controlled substances, state and federal regulations for the prescription of controlled substances, or awareness of the problems of abuse, addiction and diversion as stated in 16.16.13.9 NMAC.

B. The continuing education courses are subject to prior board approval and shall count toward the total continuing education requirements as set forth in 16.16.13.9 NMAC.

[16.16.15.11 NMAC - N, 04-24-2014]

16.16.15.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 15 of the New Mexico Optometry board rule;

A. health care practitioners under its jurisdiction; and

B. a health care practitioner being investigated by the board in relation to the practitioner's pain management services.

[16.16.15.12 NMAC - N, 04-24-2014]

HISTORY of 16.16.15 NMAC: [RESERVED]

NEW MEXICO BOARD OF OPTOMETRY

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 16 OPTOMETRIC PRACTITIONERS PART 25 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.16.25.1 ISSUING AGENCY:
New Mexico Board of Optometry.
[16.16.25.1 NMAC - N, 04-24-2014]

16.16.25.2 SCOPE: Part 25 of Chapter 16 sets forth application procedures to expedite licensure for military service members, their spouses and veterans.
[16.16.25.2 NMAC - N, 04-24-2014]

16.16.25.3 STATUTORY AUTHORITY: Part 25 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Sections 61-2-1 to -18 NMSA 1978 (specific authority to promulgate rules is 61-2-6(D)(2) and, Section 61-1-34 NMSA 1978.
[16.16.25.3 NMAC - N, 04-24-2014]

16.16.25.4 DURATION:
Permanent.
[16.16.25.4 NMAC - N 04-24-2014]

16.16.25.5 EFFECTIVE DATE:
April 24, 2014, unless a later date is cited at the end of a section.
[16.16.25.5 NMAC - N, 04-24-2014]

16.16.25.6 OBJECTIVE: The objective of Part 25 of Chapter 16 is to expedite licensure for military service members, their spouses and veterans pursuant to Section 61-1-34 NMSA 1978.
[16.16.25.6 NMAC - N, 04-24-2014]

16.16.25.7 DEFINITIONS:
A. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

B. "Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.
[16.16.25.7 NMAC - N, 04-24-2014]

16.16.25.8 APPLICATION REQUIREMENTS:
A. Applications for registration shall be completed on a form

provided by the board.

B. The applicant shall provide:

(1) a completed application and corresponding fee pursuant to 16.16.6 NMAC and 16.16.4 NMAC;

(2) satisfactory evidence that the applicant is currently licensed in another jurisdiction, including a branch of armed forces of the United States, and holds a current license in good standing; the applicant further must provide satisfactory evidence that he has met the minimal licensing requirements in that jurisdiction and that they are substantially equivalent to the licensing requirements for New Mexico licensees in optometry; and

(3) proof of honorable discharge (DD214), military ID card, or accepted proof of military spouse status.
[16.16.25.8 NMAC - N, 04-24-2014]

16.16.25.9 LICENSE RENEWAL:

A. A license issued pursuant to this section shall not be renewed until the licensee satisfies the requirements for issuance of a license set forth in 16.16.6 NMAC and for the renewal of a license set forth in 16.16.10 NMAC.

B. A license issued pursuant to this section shall be valid for one year or until July 1, whichever comes first.

C. The board office mails license renewal notifications at least 45 days before the license expiration date. Failure to receive the renewal notification shall not relieve the licensee of the responsibility to timely renew the license by the expiration date.

D. The renewal application will be available online at the board's website at www.optometrybd@state.nm.us. For an additional fee, paper applications may be requested in person or by telephoning the board office at 505-476-4622.

E. To renew a license, the licensee must submit a completed license renewal application, verification of continuing education, a current CPR certification and the applicable fee at time of renewal. The licensee shall also submit proof of passing NBEO parts I, II, and III and must pass the New Mexico optometry board exam at its next regularly scheduled examination date. All New Mexico licensed optometrists must comply with the provisions of 16.16.7 NMAC and 16.16.8 NMAC, to be certified and qualified to dispense and prescribe controlled dangerous substances, and must have first registered with the board of pharmacy and the United States drug enforcement administration to obtain the proper DEA registration.
[16.16.25.9 NMAC - N, 04-24-2014]

HISTORY OF 16.16.25 NMAC: [RESERVED]

NEW MEXICO BOARD OF OPTOMETRY

This is an amendment to 16.16.13 NMAC, Sections 6 and 8, effective April 24, 2014.

16.16.13.6 OBJECTIVE: The objective of Part [H2] 13 of Chapter 16 is to set forth the requirements and procedures for the New Mexico licensed optometrist to meet the continuing education requirements for license renewal, reactivation, or reinstatement.
[10-14-95; 16.16.13.6 NMAC - Rn, 16 NMAC 16.13.6, 03-15-2001; A, 04-24-2014]

16.16.13.8 CONTINUING EDUCATION REQUIREMENTS: A minimum of twenty-two (22) clock hours of optometry related, board approved continuing education or postgraduate programs, are required for license renewal each year beginning July 1, as detailed below.

A. The continuing education shall be submitted as follows:
(1) at least ten (10) of the twenty-two (22) hours of continuing education must be in a board approved program in clinical or ocular therapeutic pharmacology; and

(2) at least one (1) of the twenty-two (22) hours of continuing education must be in a board approved course in pain management or related topic pursuant to 16.16.25.11 NMAC. This requirement shall begin with the 2015 renewal period beginning July 2, 2014.

B. For optometrists on inactive status holding ocular therapeutics certification, a minimum of ten (10) hours of continuing education in a board approved program in clinical or ocular therapeutic pharmacology is required.

C. The continuing education must have been taken within the preceding renewal period (i.e. July 2 of one year through June 30 of the next).

D. The board may audit any licensee's continuing education documentation for the current licensing year and the two (2) previous years.

E. A licensee who receives a notice of audit shall submit to the board office on or before July 1, unless otherwise specified, evidence of continuing education hours for the requested period.

F. A license will be placed on expired status if the licensee fails to meet the continuing education requirements for

renewal by the expiration date stated in this rule.

G. Reactivation of license expired due to non-renewal for failure to meet the continuing education requirement. The licensee may apply for license reactivation in the same manner as provided in Part 11 of 16.16 NMAC. The continuing education and fees will be calculated based on the number of years the license was expired due to non-renewal for failure to meet the continuing education requirement.

H. Newly licensed optometrists who graduated from optometry school within the same year of licensure may submit the completed curriculum of their last year of optometry school to meet their continuing education requirement the first year of renewal.

[11-17-73; 2-6-87; 10-14-95; 10-15-97; 2-15-99; 16.16.13.8 NMAC - Rn, 16 NMAC 16.13.8, 03-15-2001; A, 03-15-2004; A 03-22-2008; A, 07-06-2012; A, 04-24-2014]

NEW MEXICO COMMISSION OF PUBLIC RECORDS

1.18.760 NMAC, ERRDS, Adult Parole Board (filed 06/21/02) repealed 04/21/14 and replaced by 1.18.760 NMAC, ERRDS, Adult Parole Board, effective 04/21/14.

NEW MEXICO COMMISSION OF PUBLIC RECORDS

March 18, 2014

Jackie Garcia, Agency Analysis Bureau Chief
NM Commission of Public Records
1205 Camino Carlos Rey
Santa Fe, New Mexico 87507

Ms. Garcia:

You recently requested to publish a synopsis in lieu of publishing the full content of the following rules:

1.18.420 NMAC ERRDS,
Regulation and Licensing Department
1.18.630 NMAC ERRDS, Human
Services Department
1.18.760 NMAC ERRDS, Adult
Parole Board

A review of the rules shows that their impact is limited to the individual agency to which it pertains, and it is "unduly cumbersome, expensive or otherwise

inexpedient" to publish. Therefore, your request to publish a synopsis for each of the rules listed is approved.

Sincerely,

John Hyrum Martinez
State Records Administrator

JHM/jg

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.760 NMAC ERRDS, Adult Parole Board

1. Subject matter: 1.18.760 NMAC, Executive Records Retention and Disposition Schedule for the Adult Parole Board. This is a replacement to 1.18.760 NMAC, ERRDS, Adult Parole Board. The records retention and disposition schedule is a timetable for the management of specific records series of the Adult Parole Board. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Adult Parole Board.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Adult Parole Board. Persons and entities normally subject to the rules and regulations of the Adult Parole Board may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Adult Parole Board.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Adult Parole Board. Any person or entity outside the covered geographical area that conducts business

with or through the Adult Parole Board may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 21, 2014

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.760 NMAC ERRDS, Adult Parole Board.

Tania Maestas Date
Assistant Attorney General

NEW MEXICO COMMISSION OF PUBLIC RECORDS

SYNOPSIS

1.18.420 NMAC ERRDS, Regulation and Licensing Department

1. Subject matter: 1.18.420 NMAC, Executive Records Retention and Disposition Schedule for the Regulation and Licensing Department. This is an amendment to 1.18.420 NMAC, ERRDS, Regulation and Licensing Department, amending Sections 8, 9, 282, 283, 285, 287, 288, 431 - 433, 457, 458, 497, 500, 751, 791, 809, 821, 826, 1002 - 1006, 1009, 1011, 1020, 1031, 1032, 1071, 1074 - 1076, adding Section 810 and repealing Sections 281, 284, 286, 289 - 292, 308 - 310, 434, 446 - 456, 459, 498, 499, 501, 753 - 759, 792, 794 - 801, 810 - 814, 822, 824, 825, 827 - 829, 1001, 1008, 1010, 1012 - 1019, 1033 - 1042, 1072, 1073, 1077 - 1079 and 1081 - 1104, effective 04/21/2014. The records retention and disposition schedule is a timetable for the management of specific records series of the Regulation and Licensing Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained

by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Regulation and Licensing Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Regulation and Licensing Department. Persons and entities normally subject to the rules and regulations of the Regulation and Licensing Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Regulation and Licensing Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Regulation and Licensing Department. Any person or entity outside the covered geographical area that conducts business with or through the Regulation and Licensing Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 were used as reference in the development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 21, 2014

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.420 NMAC ERRDS, Regulation and Licensing Department.

Tania Maestas Date
Assistant Attorney General

**NEW MEXICO
COMMISSION OF PUBLIC
RECORDS**

SYNOPSIS

1.18.630 NMAC ERRDS, Human Services Department

1. Subject matter: 1.18.630 NMAC, Executive Records Retention and Disposition Schedule for the Human Services Department. This is an amendment to 1.18.630 NMAC, ERRDS, Human Services Department amending Section 91. The records retention and disposition schedule is a timetable for the management of specific records series of the Human Services Department. It describes each record series by record name, record function, record content, record filing system, record confidentiality, and record retention. The record retention is the life cycle of each records series. It indicates the retention or length of time a record series must be maintained by the department as well as its final disposition. The retention and disposition requirements in this rule are based on the legal and use requirements of the records as well as on their administrative, fiscal and archival value. This rule was developed by the Records Management Division of the State Records Center and Archives (New Mexico Commission of Public Records) and approved by the State Records Administrator, the New Mexico Commission of Public Records and the Human Services Department.

2. Persons affected: The persons affected are the record producing and record keeping personnel of the Human Services Department. Persons and entities normally subject to the rules and regulations of the Human Services Department may also be directly or indirectly affected by this rule.

3. Interests of persons affected: Interests include the records produced and maintained by the Human Services Department.

4. Geographical applicability: Geographical applicability is limited to areas within the State of New Mexico covered by the Human Services Department. Any person or entity outside the covered geographical area that conducts business with or through the Human Services Department may also be affected by this rule.

5. Commercially published materials incorporated: The New Mexico Statutes Annotated 1978 is used as reference in the

development of this rule. However, they do not constitute a substantial portion of this rule.

6. Telephone number and address of issuing agency: New Mexico State Records Center and Archives, 1205 Camino Carlos Rey, Santa Fe, New Mexico 87505. Telephone number: (505) 476-7900.

7. Effective date of this rule: April 21, 2014.

Certification

As counsel for the State Records Center and Archives, I certify that this synopsis provides adequate notice of the content of 1.18.630 NMAC ERRDS, Human Services Department.

SRCA Legal Representative Date

End of Adopted Rules Section

Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
Issue Number 1	January 2	January 15
Issue Number 2	January 16	January 31
Issue Number 3	February 3	February 14
Issue Number 4	February 17	February 28
Issue Number 5	March 3	March 14
Issue Number 6	March 17	March 31
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 30
Issue Number 11	June 2	June 13
Issue Number 12	June 16	June 30
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 18	August 29
Issue Number 17	September 2	September 15
Issue Number 18	September 16	September 30
Issue Number 19	October 1	October 15
Issue Number 20	October 16	October 30
Issue Number 21	October 31	November 13
Issue Number 22	November 14	November 26
Issue Number 23	December 1	December 15
Issue Number 24	December 16	December 30

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For further information, call (505) 476-7907.