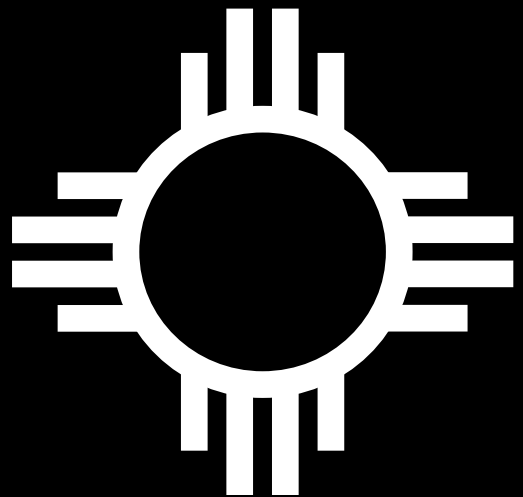


**NEW  
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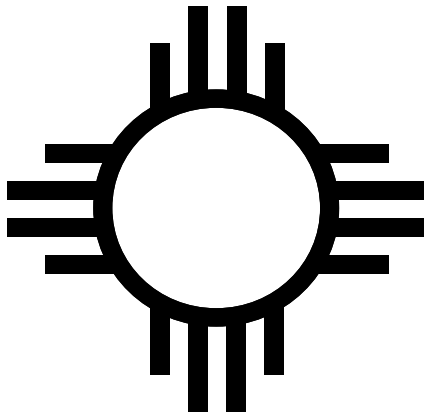


Volume XXV  
Issue Number 18  
September 30, 2014



# **New Mexico Register**

**Volume XXV, Issue Number 18**  
**September 30, 2014**



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  
Santa Fe, New Mexico  
2014

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# New Mexico Register

Volume XXV, Number 18

September 30, 2014

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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*A=Amended, E=Emergency, N=New, R=Repealed, Rn=Renumbered*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 BOARD OF CHIROPRACTIC EXAMINERS

#### LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Chiropractic Examiners will hold a Rule Hearing on Thursday, November 6, 2014. Following the Rule Hearing, the New Mexico Board of Chiropractic Examiners will convene a regular meeting to adopt the rules and take care of regular business. The New Mexico Board of Chiropractic Examiners Rule Hearing will begin at 10:00 a.m. and the regular meeting will convene immediately following the Rule Hearing. The meetings will be held at the Regulation and Licensing Department, 2550 Cerrillos Rd., in the Hearing Room 1, 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 16.4.2 NMAC Temporary Licensure, 16.4.3 NMAC Requirements for Licensure, 16.4.4 NMAC Licensure without Examination, 16.4.8 NMAC Disciplinary Proceedings, 16.4.9 NMAC License Renewal Procedures, 16.4.10 NMAC Continuing Education, 16.4.11 NMAC Forfeiture of Licensure, 16.4.15 NMAC Chiropractic Advanced Practice Certification Registry, 16.4.18 NMAC Practice Procedures, 16.4.22 NMAC Fees, 16.4.23 NMAC Licensure for Military Service Members, Spouses and Veterans.

You can contact the board office at the Toney Anaya Building located at the Toney Anaya Bldg., 2550 Cerrillos Road, 2<sup>nd</sup> Floor in Santa Fe, New Mexico 87505, (505) 476-4695, or copies of the proposed rules are available on the Chiropractic board's website: [www.RLD.state.nm.us/boards/chiropractic\\_examiners.aspx](http://www.RLD.state.nm.us/boards/chiropractic_examiners.aspx) 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 **no later than October 23, 2014**. Persons wishing to present their comments at the hearing will need (10) copies of any comments or proposed changes for distribution to the Board and staff.

The Board may enter into Executive Session pursuant to § 10-15-1 of the Open Meetings Act, to discuss matters related to the issuance, suspension, renewal or

revocation of licenses.

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) 476-4695 at least two weeks prior to the meeting or as soon as possible.

Thank you,

Cynthia Salazar, Board Administrator  
P.O. Box 25101, Santa Fe, NM 87505

### NEW MEXICO MEDICAL BOARD

NEW MEXICO MEDICAL BOARD

Notice of Public Rule Hearing

The New Mexico Medical Board will convene a regular Board Meeting on Thursday, November 13, 2014 at 8:30 a.m. and conduct a Public Rule Hearing on Friday, November 14, 2014 at 9:00 a.m. at the Board Office Conference Room, located at 2055 S. Pacheco Street, Building 400, Santa Fe, New Mexico 87505. The Board will reconvene after the Hearing to take action on the proposed rule amendments. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider amending 16.10.15 NMAC (Physician Assistants: Licensure and Practice Requirements).

A copy of the proposed amended rule is available upon request from the Board office at the address listed above, by phone (505) 476-7220, or on the Board's website at [www.nmmb@state.nm.us](http://www.nmmb@state.nm.us).

Persons desiring to present their views on the proposed rule may appear in person at said time and place or may submit written comments no later than 5:00 p.m., November 7, 2014, to the NM Medical Board, Attention: Lynn Hart, Executive Director, 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 Samantha Breen, 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 BOARD OF PHARMACY

NEW MEXICO BOARD OF  
PHARMACY

REGULAR BOARD MEETING

NOTICE TO THE PUBLIC

The New Mexico Board of Pharmacy will convene on October 16<sup>th</sup> & 17<sup>th</sup>, 2014 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. Anyone who needs special accommodations for the meeting should contact the board office at (505) 222-9830 or contact Debra Wilhite, Administrative Secretary, at (505) 222-9835 or fax (505) 222-9845, e-mail [debra.wilhite@state.nm.us](mailto:debra.wilhite@state.nm.us) as soon as possible.

The agenda (tentative) will be available starting October 6, 2014 through the board's website: [www.rld.state.nm.us/boards/pharmacy.aspx](http://www.rld.state.nm.us/boards/pharmacy.aspx). To receive copies of the agenda and any proposed rule, you may access the links on the agenda for printing via the website listed.

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](mailto:Larry.Loring@state.nm.us) or Debra Wilhite, [debra.wilhite@state.nm.us](mailto:debra.wilhite@state.nm.us) no later than Monday, October 6, 2014, if in attendance must provide 12 copies of the documentation for distribution to board members.

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

The Board will address:

Rule Hearings:

16.19.6 NMAC – Pharmacies  
Section 7 & Section 27

\*Executive Director's Report:

Petitioners must be in attendance or provide contact numbers to be available

telephonically to present their request. Petitioners, if in attendance must provide 12 copies of the documentation regarding the request and/or any proposed language for distribution to board members for presentation. (Board staff is not required to make copies.)

Published in the Albuquerque Journal  
October 15, 2014

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
SPEECH-LANGUAGE PATHOLOGY,  
AUDIOLOGY AND HEARING AID  
DISPENSING PRACTICES BOARD**

LEGAL NOTICE

Public Rule Hearing and Regular Board Meeting

The New Mexico Board of Speech-Language, Pathology, Audiology & Hearing Aid Dispensing will hold a Rule Hearing on Friday, November 21<sup>st</sup>, 2014. Following the Rule Hearing the New Mexico Board of Speech-Language, Pathology, Audiology & Hearing Aid Dispensing will convene a regular meeting to adopt the rules and take care of regular business. The Speech-Language, Pathology, Audiology & Hearing Aid Dispensing Rule Hearing will begin at 9:00 a.m. and the Regular Meeting will convene following the rule hearing. The meetings will be held at the Regulation and Licensing Department, 2550 Cerrillos Rd, Santa Fe, NM 87505.

The purpose of the rule hearing is to consider adoption of proposed amendments and additions to the following Board Rules and Regulations in 16.26 NMAC: Part 1 - General Provisions, Part 2 - Licensure Requirements, Part 4 - Annual Renewal of Licenses, Part 6 - Fees, Part 8 - Procedures for Disciplinary Action, Part 11 - 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 the West Capitol Complex, 2550 Cerrillos Road in Santa Fe, New Mexico 87504, or call (505) 476-4890 after October 15, 2014. 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 November 10, 2014. Persons wishing to present their comments

at the hearing will need (10) 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) 476-4890 at least two weeks prior to the meeting or as soon as possible.

Amanda Urioste  
Board Administrator  
PO Box 25101- Santa Fe, New Mexico  
87505

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
REAL ESTATE APPRAISERS  
BOARD**

**NOTICE OF PUBLIC HEARING**

Public Rule Hearing and Regular Board Meeting

The New Mexico Real Estate Appraisers Board ("Board") will hold a public rule hearing to consider proposed rules to the Real Estate Appraisers Rules and the Appraisal Management Company Rules. The hearing will be held on Thursday, November 6, 2014, at the Apodaca Hall, 2<sup>nd</sup> Floor in The P.E.R.A. Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico 87505. The rule hearing will begin at 9:00 a.m. followed by the regular scheduled Board Meeting in which the Board will adopt the rules and discuss items on the agenda.

The purpose of the rule hearing is to consider adoption of proposed amendments and addition, to the following Real Estate Appraisers Board Rules and Regulations in 16.62.1 General Provisions, 16.62.2 Application for Apprentice, 16.62.3 Application for License, 16.62.4 Application for Residential Certificate, 16.62.5 Application for General Certificate, 16.62.6 Examinations, 16.62.7 Issuance/ Renewal of Apprentice Registration/ Licenses/Certificates, 16.62.8 Educational Programs/Continuing Education, 16.62.9 Certificate of Good Standing, 16.62.10 Temporary Practice, 16.62.11 Application for Reciprocity, 16.62.12 Fees, 16.62.13 Disciplinary Proceedings, 16.62.15, Retirement and Reinstatement, 16.62.16 Advertising, 16.62.17 Unlicensed Practice/ Penalties, 16.62.18 (New Part) Licensure for Military Service Members, Spouses and

Veterans, and the Appraisal Management Company Rules and Regulations in 16.65.1 General Provisions, 16.65.2 Registration Requirements.

The Real Estate Appraisers Board's proposed rules are available on the Regulation and Licensing Department's website at: [www.RLD.state.nm.us](http://www.RLD.state.nm.us). Individuals requesting copies of proposed rules may also contact the Real Estate Appraisers Board, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, or by calling (505) 476-4622.

If you have are a person with a disability and require this information in an alternative format, or you require a special accommodation to participate in any of the public hearing and the regular scheduled board meeting, program, or service, please contact the board office at (505) 476-4622 at least 10-days in advance notice to provide requested alternative formats and special accommodations.

In order for the Board members to review the comments in their meeting packets prior to the meeting, individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received no later than October 22, 2014 by 5:00 P.M. Individuals wishing to present their comments at the hearing will need eight (8) copies of any comments or proposed changes for distribution to the Board and staff.

**NEW MEXICO WATER  
QUALITY CONTROL  
COMMISSION**

**NEW MEXICO WATER QUALITY  
CONTROL COMMISSION  
NOTICE OF PUBLIC HEARING  
TO CONSIDER PROPOSED  
AMENDMENTS  
TO 20.6.6 NMAC—THE DAIRY RULE**

The New Mexico Water Quality Control Commission will hold a public hearing beginning at 9:00 a.m. on December 9, 2014 at the Bassett Auditorium in the Roswell Museum and Art Center, 100 West 11<sup>th</sup> Street, Roswell, New Mexico, to consider proposed amendments to the Commission's Ground and Surface Water Protection Rule, 20.6.6 NMAC, referred to as the Dairy Rule and proposed in WQCC 12-09 (R) by the Dairy Industry Group for a Clean Environment (DIGCE). The proposed amendments would establish new rules for the Dairy industry to specify measures to be taken to prevent water pollution and to monitor water quality.



The proposed amendments may be reviewed during regular business hours at the Commission Administrator's office located in the Harold Runnels Building, 1190 St. Francis Drive, Room S-2100 Santa Fe, New Mexico, 87502. In addition, the proposed amendments and related pleadings are posted on the Commission webpage at <http://www.nmenv.state.nm.us/wqcc/>.

The hearing will be conducted in accordance with the Guidelines for Water Quality Control Commission Regulation Hearings, the Water Quality Act, Section 74-6-6 NMSA 1978, and other applicable procedures and procedural orders. Written comments regarding the proposed revisions may be addressed to Pam Castañeda, Commission Administrator, at the above address; reference docket number WQCC 12-09 (R) and 13-08 (R).

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

Persons wishing to present technical testimony must file with the Commission a written notice of intent to do so. The requirements for a notice of intent can be found in the Commission's Guidelines for Regulation Hearings and have been modified by a procedural order entered in this matter, which may be obtained from the Administrator or found on the Commission's webpage. Notices of intent for the hearing must be received by the Office of the Commission Administrator by 5:00 p.m. on October 17, 2014 and should reference the name of the regulation, the date of the hearing, and docket number WQCC 12-09 (R) and 13-08 (R).

Those interested parties wishing to provide non-technical testimony or comment to the Commission on this matter may do so without submitting prior notice. Time will be reserved specifically for public comment each day of the hearing at 11:30 a.m. and 5:00 p.m.

If you are an individual with a disability and you require assistance or an auxiliary aid, e.g. sign language interpreter, to participate in any aspect of this process, please contact the Personnel Services Bureau by November 7, 2014. The Bureau can be reached at the New Mexico Environment Department, 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502-5469, and (505) 827-9872. TDD or TDY users may

access this number via the New Mexico Relay Network (Albuquerque TDD users: (505) 275-7333; outside of Albuquerque: 1-800-659-1779).

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

## NEW MEXICO WATER QUALITY CONTROL COMMISSION

### NUEVO AVISO DE COMISIÓN DE CONTROL DE LA CALIDAD DE AGUA DE NUEVO MÉXICO AVISO PÚBLICO QUE OYE PARA CONSIDERAR ENMIENDAS PROPUESTAS A 20.6.6 NMAC - LA REGLA LÁCTEOS

La Comisión de Control de la Calidad de Agua de Nuevo Mexico se llevara a cabo un audiencia publica comensando a las 9:00 a.m. del día 9 de diciembre de 2014 en el Auditorio Bassett en el Roswell Museo y Centro de Arte, 100 West 11<sup>th</sup> Street, Roswell, Nuevo Mexico a tener en cuenta propuestas de enmiendas a la Comisión Subterráneas y Superficiales Reglas de Protección del Agua, Regla, 20.6.6 NMAC, conocida como la Regla Lácteos y propuesto en WQCC 12-09 (R) por el Grupo de la Industria Lechera para un Ambiente Limpio (DIGCE). Las enmiendas propuestas establecer nuevas reglas para la industria láctea para especificar las medidas que deben adoptarse para prevenir la contaminación del agua y para controlar la calidad del agua.

Las enmiendas propuestas pueden ser revisadas durante el horario regular de la oficina del Administrador de la Comisión ubicadas en el edificio Harold Runnels, 1190 St. Francis Drive, en la habitación S-2100 Santa Fé, Nuevo Mexico, 87502. Además, las enmiendas propuestas y argumentos relacionados se publican en la página web Comisión en <http://www.nmenv.state.nm.us/wqcc/>.

La audiencia se llevará a cabo de conformidad con las Directrices para Audiencias Reglamento de Control de Calidad del Agua, el acto de Calidad de Agua, Sección 74-6-6 NMSA 1978, y otros procedimientos aplicables y órdenes procedural. Los comentarios por escrito respecto a las revisiones propuestas pueden dirigirse a Pam Castañeda, Administrador de la Comisión, a la dirección anterior;

número de expediente de referencia WQCC 12-09 (R) y 13-08 (R).

Todas las personas interesadas se les dará la oportunidad razonable en la audiencia para presentar pruebas pertinentes, datos, opiniones y argumentos, de forma oral o por escrito, a presentar pruebas, y para interrogar a los testigos. Cualquier persona que desee presentar una declaración por escrito no técnico para el registro en lugar del testimonio oral debe presentar dicha declaración antes del cierre de la audición.

Las personas que deseen presentar testimonio técnico deberán presentar ante la Comisión una notificación por escrito de su intención de hacerlo. Los requisitos para un aviso de intención se pueden encontrar en las directrices de la Comisión de Regulación de audición y se han modificado por una resolución procesal introducida en esta materia, que se puede obtener del administrador o que se encuentran en la página web de la Comisión. Las notificaciones de intención para la audiencia deben recibirse antes en la Oficina de la Comisión Administrator de las 5:00 p.m. el 17 de octubre de 2014 y debe hacer referencia al nombre de la regulación, la fecha de la audiencia, y el número de expediente WQCC 12-09(R) y 13-08(R).

Las personas interesados que deseen proporcionar testimonio no técnico o comentario a la Comisión sobre este asunto, puede hacerlo sin presentar previo aviso. Tiempo se reservará específicamente para comentario público cada día de la audiencia a las 11:30 a.m. y las 5:00 p.m.

Si usted es una persona con una discapacidad y necesita ayuda o una ayuda auxiliar, por ejemplo, firmar intérprete de lenguaje, para participar en cualquier aspecto de este proceso, por favor póngase en contacto con la Oficina de Servicios de Personal del día 7 de noviembre de 2014. La oficina puede ser alcanzado en el Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Drive, P.O. Caja de 5469, Santa Fé, NM 87502-5469, y (505) 827-9872. TDD o TDY pueden acceder a este número a través de Nuevo México Rele (usuarios Albuquerque TDD: (505) 575-7333, en el exterior de Albuquerque: 1-800-659-1779).

La Comisión podrá tomar una decisión sobre los cambios normativos propuestos en la conclusión de la audiencia, o puede transmitir una reunión después de la audiencia para considerar la acción sobre la propuesta.

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**End of Notices and Proposed  
Rules Section**

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## Adopted Rules

### NEW MEXICO HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.7.20 NMAC, Section 8, effective 09/30/2014.

#### 5.7.20.8 STUDENT ELIGIBILITY:

**A.** A scholarship may be awarded to a student in their second semester who has met first semester eligibility requirements as follows:

(1) has established New Mexico residency as defined in 5.7.18.9 NMAC or is eligible for a nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;

(2) has been determined to be a qualified student pursuant to Section M of 5.7.20.7 NMAC;

(3) has met the requirements in Section E of 5.7.20.7 NMAC;

(4) has met requirements in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC or students with exceptional mitigating circumstances as determined by the institution's lead financial aid officer; students who are incapable of meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC due to a documented exceptional mitigating circumstance do not forfeit eligibility for the legislative lottery scholarship; however, the following requirements shall apply:

(a) the student shall provide documents certifying the nature of the student's exceptional mitigating circumstance to the institution's lead financial aid officer at the post-secondary educational institution at which the student is enrolling or will enroll; the institution's lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC;

(b) if, in the professional judgment of the institution's lead financial aid officer, the student's exceptional mitigating circumstance is recognized as a valid reason for the student's inability to meet the requirements specified in Paragraphs (1) through (3) of Subsection A of 5.7.20.8 NMAC the student's initial eligibility for the legislative lottery scholarship shall be

suspended or deferred unless and until such time that the student is capable of meeting the requirements of Paragraph (4) of Subsection A of 5.7.20.8 NMAC;

(5) has not been awarded a New Mexico scholars' scholarships or other state scholarships which are designated for 100% tuition; and

(6) students with disabilities shall obtain a referral from the student services division of the post-secondary educational institution where the student is enrolled that oversees students with special needs' requests to reduce the credit hours to be considered full semester for scholarship eligibility; referrals and any sufficient documentation shall be received within 30 days of the start of the student's first semester;

(7) students are encouraged, but are not required, to complete a free application for student aid (FAFSA) for lottery scholarship eligibility.

#### **B. Continuing eligibility.**

Upon satisfaction of the qualifying semester eligibility requirements, the scholarship will be awarded to the student beginning with their second semester of enrollment. A student's continuing eligibility shall be determined on a semester basis.

(1) A legislative lottery scholarship award may be re-awarded to a student who:

(a) maintains a minimum of a 2.5 cumulative GPA; a student has the right to request use of the student's cumulative GPA earned at all New Mexico institutions; and

(b) maintains full time enrollment as provided in Subsection E of 5.7.20.7 NMAC; when a qualified student transfers after completion of the first semester from a two year institution to a four year institution for enrollment during the second or subsequent semester, a student will have met eligibility requirements, but said student must enroll in 15 credit hours upon transfer to maintain eligibility;

(i) receipt of a transfer transcript for sufficient documentation for eligibility;

(ii) student transfers shall defer to the receiving institution to determine eligibility.

(2) Students with disabilities may be re-awarded the legislative scholarship under the following conditions:

(a) a referral is obtained for each semester in which a reduction in credit hours is requested;

(b) maintains a minimum of a 2.5 cumulative GPA; and

(c) in no case shall eligibility extend beyond 14 consecutive semesters at a four year institution and [six] seven consecutive semesters at a two year institution.

(3) An eligible student that transfers shall continue to be eligible at the receiving institution after receipt of the student's transfer transcript containing eligibility confirmation.

**C. Probation.** Students who have been determined eligible and subsequently have exceptional mitigating circumstances as determined by the institution's lead financial aid officer may be placed on a probationary status under the following conditions:

(1) the student shall provide documents certifying the nature of their exceptional mitigating circumstance to the lead financial aid officer at the post-secondary institution at which the student is enrolling or will enroll;

(2) the lead financial aid officer shall exercise professional judgment to determine whether the exceptional mitigating circumstance is beyond the student's control and precludes the student from meeting the requirements specified in Paragraph (4) of Subsection A of 5.7.20.8 NMAC;

(3) the student shall maintain enrollment at the public post-secondary educational institution where eligibility was lost, if applicable;

(4) under no circumstances shall the student receive program awards in excess of those prescribed in Subsections A and B of 5.7.20.9 NMAC less the regular semester(s) of probation.

[5.7.20.8 NMAC -Rp, 5.7.20.8 NMAC, 08/15/2014; A/E, 8/15/2014; A, 9/30/2014]

### NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

**This is an emergency amendment to 8.102.500 NMAC, Section 8, effective 10/01/2014.**

#### **8.102.500.8 GENERAL REQUIREMENTS:**

**A. Need determination process:** Eligibility for NMW, state funded qualified aliens and EWP cash assistance based on need requires a finding that:

(1) the benefit

group's countable gross monthly income does not exceed the gross income limit for the size of the benefit group;

(2) the benefit group's countable net income after all allowable deductions does not equal or exceed the standard of need for the size of the benefit group;

(3) the countable resources owned by and available to the benefit group do not exceed the \$1,500 liquid and \$2,000 non-liquid resource limits;

(4) the benefit group is eligible for a cash assistance payment after subtracting from the standard of need the benefit group's countable income, and any payment sanctions or recoupments.

**B. Gross income limits:**

The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

person	<del>[\$814]</del>	<u>\$827</u>	(a)	one
persons	<del>[\$1,099]</del>	<u>\$1,114</u>	(b)	two
persons	<del>[\$1,384]</del>	<u>\$1,403</u>	(c)	three
persons	<del>[\$1,669]</del>	<u>\$1,690</u>	(d)	four
persons	<del>[\$1,953]</del>	<u>\$1,977</u>	(e)	five
persons	<del>[\$2,238]</del>	<u>\$2,265</u>	(f)	six
persons	<del>[\$2,523]</del>	<u>\$2,553</u>	(g)	seven
persons	<del>[\$2,808]</del>	<u>\$2,840</u>	(h)	eight
			(i)	add

~~[\$285]~~ \$288 for each additional person.

**C. Eligibility for support services only:**

Subject to the availability of state and federal funds, a benefit group that is not receiving cash assistance but has countable gross income that is less than 100% of the federal poverty guidelines applicable to the size of the benefit group may be eligible to receive services. The gross income guidelines for the size of the benefit group are as follows:

	<del>[\$958]</del>	<u>\$973</u>	(1)	one person
	<del>[\$1,293]</del>	<u>\$1,311</u>	(2)	two persons
	<del>[\$1,628]</del>	<u>\$1,650</u>	(3)	three persons
	<del>[\$1,963]</del>	<u>\$1,988</u>	(4)	four persons

<del>[\$2,298]</del>	<u>\$2,326</u>	(5)	five persons
<del>[\$2,633]</del>	<u>\$2,665</u>	(6)	six persons
<del>[\$2,968]</del>	<u>\$3,003</u>	(7)	seven persons
<del>[\$3,303]</del>	<u>\$3,341</u>	(8)	eight persons
		(9)	add <del>[\$335]</del>

**D. Standard of need:**

(1) The standard of need is based on the number of participants included in the benefit group and allows for a financial standard and basic needs.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and the participant's share of benefit group supplies.

(3) The financial standard includes approximately \$91 per month for each participant in the benefit group.

(4) The standard of need for the NMW, state funded qualified aliens, and EWP cash assistance benefit group is:

person	\$266	(a)	one
persons	\$357	(b)	two
persons	\$447	(c)	three
persons	\$539	(d)	four
persons	\$630	(e)	five
persons	\$721	(f)	six
persons	\$812	(g)	seven
persons	\$922	(h)	eight
		(i)	add

\$91 for each additional person.

**E. Special needs:**

(1) **Special clothing allowance:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(a) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age 19 by the end of August.

(b) The clothing allowance shall be allowed for each school-age child who is included in the NMW, TBP, state funded qualified aliens, or EWP cash assistance benefit group, subject to the availability of state or federal funds.

The clothing allowance is not allowed in determining eligibility for NMW, TBP, state funded qualified aliens, or EWP cash assistance.

**(2) Layette:**

A one-time layette allowance of \$25 is allowed upon the birth of a child who is included in the benefit group. The allowance shall be authorized by no later than the end of the month following the month in which the child is born.

**(3) Special**

**circumstance:** Dependent upon the availability of funds and in accordance with the federal act, the HSD secretary, may establish a separate, non-recurring, cash assistance program that may waive certain New Mexico Works Act requirements due to a specific situation. This cash assistance program shall not exceed a four month time period, and is not intended to meet recurrent or ongoing needs.

**F. Non-inclusion of legal**

**guardian in benefit group:** Based on the availability of state and federal funds, the department may limit the eligibility of a benefit group due to the fact that a legal guardian is not included in the benefit group.

[8.102.500.8 NMAC - Rp 8.102.500.8 NMAC, 07/01/2001; A, 10/01/2001; A, 10/01/2002; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 11/15/2007; A, 01/01/2008; A/E, 10/01/2008; A, 08/01/2009; A, 08/14/2009; A/E, 10/01/2009; A, 10/30/2009; A, 01/01/2011; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014]

**NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

**This is an emergency amendment to 8.106.500 NMAC, Section 8, effective 10/01/2014.**

**8.106.500.8 GA - GENERAL REQUIREMENTS:**

**A.** Limited state funds may result in a suspension or reduction in general assistance benefits without eligibility and need considered.

**B. Need determination**

**process:** Eligibility for the GA program based on need requires a finding that the:

(1) countable resources owned by and available to the benefit group do not exceed either the \$1,500 liquid or \$2,000 non-liquid resource limit;

(2) benefit group's countable gross earned and



unearned income does not equal or exceed eighty-five percent (85%) of the federal poverty guideline for the size of the benefit group; and

(3) benefit group's countable net income does not equal or exceed the standard of need for the size of the benefit group.

**C. GA payment determination:** The benefit group's cash assistance payment is determined after subtracting from the standard of need the benefit group's countable income and any payment sanctions or recoupments.

**D. Gross income test:** The total countable gross earned and unearned income of the benefit group cannot exceed eighty-five percent (85%) of the federal poverty guidelines for the size of the benefit group.

(1) Income eligibility limits are revised and adjusted each year in October.

(2) The gross income limit for the size of the benefit group is as follows:

	(a)	one
person	<del>[\$814]</del>	<u>\$827</u>
	(b)	two
persons	<del>[\$1,099]</del>	<u>\$1,114</u>
	(c)	three
persons	<del>[\$1,384]</del>	<u>\$1,403</u>
	(d)	four
persons	<del>[\$1,669]</del>	<u>\$1,690</u>
	(e)	five
persons	<del>[\$1,953]</del>	<u>\$1,977</u>
	(f)	six
persons	<del>[\$2,238]</del>	<u>\$2,265</u>
	(g)	seven
persons	<del>[\$2,523]</del>	<u>\$2,553</u>
	(h)	eight
persons	<del>[\$2,808]</del>	<u>\$2,840</u>
	(i)	add
		<del>[\$285]</del> <u>\$288</u> for each additional person.

**E. Standard of need:**  
(1) As published monthly by the department, the standard of need is an amount provided to each GA cash assistance benefit group on a monthly basis and is based on availability of state funds, the number of individuals included in the benefit group, number of cases, number of applications processed and approved, application approval rate, number of case closures, IAR caseload number and expenditures, and number of pending applications.

(2) Basic needs include food, clothing, shelter, utilities, personal requirements and an individual benefit group member's share of supplies.

(3) **Notice:** The department shall issue prior public notice identifying any change(s) to the standard of need amounts for the next quarter, as discussed at 8.106.630.11 NMAC.

**F. Net income test:** The

total countable earned and unearned income of the benefit group after all allowable deductions cannot equal or exceed the standard of need for the size of the GA benefit group. After the countable net income is determined it is rounded down prior to the comparison of the household's income to the standard of need to determine the households monthly benefit amount.

**G. Special clothing allowance for school-age dependent children:** A special clothing allowance may be issued to assist in preparing a child for school, subject to the availability of state or federal funds and a specific allocation of the available funds for this allowance.

(1) For purposes of determining eligibility for the clothing allowance, a child is considered to be of school age if the child is six years of age or older and less than age nineteen (19) by the end of August.

(2) The clothing allowance shall be allowed for each school-age child who is included in the GA cash assistance benefit group, subject to the availability of state or federal funds.

(3) The clothing allowance is not counted in determining eligibility for GA cash assistance.

**H. Supplemental issuance:** A one-time supplemental issuance may be distributed to recipients of GA for disabled adults based on the sole discretion of the secretary of the human services department and the availability of state funds.

(1) The one time supplemental issuance may be no more than the standard GA payment made during the month the GA payment was issued.

(2) To be eligible to receive the one time supplement, a GA application must be active and determined eligible no later than the last day of the month in the month the one time supplement is issued.

[8.106.500.8 NMAC - N, 07/01/2004; A/E, 10/01/2004; A/E, 10/01/2005; A, 7/17/2006; A/E, 10/01/2006; A/E, 10/01/2007; A, 01/01/2008; A, 06/16/2008; A/E, 10/01/2008; A, 07/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 12/01/2009; A, 01/01/2011; A, 07/29/2011; A/E, 10/01/2011; A/E, 10/01/2012; A, 07/01/2013; A/E, 10/01/2013; A/E, 10/01/2014]

**NEW MEXICO HUMAN SERVICES DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an emergency amendment to 8.139.500 NMAC, Section 8, effective 10/01/2014.**

**8.139.500.8 BASIS OF ISSUANCE**

**A. Income standards:**  
Determination of need in the food stamp program is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act [42 USC 9902(2)].

**B. Gross income standards:** The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands is 130 percent (130%) of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent (130%) of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by 130%, divided by 12, and the results rounded upward if necessary.

**C. Net income standards:**  
The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin Islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D. Yearly adjustment:**  
Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia.

**E. Issuance table:** The issuance table lists applicable income guidelines used to determine food stamp (FS) eligibility based on household size. Some amounts are increased to meet the needs of certain categorically eligible households. Some of the net income amounts listed are higher than the income limits for some household sizes. Households not categorically eligible for FS

benefits must have income below the appropriate gross income limit for household size.

Household Size	Maximum Gross Monthly Income Categorical Eligibility at 165% of Poverty	Maximum Gross Monthly Income At 130% of Poverty	Maximum Net Monthly Income At 100% of Poverty	[Maximum-SNAP Monthly-Allotment 10/01/13= 10/31/13]	Maximum SNAP Monthly Allotment [11/01/13= 09/30/14]
1	[\$1,580] <u>\$1,605</u>	[\$1,245] <u>\$1,265</u>	[\$958] <u>\$973</u>	[\$200]	[\$189] <u>\$194</u>
2	[\$2,133] <u>\$2,163</u>	[\$1,681] <u>\$1,705</u>	[\$1,293] <u>\$1,311</u>	[\$367]	[\$347] <u>\$357</u>
3	[\$2,686] <u>\$2,722</u>	[\$2,116] <u>\$2,144</u>	[\$1,628] <u>\$1,650</u>	[\$526]	[\$497] <u>\$511</u>
4	[\$3,239] <u>\$3,280</u>	[\$2,552] <u>\$2,584</u>	[\$1,963] <u>\$1,988</u>	[\$668]	[\$632] <u>\$649</u>
5	[\$3,791] <u>\$3,838</u>	[\$2,987] <u>\$3,024</u>	[\$2,298] <u>\$2,326</u>	[\$793]	[\$750] <u>\$771</u>
6	[\$4,344] <u>\$4,396</u>	[\$3,423] <u>\$3,464</u>	[\$2,633] <u>\$2,665</u>	[\$952]	[\$900] <u>\$925</u>
7	[\$4,897] <u>\$4,955</u>	[\$3,858] <u>\$3,904</u>	[\$2,968] <u>\$3,003</u>	[\$1052]	[\$995] <u>\$1,022</u>
8	[\$5,450] <u>\$5,513</u>	[\$4,294] <u>\$4,344</u>	[\$3,303] <u>\$3,341</u>	[\$1,202]	[\$1,137] <u>\$1,169</u>
\$ Each Additional Member	[+\$553] <u>+\$559</u>	[+\$436] <u>+\$440</u>	[+\$335] <u>+\$339</u>	[+\$150]	[+\$142] <u>+\$146</u>

**F. Deductions and standards:**

(1) **Determination:** Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other relevant eligibility factors, are allowed certain deductions to determine countable income.

(2) **Yearly adjustment:** The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st.

(3) **Expense deductions and standards table:**

Standard Deduction for Household Size of 1 through 3	[\$152.00] <u>\$155</u>
Standard Deduction for Household of 4	[\$163.00] <u>\$165</u>
Standard Deduction for Household Size of 5	[\$191.00] <u>\$193</u>
Standard Deduction for Household Size of 6 or more	[\$219.00] <u>\$221</u>
Earned Income Deduction (EID)	20%
Dependent Care Deduction	Actual Amount
Heating/Cooling Standard Utility Allowance (HCSUA)	[\$314.00] <u>\$314</u>
Limited Utility Allowance (LUA)	[\$123.00] <u>\$116</u>
Telephone Standard (TS)	[\$33.00] <u>\$39</u>
Excess Shelter Cost Deduction Limit for Non-Elderly/Disabled Households	[\$478.00] <u>\$490</u>
Homeless Household Shelter Standard	[\$143.00] <u>\$143</u>
Minimum Allotment for Eligible One and Two-Person Households [10/01/2013=10/31/2013]	[\$16.00] <u>\$16</u>
[10/01/2013=09/30/2014]	[\$15.00]

[02/1/95, 10/01/95, 02/29/96, 10/01/96, 3/15/97, 01/15/98, 11/15/98, 12/15/99, 01/01/01, 03/01/01; 8.139.500.8 NMAC - Rn, 8 NMAC 3.FSP.501, 05/15/2001; A, 10/01/2001; A, 10/01/2002, A, 09/01/2003; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A/E, 10/01/2006; A/E, 10/01/2007; A/E, 10/01/2008; A/E, 04/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 04/01/2010; A/E, 10/01/2010; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014]

**NEW MEXICO HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.410 NMAC, Sections 12 and 14, effective 10/01/2014.**

**8.139.410.12 EMPLOYMENT, TRAINING AND WORK REGISTRATION**

**A. Employment and training [E&T] (E&T) work registration:** Compliance with work registration is a prerequisite to certification, unless exempt.

Benefits may not be conditionally granted before registration of all mandatory household members, except when verification cannot be obtained prior to the expedited service time limit. Work registration exemptions must be verified before certification.

**B. Compliance with E&T work requirements:** As a condition of eligibility for participation in SNAP, every physically and mentally fit household member who is [18] 16 years of age or older and younger than age [50] 60 and who is determined mandatory, must register for the E&T program.

**C. Non-compliance with E&T work requirements:** Non-compliance with E&T work requirements is considered to exist when an individual:

(1) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by ISD; or

(2) fails or refuses to comply with the requirements under Title IV-A of the Social Security Act, or work requirements for individuals receiving UCB.

**D. E&T work requirements:**

**(1) General conditions for registration:**

**(a)** Unless exempt, every household member [age 18 through 50] age 16 through 59 must register for employment. If a household member has his/her 16<sup>th</sup> birthday within a certification period, the work registration requirement must be fulfilled as part of the next scheduled recertification process, unless the member qualifies for an exemption.

~~**(b)** If a household member has their 18<sup>th</sup> birthday within the established certification period, they must fulfill the E&T work program registration requirement as part of the next recertification.~~

~~**(c)** An individual who does not qualify for an exemption must be registered for employment at initial certification or when added to the SNAP household, and at least every 12 months thereafter, as a condition of eligibility.~~

~~**(d)** Strikers whose households are eligible to apply for assistance, as defined in Subsection B of 8.139.400.11 NMAC, must register for work, unless covered by an exemption.~~

~~**(e)** Individuals exempt from registration may volunteer to participate in the E&T program.~~

**(2) Individuals exempt from registration:** The following individuals are exempt from the work registration requirement:

**(a)** an individual younger than [48] 16 years of age or an individual [50] 60 years of age or older;

**(b)** an individual age 16 or 17 who is not the head of household or is attending school or enrolled in an employment and training program at least half time, as defined by the school or employment and training program;

**(c)** an individual who is physically or mentally unfit for employment; if physical or mental unfitness is claimed but not evident, verification is required; verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or a statement from a physician or licensed or certified psychologist;

~~**(e)** a natural parent, adoptive or step parent or individual residing in a SNAP household that includes a child younger than age 18, even if the child is not eligible for SNAP benefits;~~

**(d)**

a parent or other household member who is responsible for the care of a dependent child under age six or an incapacitated person; [the incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care;]

**(i)** if the child has his/her sixth birthday during the certification period, the individual responsible for the care of the child is required to be registered as part of the next scheduled recertification, unless the individual qualifies for another exemption;

**(ii)** the exemption applies to the person who actually provides the care;

**(iii)** the dependent child or incapacitated person need not be considered a member of the SNAP household or even reside with the household; the exemption will not apply if the dependent or incapacitated person resides with others who provide the care;

**(e)** an individual subject to and complying with any work requirement under Title IV of the Social Security Act, including TANF work requirements;

**(f)** an individual who receives unemployment compensation benefits and is subject to and complying with a federal or state unemployment compensation system; an individual who has applied for but who has not yet received UCB is exempt if required to register with the department of labor as part of the unemployment compensation application process;

**(g)** an individual who is a regular participant in a state certified drug or alcohol treatment and rehabilitation program;

**(h)** an individual who is employed or self-employed and working a minimum of 30 hours a week or receiving weekly earnings at least equal to the federal minimum wage multiplied by 30 hours;

**(i)** migrant and seasonal farm workers who are under contract or similar agreement with an employer or crew chief to begin employment within 30 days are exempt, although this does not prevent such individuals from seeking services from the E&T program;

**(j)** workers in ACTION programs (such as VISTA) who average 30 or more hours of work per week are exempt, even though they earn less than minimum wage;

**(k)** a student who is eligible to participate in the

SNAP program, and who is enrolled at least half time in any recognized school, high school, training program, or institution of higher education; this exemption remains in effect during normal periods of class attendance, vacations, and recess, unless the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer session);

**(l)** a household member who has made application for SSI and SNAP benefits at the social security administration, and whose application for SNAP benefits has been received by HSD, and who is determined eligible for SNAP benefits, shall be exempt from work registration until an SSI determination is made; a household member who is determined ineligible for SSI shall have the exemption from E&T work requirements evaluated at the time of the denial of SSI;

**(m)** a pregnant woman; or  
**(n)** residing in a county with greater than 10 percent unemployment rate as defined by the department.

**(3) Interim changes in status:**

**(a)** Anyone losing exempt status because of changes subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will be required to register at the next recertification.

**(b)** Anyone gaining or losing exempt status because of changes not subject to the reporting requirements in Paragraph (2) of Subsection A of 8.139.120.9 NMAC, will have his/her work status evaluated at the next recertification.

**(4) Processing changes:** Mandatory work participants who move from one county to another retain their work registration status at their new location, unless they become exempt.

**(5) Residing in a non-work program county:**

**(a)** The appropriate work registration code of any individual living in a county which does not administer a work program through income support division, and who is not exempt from E&T work registration, will be entered into the individual's computer file. Those individuals will be dropped from referral to the E&T work program.

**(b)** Any household member living in a non-work program area may volunteer to participate in the E&T work program. The nearest county administering a work program through ISD will accept the participant.

**E. E&T work program:**

The income support division (ISD) administers the work program for applicants and recipients of SNAP benefits who are mandatory and who voluntarily participate in the work program. The purpose of the work program is to assist household members participating in SNAP to gain skills that will increase an individual's ability to obtain and keep employment.

(1) Work

**registrant responsibilities:** Each household member who must be registered for work is required to register at the time of initial application and every 12 months thereafter:

(2) HSD

**responsibilities:** HSD is responsible for:

(a)

screening each household member to determine work registration status;

(b)

registering mandatory and voluntary participants;

(c)

providing information and explaining to each applicant the E&T work requirements, rights and responsibilities and consequences for failure or refusal to comply; such information must be provided at application, at recertification, and when a previously exempt or new household member must be registered;

(d)

disqualifying non-compliant individuals, and reinstating individuals who are subsequently determined to meet an exemption.

(3) Reporting

**changes to the E&T work program:** The following changes will be reported to the E&T work program:

(a)

work participants who become exempt from work registration;

(b)

work participants who are no longer certified for participation;

(c)

work participants who move from the project area; and

(d)

voluntary work participants who are deregistered.

(e)

In most cases, the changes listed above are reported by entering the appropriate information into the household's computer file. In some cases, a manual form is used to report new information to the work program.

(4) Work

**program responsibilities:** The E&T work program service provider is responsible for providing mandatory and voluntary participants referred to the E&T work program with the orientation, assessment, and development of a work participation

agreement (WPA) and an individual responsibility plan (IRP).

(a)

**Scheduling and conducting assessment sessions:** the work program will inform each registrant or participant of:

(i)

mandatory and voluntary E&T work program requirements, including rights and responsibilities;

(ii)

services, benefits;

(b)

**placing a voluntary participant in a work activity:** a participant may be placed in any work activity deemed appropriate by the work program;

(c)

authorizing reimbursements up to the regulatory monthly limit for reasonable and necessary costs directly related to work program participation;

(d)

reporting voluntary work participants who wish to de-register.

(5) Good cause

**for noncompliance with E&T work requirements:** The work program will report registrants or participants who fail or refuse to comply with work registration or who voluntarily quit a job, or reduce their work hours without good cause. The HSD has the primary responsibility to determine whether good cause exists for a failure or refusal to comply.

(a)

Good cause is determined by considering the facts and circumstances involved, including information submitted by the household member and employer.

(b)

Good cause includes circumstances beyond an individual's control, such as, but not limited to:

(i)

registrant or participant household member's illness;

(ii)

illness of another household member requiring the presence of the registered or participating member;

(iii)

household emergency;

(iv)

unavailability of transportation; or

(v)

lack of adequate child care for children who have reached age six but are younger than age 12.

F. Orientation:

Participants of E&T shall be provided an E&T work program orientation with their assessment, which explains the work program and its objectives to the participant. The orientation shall include the following information:

(1) the

participants rights and responsibilities;

(2) support

services;

(3) benefits of

participation in the E&T work program; and

(4) consequences

of non-compliance with the E&T work program requirements.

G. Assessment:

(1)

**Requirements:** No later than 15 calendar days after an application is approved, participants shall have an assessment done by the E&T work program service provider. The assessment is a necessary pre-cursor to the IRP, development of WPA, and is a crucial and necessary element in meeting the E&T work program requirements.

(2) Elements:

(a)

Complete the assessment no later than 15 calendar days following approval of assistance for the participant in which the assessment is carried out; there are a variety of assessment tools and forms that may be used, provided that they address the participant's education, skills, prior work experience and employability.

(b)

The assessment may include referrals for counseling, if a barrier to employment exists related to alcohol or drug abuse or mental health.

(3)

**Disqualification:** ~~[Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists.]~~ No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.

H. Individual

**responsibility plan (IRP):**

(1)

**Requirements:** Mandatory participants may complete an IRP with the assistance of the E&T work program service provider no later than 15 days from the date of approval of assistance.

(2) General

**purpose:** The IRP is:

(a)

a personal planning tool, intended to assist the participant in long-term career planning, address barriers and secure and maintain employment;

(b)

intended to assist the participant in setting realistic long-term employment goals and to identify those steps which must be taken to achieve the stated goals; and

(c)

not intended to fulfill the limited purpose of identifying work activities which will



meet E&T work program participation requirements; the participant is encouraged to use the IRP to assist in setting long-term employment goals.

**(3) Elements:**

The IRP shall include a specific achievable employment goal or goals and a plan for securing and maintaining employment.

**I. Work participation agreement (WPA):**

**(1) General:**

The purpose of the WPA is to assure the participant and the department that the work activities in which the participant is engaged meet the E&T work program requirements and the participant is referred to receive available support services.

**(2) Contents of the agreement:**

At a minimum, the WPA shall:

- (a) list the participant's approved work component;
- (b) list the level of effort for each activity;
- (c) list the support services to be provided by the department;
- (d) list the reasonable accommodations that may be necessary to ensure meaningful engagement;

(e) be signed by the participant; and  
 (f) upon approval of the component and support services, signed by the E&T work program service provider.

**(3) Completion of a WPA:**

The participant must complete WPA with the E&T work program service provider:

- (a) no later than 30 calendar days from date of approval for benefits; or
- (b) prior to requesting support services associated with such activity;
- (c) no later than five days after the expiration of an existing WPA.

**Disqualification:** ~~[Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists.]~~ No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.

**J. E&T component:**

**(1) Allowable components:** The E&T work program outlines allowable components annually through the supplemental nutrition assistance program employment and training state plan. The state plan is

submitted and approved by the United States department of agriculture food and nutrition services. The annual state plan can be found on the human services department income support division website at the following link: [~~http://www.hsd.state.nm.us/isd/ASDPlans.html.~~] http://www.hsd.state.nm.us/

**(2) Individual or group job search with employer contacts:**

**(a)**

Individual or group job search with employer contacts is the only allowable E&T component for mandatory and voluntary participants. Support services such as the transportation reimbursement and child care assistance is to be provided for participants in this component only. This is a two part component which may include class room training and requires a minimum of 24 employer contacts over a two month period.

**(b)** The individual and group job search training is designed to impart basic job search techniques in order to secure employment; and job maintenance habits necessary for continued employment.

**(i)** All mandatory and voluntary participants are required to register as a "job seeker" through the New Mexico department of workforce solutions (DWS), "New Mexico workforce connection" online portal for job-matching services and resources. The mandatory and volunteer participants are required to submit a copy of the registration to the E&T work program service provider to verify completion of the registration within 30 days after the WPA is approved.

**(ii)** All mandatory and voluntary participants are required to complete the individual or group job search training with employer contacts no later than 60 days after the WPA is approved. The participant is required to have completed and submit verification of the completion of a minimum of 12 employer contacts within 30 days of the approved WPA. The participant is required to have completed and submit verification of 24 employer contacts within 60 days of the approved WPA.

**(iii)** **Disqualification:** ~~[Failure to participate in or to complete the assessment may result in an E&T work program disqualification, unless good cause exists.]~~ No physically or mentally fit individual 16 years of age or older and under the age of 60 will be eligible to participate in SNAP if the individual fails or refuses without good cause to comply with work requirements.

**(c) Successful completion:** Participants who complete

the individual or group job search and employer contact component within 90 days of the date of approval for newly certified and ongoing benefits are eligible for the transportation reimbursement, subject to available funding.

**K. E&T work program support services:**

**(1) Child care:** Mandatory and volunteer participant may be eligible for child care services to meet the requirements of the individual and group job search component.

**(a)** Mandatory and volunteer participants must have a completed WPA from the E&T work program service provider to identify the number of hours child care will be needed to successfully complete the activity.

**(b)** E&T mandatory and volunteer participants may only receive child care services when they are placed in the approved E&T components.

**(2) Transportation reimbursements:** Mandatory and volunteer participants are eligible to receive a \$25.00 transportation reimbursement if they have successfully completed the E&T work program component as defined in Paragraph J of this section.

**(3)** Support services are subject to the availability of state and federal funding.

**L. Disqualification for noncompliance:** ~~[A mandatory individual who fails or refuses, without good cause, to comply with the E&T work requirements will not be eligible to participate in SNAP] No physically or mentally fit individual ages 16 through 59 will be eligible to participate in SNAP if the individual fails or refuses, without good cause, to comply with work requirements in Subsection C of 8.139.410.12 NMAC.~~

**(1) Individual disqualification:** Any individual who fails or refuses to comply with the work registration, without good cause will be disqualified as follows:

**(a) first occurrence:** ~~[until compliance or for three months, whichever is later;]~~ for three months or until compliance;

**(b) second occurrence:** ~~[until compliance or for six months, whichever is later;]~~ for six months or until compliance;

**(c) third occurrence:** ~~[until compliance or for one year, whichever is later;]~~ for one year or until compliance.

**(2) Individual that is voluntarily participating:** Any individual that is voluntarily participating in the work program is not subject to

disqualification for non-compliance with work requirements.

**(3) Treatment of income and resources:** All the income and resources of an individual disqualified for noncompliance with work requirements will be counted to determine the household's income and resource maximum levels, and benefit amount (see Subsection C of 8.139.520.10 NMAC). Any reported change that does not relate to the individual disqualification shall be processed after the appropriate determination in (a), (b) or (c) or (d) above is made. SNAP benefits shall be increased or decreased according to the change processing requirements at 8.139.120.10 NMAC.

**(4) Notice of adverse action:** Within 10 days of determining that a participant has failed to meet an E&T requirement, the department or its designee shall issue notice of adverse action that the payment shall be reduced. The payment reduction shall take place with the first payment following expiration of the notice of adverse action.

**(a)**  
A participant who corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period shall not have the occurrence imposed against the benefit group or payment amount. The occurrence shall not count as cumulative, since the reason for the sanction was corrected during the time period of the notice of adverse action and prior to a benefit reduction being imposed. A participant who has failed to meet work participation hours cannot correct the occurrence during the notice of adverse action time period.

**(b)**  
Failure to comply during the notice of adverse action 13-day time period shall cause the occurrence to become effective.

**(4)(5) Determining the disqualification period:**

**(a)**  
**At application:** An individual who is a member in an applicant household, and who is in a prior disqualification period, will be denied SNAP benefits beginning with the month of application.

**(b)**  
**During participation:** An individual who has failed or refused to comply with work requirements while participating in SNAP will be ineligible to participate beginning with the month following the month in which the notice of adverse action time limit expires.

**(c)**  
**[Semiannual] Simplified reporting households:** An individual who has failed or refused to comply with work requirements during a [semiannual] simplified reporting period, shall be

ineligible to participate in SNAP beginning with the month following the month the notice of adverse action time limit expires. If the adverse action time limit will expire in the month after the notice would have been sent, the caseworker must wait until the first day of the following month to send the notice of adverse action.

**(5)(6) Disqualification in the last month of certification:** For all participating households, including households subject to semiannual reporting:

**(a)**  
If a notice of noncompliance is received in the last month of the certification period, an adverse action notice will be sent to the household. The disqualification period begins the first month following the month the adverse action time limit expires, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

**(b)** If the adverse action time limit expires in the last month of the household's certification period, the disqualification penalty will begin the following month, whether or not the household reapplies for SNAP benefits. If the household subsequently reapplies, either in the last month of the certification period or after the certification period has expired, the individual disqualification will continue for the duration of the appropriate penalty period.

**(6)(7) Lifting the disqualification:** ~~[An individual who has been disqualified may resume participation during the disqualification period by becoming exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC, if otherwise eligible.] An individual who has been disqualified may resume participation in SNAP benefits if:~~

**(a)**  
the participant becomes exempt from E&T work requirements listed in Paragraph (2) of Subsection D of 8.139.410.12 NMAC

**(b)**  
the participant corrects the failure of compliance with E&T requirements during the notice of adverse action 13-day time period; or

**(c)**  
the participant corrects the failure of compliance and serves no less than one month.

**(i)**  
The disqualification will continue until the participant complies or serves out the time frame for the occurrence level and corrects

the reason for disqualification.

**(ii)**  
Participants disqualified due to not meeting the required hours, must demonstrate the hourly compliance prior to lifting disqualification.

**M. Head of household provisions:**

**(1) Designation:**  
The household may designate any adult parent of a child in the household as the head of household, if all adult household members making application agree to the selection. A household may designate the head of household each time the household is certified for participation in SNAP but may not change the designation during a certification period, unless there is a change in household composition.

**(2) Compliance with E&T work requirements:** For purposes of determining compliance with the work requirements in Subsection C of 8.139.410.12 NMAC, the head of household will be considered as an individual household member. The head of household will be disqualified in accordance with the disqualification penalties in Paragraph (1) of Subsection H of 8.139.410.12 NMAC.

**(a)**  
If the head of household leaves the household during a period of ineligibility, the disqualification follows the individual. The remaining household members, if otherwise eligible, continue to be eligible to participate in SNAP.

**(b)**  
If the head of household becomes the head of another household, the individual disqualification continues to apply. The other household members continue to be eligible to participate in SNAP. [02/01/95, 07/01/98; 8.139.410.12 NMAC - Rn, 8 NMAC 3.FSP.415, 05/15/2001; A, 10/15/2003; A, 01/01/2004; A, 04/01/2010; A, 06/01/2013; A, 10/01/2014]

**8.139.410.14 ABLE BODIED ADULTS WITHOUT [CHILDREN] DEPENDENTS (ABAWDS):**

An applicant or recipient who is a mandatory work participant in the [food stamp] SNAP E&T program shall be considered for compliance with the 20-hour-a-week work requirement for ABAWDs. Unless determined exempt, any individual who is a mandatory ABAWD shall be required to comply with the 20-hour-a-week work requirement to maintain eligibility for [food stamp] SNAP benefits. ~~[The ABAWD 20-hour-a-week work requirement has been suspended based on the American Recovery and Reinvestment Act of 2009 effective April 1, 2009 through September 30, 2011.]~~

**A. Exemptions:**  
**(1) Certain**

individuals are exempt from the ABAWD 20-hour-a-week work:

- (a) an individual determined to be exempt from work requirements of the [food-stamp] SNAP E&T program set forth at Subsection D of this section;
- (b) an individual under age 18 or age 50 or older;
- (c) an individual medically certified as physically or mentally unfit for employment;
- (d) a pregnant woman;
- (e) an individual residing in a [food-stamp] SNAP household that includes at least one child under the age of 18, even if the child is not eligible for [food-stamp] SNAP benefits;
- (f) a natural, adoptive or step-parent residing in a [food-stamp] SNAP household that includes at least one child under the age of 18, even if the child is not eligible for [food-stamp] SNAP benefits;
- (g) residing in a non-ABAWD county as documented by federal waiver or suspension of the 20-hour-a-week work requirement.

**(2) Medical reports:** To determine an exemption from the 20-hour-a-week work requirement on the basis of pregnancy or physical or mental unfitness, the individual must provide a written report by a medical practitioner such as a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, a licensed or certified psychologist or social worker.

(a) In the case of a pregnancy, the report must verify the pregnancy and identify the expected date of delivery.

(b) A claim of physical or mental unfitness must be substantiated by a written report identifying the physical or mental condition and certifying that the person is unfit for employment.

**B. Time limited eligibility for ABAWDs:** An ABAWD who is determined mandatory to comply with the 20-hour-a-week work requirement shall not be eligible to participate in the [food-stamp] SNAP program as a member of any household if the individual received [food-stamp] SNAP benefits but failed to comply with the 20-hour-a-week work requirement for three countable months in a 36-month period, until they subsequently meet the requirements to regain eligibility.

(1) **36 month period:** The 36 month period is a fixed calendar month period beginning on [December 1, 2002. ~~The period ends on November 30, 2005~~] November 1, 2014.

The period ends on October 31, 2017.

(2) **Countable months in the 36-month time limit:** Within the fixed 36-month period, an ABAWD shall have a month counted toward the three-month time limit if the 20-hour-a-week work requirement is not met and the household received a full month's benefits.

(a) In no event shall a month be counted toward the three-month time limit if the individual has not attained the age of 18.

(b) A month that an ABAWD has used without fulfilling the work requirement in another state shall be counted toward the three-month time limit as long as the other state verifies the month has been used as a non-work month.

**C. Fulfilling the 20-hour-a-week work requirement:**

(1) **Working:** For purposes of determining the activities that count towards the 20-hour-a-week work requirement, the time spent working in exchange for money, or working in exchange for goods or services, or unpaid work, or any combination of these activities shall be considered as employment and credited toward the 20-hour-a-week work requirement.

(2) **Work activities:** Allowable work activities that count towards the 20-hour-a-week work requirement include:

(a) employment for at least 20 hours a week averaged monthly or 80 hours a month, but not unreported employment; in the case of self-employment income, gross monthly earnings, as determined under Paragraph (2) of Subsection E of 8.139.520.10 NMAC, are divided by the minimum wage to determine the number of hours that are countable in meeting the work requirement;

(b) participation in and compliance with the requirements of a work program at least 20 hours a week;

(c) any combination of employment and participation in a work program for at least 20 hours a week;

(d) job search or job search training activities that are incorporated into the department's a work program or another state or local program that meets [food-stamp] SNAP E&T requirements as long as the job search or job search training activities equal less than half the work requirement;

(e) participation in and compliance with a workfare program.

(3) **Work program:** Allowable activities in a work program include those performed under:

(a) the Workforce Investment Act (Public Law 105-220);

(b) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296);

(c) the department's [food-stamp] SNAP E&T program;

(d) any other state or local program which is recognized by the department as meeting [food-stamp] SNAP E&T program requirements.

**D. Reporting and verifying work participation:**

(1) It is the responsibility of the individual subject to the work requirement to report:

(a) whether or not that individual has worked or participated in a work program;

(b) the number of hours spent in work or work program activities;

(c) how the work requirement was fulfilled; and

(d) when the individual's work hours fall below 20 hours a week, averaged monthly, or 80 hours a month.

(2) **Verification** of the time spent working is mandatory in order to receive credit toward the work requirement. It is the responsibility of the individual subject to the work requirement to provide verification of participation in work activities by the fifth calendar day of each month following the month of participation in work activities.

**E. Good cause for failure to meet the work requirement:** An ABAWD may establish good cause for failure to meet the 20-hour-a-week work requirement if the absence from work is temporary and the individual retains employment, or if participation in work activities resulted from a temporary absence due to circumstances beyond the individual's control. Good cause reasons include, but are not limited to, illness, illness of another household member requiring the presence of the ABAWD, a household emergency, or the unavailability of transportation. Good cause is established on an individual basis.

**F. Regaining eligibility:** An individual who becomes ineligible due to failure to meet the work requirement for three months can regain eligibility by working or participating in an approved work program for at least 80 hours during any 30 consecutive day period following the date of ineligibility.

(1) An individual who regains eligibility is eligible on an ongoing basis provided he or she continues to meet the 20-hour-a-week work



requirement.

(2)

There is no limit to the number of times an individual may regain eligibility during the 36-month period.

**G. Failure to meet**

**the work requirement after regaining**

**eligibility:** An individual who has regained eligibility and who subsequently fails to meet the 20-hour-a-week work requirement in any month left in the 36-month period shall be eligible to receive [food stamp] SNAP benefits for a three consecutive month period.

(1)

The three-month period begins with the month the work requirement was not met, provided the individual is otherwise eligible.

(2)

Upon expiration of the three months, the individual becomes ineligible for the remainder of the fixed 36-month period.

(3)

The individual may re-establish eligibility by either regaining eligibility or because a determination is made that the individual becomes exempt from the 20-hour-a-week work requirement.

**H. Costs:** Except for costs assumed by HSD pursuant to an approved [food stamp] SNAP E&T supportive services plan, HSD has no financial responsibility for any costs or liabilities incurred by persons electing to participate in a work program in order to meet the [food stamp] SNAP work requirement. [8.139.410.14 NMAC - N, 04/01/2010; A, 10/01/2014]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL LICENSING  
CHAPTER 20 PHYSICAL  
THERAPISTS  
PART 12 LICENSING OF MILITARY  
SERVICE MEMBERS, SPOUSES, AND  
VETERANS**

**16.20.12.1 ISSUING AGENCY:**

New Mexico Physical Therapy Board.  
[16.20.12.1 NMAC - N, 09-30-14]

**16.20.12.2 SCOPE:**

This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.  
[16.20.12.2 NMAC - N, 09-30-14]

**16.20.12.3 STATUTORY**

**AUTHORITY:** These rules are promulgated pursuant to Subsection C of Section 62-23D-5 and Section 61-1-1 to -34

(ULA) (HB 180) NMSA 1978.

[16.20.12.3 NMAC - N, 09-30-14]

**16.20.12.4 DURATION:**

Permanent.  
[16.20.12.4 NMAC - N, 09-30-14]

**16.20.12.5 EFFECTIVE DATE:**

September 30, 2014, unless a later date is cited at the end of a section.  
[16.20.12.5 NMAC - N, 09-30-14]

**16.20.12.6 OBJECTIVE:** The purpose of this part is to expedite licensure for military service members, spouses, and veterans.

[16.20.12.6 NMAC - N, 09-30-14]

**16.20.12.7 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 (2) years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.  
[16.20.12.7 NMAC - N, 09-30-14]

**16.20.12.8 APPLICATION REQUIREMENTS:**

A. Applications for registration shall be completed on a form provided by the board.

B. The information shall include:

(1) Completed application and fee pursuant to 16.20.3.11 and 16.20.3.8 and 16.20.5.8 NMAC.

(2) Satisfactory evidence that the applicant holds a license, issued by another jurisdiction, including a branch of armed forces of the United States, that is current and in good standing and that the applicant has met the minimal licensing requirements that are substantially equivalent to the New Mexico physical therapy or physical therapist assistant licensing requirements.

(3) Proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse status.  
[16.20.12.8 NMAC - N, 09-30-14]

**16.20.12.9 RENEWAL REQUIREMENTS:** A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance set forth in 16.20.3 NMAC and for the renewal of a license set forth in 16.20.8 NMAC.

[16.20.12.9 NMAC - N, 09-30-14]

**HISTORY OF 16.20.12 NMAC:  
[RESERVED]**

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.1 NMAC, Sections 9, 12, and 14, effective 09/30/2014.

**16.20.1.9 DISPLAY OF LICENSE:**

A. License and renewal certificate - displayed reproduction of the original license [and/or] or the annual renewal certificate is unauthorized. The original license and renewal certificate must be displayed in the principal place of practice. The [wallet-sized] wallet-size certificate of license renewal may be presented for identification. Reproduction of the original license [and/or] or renewal certificate is authorized for institutional file purpose only. At secondary places of employment, documentation of license must be verified by [xerox-copy] photocopy with a note attached indicating where original license is posted.

B. Consumer information sign - a consumer information sign must be displayed in the principal place of practice. The consumer information sign shall read: Complaints regarding non-compliance with the New Mexico Physical Therapy Practice Act can be directed to: New Mexico physical therapy board, P.O. Box 25101 Santa Fe, NM 87504.

[12-15-97; 16.20.1.9 NMAC - Rn, 16 NMAC 20.1.9, 08-31-00; A, 09-30-2014]

**16.20.1.12 CONFIDENTIAL INFORMATION:**

A. Confidential information and requests for inspection of public records pertaining to any proceeding before the New Mexico physical therapy board shall be governed by the Inspection of Public Records Act (Section 14-2-1 NMSA 1978).

(1) Copies of public records may be made for any person at a cost to be approved by the board. Under no circumstances will any person be allowed to [take] remove board records from the board premises, by any means, without permission. Permission to examine, inspect or obtain copies of public records must be obtained from the board administrator.

(2) Complaints

against licensees may result in legal action by the board and may involve denial, suspension or revocation of a license and be subject to review and recommendations by legal counsel for the board. Such complaints shall be considered confidential, unless otherwise directed by the board, until final action or disposition is taken on the complaint. A separate legal file shall be maintained for complaints, investigative reports, legal opinions, briefs and other legal papers. The contents of the file shall be considered privileged as documents accumulated in anticipation of legal action except as otherwise provided by law. Provided, however, any proceeding before the board may be made public upon written request of the licensee or applicant involved.

B. Waiver of rules - upon its own motion or by motion of any party showing good cause and such notice as the board or hearing officer may deem proper, the board or any hearing officer may waive the application of any of these General Provisions, except where otherwise precluded by law.

C. Construction and amendment - these rules, and any policies incorporated herein by reference, shall be so constructed by the board or any hearing officer as to secure just and speedy determination of the issues. Amendments to these rules may be made periodically by the board under its general rule-making authority.

[12-15-97; 16.20.1.12 NMAC - Rn, 16 NMAC 20.1.12, 08-31-00; A, 09-30-2014]

#### 16.20.1.14 CODE OF ETHICS:

The New Mexico physical therapy board adopts the current [~~American physical therapy association code of ethics~~] New Mexico physical therapy and physical therapist assistant code of ethics as per Section 61-12D-13L NMSA 1978.

A. Physical therapists and physical therapist assistants will honor the significance of patients and their families' needs, rights, and dignity. When addressing patients' needs, rights, and dignity, all will be adhered to with confidentiality and compassion.

B. Physical therapists and physical therapist assistants will make appropriate and well informed decisions, regarding patient care, that are within their scope of practice.

C. Physical therapists and physical therapist assistants should avoid conflicts of interest that would impact negatively on a patient's care.

D. Physical therapists and physical therapist assistants will have integrity in all dealings with patients and others associated with their care.

E. Physical therapists and

physical therapist assistants will fulfill all professional duties, as required.

F. Physical therapists and physical therapist assistants will seek new ways of improving patient care and encourage best practice skills through continuing education and interaction with other providers.

G. Physical therapists and physical therapist assistants will participate in sound and reasonable business practice.

H. Physical therapists and physical therapist assistants will use proper utilization practice patterns to meet the needs of those they serve.

[16.20.1.14 NMAC - N, 02-15-04; A, 1-12-08; A, 09-30-2014]

## NEW MEXICO REGULATION AND LICENSING DEPARTMENT PHYSICAL THERAPY BOARD

This is an amendment to 16.20.2 NMAC, Section 8, effective 09/30/2014.

#### 16.20.2.8 REQUIREMENTS FOR THE NATIONAL PHYSICAL THERAPY EXAMINATION:

A. All applicants for licensure must take the national physical therapy examination (NPTE), or show proof of having taken the NPTE in another state. The examination must be taken in English, without the use of an interpreter, and without the aid of an English/foreign language dictionary.

B. A complete licensure application, all required fees, and verification of successful completion of a physical therapy or physical [therapy] therapist assistant program MUST be received by the board for verification of eligibility for licensure in New Mexico prior to registering to sit for the exam.

C. The federation of state boards of physical therapy (FSBPT) will notify applicants, in writing, of the procedure to follow in order to register for the exam with an approved computer based testing (CBT) company.

(1) Applicants MUST take the exam within sixty (60) days from the date of notification to register by [FSBPT].

(2) Applicants will register in New Mexico, but may take the exam in any state.

(3) Applicants will be scheduled to sit for the exam within thirty (30) days from the time they call the computer based testing (CBT) company.

(4) Applicants may change their appointment up to two (2) days prior to the test date.

D. Effective August 28, 1995, an applicant for licensure as a physical therapist shall obtain a score on the NPTE for physical therapists that equals or exceeds the criterion-referenced passing point of six hundred (600), based on a scale ranging from two hundred (200) to eight hundred (800). Per changes in the eligibility requirements through the FSBPT, effective January 2016, applicants scoring four hundred (400) or less on two (2) exams will be unable to test again for licensure. In addition, applicants will be able to take the exam a maximum of six (6) times (three (3) attempts annually) with no additional attempts allowed.

(1) For applicants who took the NPTE during the period from June 10, 1971 to August 28, 1995, the passing score for the national examination shall be 1.5 standard deviation below the national mean on the date the exam was taken by the applicant.

(2) Exams taken prior to June 10, 1971 may be reviewed on a case-by-case basis or the applicant may qualify under 16.20.3.10 NMAC (Licensure by Endorsement).

E. Effective August 28, 1995, an applicant for licensure as a physical therapist assistant shall obtain a score on the NPTE for physical therapist assistants that equals or exceeds the criterion-referenced passing point of six hundred (600), based on a scale ranging from two hundred (200) to eight hundred (800). Per changes in the eligibility requirements through the FSBPT, effective January 2016, applicants scoring four hundred (400) or less on two (2) exams will be unable to test again for licensure. In addition, applicants will be able to take the exam a maximum of six (6) times (three (3) attempts annually) with no additional attempts allowed.

(1) For applicants who took the NPTE during the period from June 10, 1971 to August 28, 1995, the passing score for the national examination shall be 1.5 standard deviation below the national mean on the date the exam was taken by the applicant.

(2) Exams taken prior to June 10, 1971 may be reviewed on a case-by-case basis or the applicant may qualify under 16.20.3.10 NMAC (Licensure by Endorsement).

F. Any applicant who fails the NPTE may retake the exam at the next available opportunity.

G. Any applicant who has failed the NPTE will not be issued a temporary license, or if a temporary license has been issued, it will automatically be revoked. The revocation is effective upon recording of the test results by the registrar. The registrar will promptly notify the

applicant of results by certified mail.

H. An applicant who fails the NPTE [twice] two (2) or more times must complete and submit proof of completion of remedial work as recommended by the board before being permitted to take subsequent NPTE's. Refer to the remedial criteria for specific requirements for each subsequent exam failed, up to six (6) lifetime attempts.

CRITERIA FOR REMEDIAL WORK, DESCRIBED BY THE PHYSICAL THERAPY BOARD			
<u>Number of failures</u>	<u>Number of points from passing</u>	<u>Mentorship and tutorial</u>	<u>Other</u>
<u>2</u>	<u>Score is within 6 points of passing</u>	<u>20 hours of mentorship or tutorial or any combination of both</u>	<u>Proof of a national licensing exam review course</u>
<u>2</u>	<u>Score is greater than 6 points of passing</u>	<u>40 hours of either mentorship or tutorial or any combination of both</u>	<u>Proof of a national licensing exam review course</u>
<u>3</u>	<u>Score is within 6 points of passing</u>	<u>20 hours of mentorship and 40 hours of tutorial</u>	<u>NONE</u>
<u>3</u>	<u>Score is greater than 6 points of passing</u>	<u>60 hours of mentorship and 60 hours of tutorial</u>	<u>NONE</u>

After the fourth failure of the NPTE for PT/PTA applicant, the applicant must complete the following remedial work, to sit for the exam

- (1) Letter confirming completion of remedial clinical mentorship with a licensed PT/PTA Supervisor for:
  - (a) One hundred sixty (160) hours in an outpatient clinic/facility
  - (b) One hundred sixty (160) hours in an inpatient/rehabilitation clinic/ facility
  - (c) One hundred sixty (160) hours in a clinic/ facility of their choice
- (2) Letter confirming (with both scores listed) completion of a National License Review course and the FSBPT PEAT exam.
  - (a) Applicant must retake a national licensing review course (providing proof of completion)
  - (b) Applicant must retake the FSBPT PEAT exam (providing both scores). Per FSBPT guidelines,

beginning January 2016, all applicants will be restricted to six (6) lifetime attempts at passing the national licensing exam. In addition, two (2) scores at four hundred/eight hundred 400/800 will preclude the applicant from any additional attempts at examination.

[03-29-83; 02-19-88; 08-01-89; 05-08-91; 06-03-94; 07-28-95; 05-15-96; 16.20.2.8 NMAC - Rn & A, 16 NMAC 20.2.8, 08-31-00; A, 7-28-01; A, 8-16-10; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.3 NMAC, Section 8 and adding Section 15, effective 09-30-2014

**16.20.3.8 APPLICATION FOR LICENSURE.**

A. The board may issue a license to an applicant, other than one applying for licensure by endorsement, who fulfills the following requirements:

- (1) completes the application;
- (2) includes a passport-size photograph taken within the preceding twelve months and affixes it to the application;
- (3) pays the non-refundable application fee in full as provided in Part 5;
- (4) passes the jurisprudence exam (as specified in 16.20.2.10) and pays the non-refundable exam fee as provided in Part 5;
- (5) submits official college or university transcripts from a program approved by the

commission on accreditation in physical therapy education (CAPTE) verifying one of the following:

- (a) post-baccalaureate degree in physical therapy;
- (b) associate degree [in] as a physical [therapy] therapist assistant;
- (6) if official transcripts are not available because of school closure or destruction of the records, e.g., the applicant must provide satisfactory evidence of meeting the required physical therapy educational program by submitting documentation that will be considered on a case-by-case basis by the board and pursuant to the following:
  - (a) for applicants who graduated after January 1, 2002, documentation of graduation with a post-baccalaureate degree in physical therapy from an educational program accredited by CAPTE;
  - (b) for applicants who graduated prior to January 1, 2002, documentation of graduation with a baccalaureate degree in physical therapy or a certificate in physical therapy from an educational program accredited by CAPTE;
  - (c)

for physical therapist assistant applicants, documentation of graduation from an accredited physical therapist assistant program accredited by CAPTE and approved by the board;

(7) passes the national physical therapy licensure examination (NPTE) (as specified in 16.20.2.8 NMAC); if the applicant has previously taken the NPTE, the testing entity shall send the test scores directly to the board; test scores sent by individuals, organizations or other state boards will not be accepted.

B. For applicants who have not practiced since graduating from a physical therapy education program, or who have not practiced as a physical therapist or physical therapist assistant for a period of more than three (3) consecutive years, full licensure requires fulfilling the following requirements:

- (1) satisfactory completion of all application requirements for licensure as provided in Subsection A of 16.20.3.8 NMAC;
- (2) provides proof of having taken fifteen (15) continuing education contact hours for each year the applicant was not practicing as a physical therapist or physical therapist assistant (coursework to be pre-approved by the board);



(3) provides evidence of additional competency to practice as required by the board.

C. Felony or misdemeanor convictions involving moral turpitude directly related to employment in the profession have to be satisfactorily resolved. The board may require proof that the person has been sufficiently rehabilitated to warrant the public trust if the prior conviction does not relate to employment in the profession. Proof of sufficient rehabilitation may include, but is not limited to: certified proof of completion of probation or parole supervision, payment of fees, community service or any other court ordered sanction.

D. A licensee requesting a name change must submit proof of name change, the original license and a replacement license fee.

E. Foreign educated applicants must meet all requirements for licensure as provided in Subsection A of 16.20.3.8 NMAC as well as those requirements listed in 16.20.9 NMAC.

F. Initial application is valid for a period of twelve (12) months. [16.20.3.8 NMAC - Rp, 16.20.3.8 NMAC, 11-01-04; A, 03-02-06; A, 1-12-08; A, 8/1/09; A, 8/16/10; A, 09/30/14]

### **16.20.3.15 ELECTRONIC APPLICATIONS AND SIGNATURES**

A. **ELECTRONIC APPLICATIONS:** In accordance with Sections 14-16-1 thru 14-16-21 NMSA 1978 of the Uniform Electronic Transactions Act, the board or its designee will accept electronic applications.

(1) Any person seeking a New Mexico physical therapy or physical therapist assistant license may do so by submitting an electronic application. Applicants are required to also submit all required information as stated in 16.20.3.8 and 16.20.3.9 NMAC.

(2) Any licensee may renew his or her license electronically through a designated website provided by the board. All license holders renewing their physical therapy or physical therapist assistant license are also required to submit all documentation as stated in 16.20.3.8 NMAC.

(3) Any persons whose license has been expired may apply electronically to the board for renewal of the license at any time within sixty (60) days of expiration. Any persons seeking renewal are also required to submit all supporting documents as stated in 16.20.3.8 NMAC.

(4) Any persons whose license has lapsed may apply electronically to the board for reinstatement of the license at any time. Any persons

seeking reinstatement are also required to submit all supporting documents as stated in 16.20.3.8 and 16.20.3.10 NMAC.

(5) Any persons seeking licensure by endorsement in New Mexico, 16.20.3.16 NMAC may apply electronically to the board for endorsement, at any time. Any persons seeking endorsement are also required to submit all supporting documents as stated in 16.20.3.11 NMAC.

(6) Any persons seeking emergency licensure or termination of emergency licensure in New Mexico may apply electronically to the board, at any time. Any persons seeking emergency licensure or termination of emergency licensure are also required to submit all supporting documents as stated in 16.20.3.12 and 16.20.3.13 NMAC.

(7) Any persons seeking transfer of licensure to an inactive status in New Mexico may apply electronically to the board, at any time. Any persons seeking inactive status of their license are required to submit all supporting documents as stated in 16.20.3.14 NMAC.

B. **ELECTRONIC SIGNATURES:** Electronic signatures will be acceptable for applications pursuant to Sections 14-16-1 through 14-16-19 NMSA 1978.

[16.20.3.15 NMAC - N, 09-30-14]

## **NEW MEXICO REGULATION AND LICENSING DEPARTMENT PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.4 NMAC, Section 8, effective 09/30/2014.

### **16.20.4.8 TEMPORARY LICENSES FOR U.S. TRAINED APPLICANTS:**

A. Upon receipt of an application form which evidences satisfactory completion of all application requirements for licensure as provided in Section 61-12-10 NMSA, of the Physical Therapy Act except passage of the NPTE, the registrar of the board may issue to the applicant a non-renewable temporary license to practice physical therapy in New Mexico.

B. Under no circumstance will the non-renewable temporary license be valid for a period longer than 180 days.

C. Issuance of a temporary license may be denied if:

(1) the applicant has worked as a physical therapist or physical therapist assistant without a license in New Mexico;

(2) the applicant has violated the ~~[code of ethics of the American physical therapy association; or]~~ New Mexico physical therapy and physical therapist assistant code of ethics.

(3) the applicant has failed the licensure examination in any state.

D. The holder of a temporary license **must** sit for the NPTE within 180 days after issuance of the temporary license. Failure to sit for the examination within 180 days automatically voids the temporary license. Where the holder of the temporary license is a foreign national, the 180 days begin to run once the foreign national has entered the United States.

E. The holder of a temporary license may work only under the direct supervision of a New Mexico unrestricted licensed physical therapist who is on-site. The supervising physical therapist may **not** hold a temporary license. The supervising physical therapist shall be licensed in New Mexico with a minimum of six months experience in a clinical setting. Prior to the issuance of an applicant's temporary license, the supervising physical therapist shall file with the board a written statement assuming full responsibility for the temporary licensee's professional activities. Filing is effective upon receipt by the board. This statement shall remain in effect until licensure of the

temporary licensee, or until expiration of the temporary license.

F. The temporary licensee may not provide physical therapy services until the temporary license is received and is posted in a conspicuous place at the temporary licensee's principle place of practice.

G. No supervising physical therapist shall be responsible for the simultaneous supervision of more than two temporary licensees.

H. The supervising physical therapist shall co-sign all evaluations, progress notes, and discharge summaries written by the temporary licensee.

I. The temporary license shall state the name and address of the licensee's place of employment. Should the place of employment or the employer change during the period of temporary licensure, the temporary licensee **must** notify the board of any such change within five (5) ~~work days~~ workdays of termination of employment. A new temporary supervisory form from the new employer will be required before a revised temporary license is issued. The board will issue a revised temporary license as per the fee schedule as set forth in 16.20.5 NMAC, for each issuance; however, the date of issue and expiration will remain the same as the first temporary license.

J. The temporary supervisory form may be obtained from the board office. [03-29-83; 02-19-88; 08-01-89; 09-03-92; 02-01-95; Rn & A, 16 NMAC 20.4, 10-15-97; 16.20.4.8 NMAC - Rn & A, 16 NMAC 20.4.8, 08-31-00; A, 03-02-06; A, 1-12-08; A, 08-1-09; A, 08-16-10; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.6 NMAC, Section 8, effective, 09/30/2014.

**16.20.6.8 PHYSICAL  
THERAPIST ASSISTANTS:**

A. A physical therapist assistant may work only under the direction and supervision of a New Mexico physical therapist who is licensed pursuant to Section 61-12-10, (A) and (B) of the Physical Therapy Act. The referring physical therapist shall assume full responsibility for the professional activities of the assistant, which are undertaken pursuant to his/her direction or supervision.

B. A physical therapist may not be responsible for the direction and

supervision of more than three (3) full-time physical therapist assistants of three (3) FTE's (full-time equivalency, totaling one hundred twenty (120) work hours per week requiring supervision, including temporary physical therapists, temporary physical therapist assistants, or full-licensed physical therapist assistants.

C. A physical therapist may supervise more than three (3) physical therapist assistants provided combined FTE's do not exceed one hundred twenty (120) hours per week.

D. The direction and supervision of the physical therapist assistant shall require the following:

(1) the referring physical therapist is responsible for the patient's care;

(2) when physical therapy services are being provided, a licensed physical therapist must be on call and readily available for consultation by phone, electronic mail or cellular phone when the referring physical therapist leaves the ~~immediate area of his/her practice~~ area or facility, for any length of time, or the referring physical therapist must appoint a stand in physical therapist as a supervising therapist until such time the referring physical therapist returns to the facility.

(3) the referring physical therapist will formulate a current written plan of care for each patient; the referring physical therapist will review the plan of care ~~periodically, within ninety (90) days~~ at least every thirty (30) days;

(4) the physical therapist should only delegate interventions to physical therapist assistant's that are competent and trained in these interventions; the physical therapist assistant shall not:

(a) interpret referrals;

(b) specify or perform definitive (initial, progress/re-evaluation, discharge) evaluative and assessment procedures;

(c) alter goals or a plan of care; or

(d) determine when to utilize the physical therapist assistant to perform selected interventions of physical therapy care.

(5) the physical therapist assistant may sign daily notes without the physical therapist's co-signing; each daily treatment note in a patient's permanent record completed by a physical therapist assistant must include the name of the referring physical therapist; and

(6) the physical therapist assistant shall respond to acute changes in the patient's physiological state; the physical therapist assistant shall notify the referring physical therapist of those

changes prior to the next treatment session. [03-29-83; 02-19-88; 08-01-89; 05-08-91; 09-03-92; 05-01-96; 16 NMAC 20.6.8 - Rn & A, 16 NMAC 20.7, 10-15-97; 16.20.6.8 NMAC - Rn, 16 NMAC 20.6.8, 08-31-00; A, 03-02-06; A, 01-12-08; A, 04-15-10; A, 08-16-10; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.7 NMAC, Sections 7, 8, and 9, effective 09-30-2014

**16.20.7.7 DEFINITIONS:**

"Unlicensed physical therapy assistive personnel (physical therapy aide or other assistive personnel)" means a person trained under the direction of a physical therapist ~~who~~ that performs designated and supervised routine physical therapy tasks related to physical therapy services. [10-15-97; 16.20.7.7 NMAC - Rn, 16 NMAC 20.7.7, 08-31-00; A, 1-12-08; A, 08-01-09; A, 8-16-10; A, 09-30-14]

**16.20.7.8 SUPERVISION OF  
LICENSED PERSONNEL:**

A. A physical therapist may not be responsible for the direction and supervision of more than ~~two~~ three (3) full-time physical therapist assistants, or ~~two~~ three (3) FTE's (full-time equivalency totaling ~~eighty (80)~~ one hundred twenty (120) work hours per week) requiring supervision, including temporary physical therapists, temporary physical therapist assistants, and licensed physical therapist assistants.

B. A physical therapist may supervise ~~two~~ three (3) or more physical therapist assistants provided combined FTE's do not exceed more than ~~eighty (80)~~ one hundred twenty (120) hours per week.

C. ~~[When supervising another licensee, a physical therapist planning an absence from work (vacation, leave of absence, continuing education) must arrange for another physical therapist to supervise the licensee in his place.]~~ When physical therapy services are being provided, a licensed physical therapist must be on call and readily available for consultation by phone or electronic mail when the referring physical therapist leaves the area or facility, for any length of time or the referring physical therapist must appoint a stand in physical therapist as a supervising therapist until such time the referring physical therapist returns to the facility.

D. A physical therapist supervising a temporary licensee must



notify the New Mexico physical therapy licensing board, in writing, when they are no longer responsible for supervision of a temporary licensee.

E. The referring physical therapist must hold documented conferences with the physical therapist assistant regarding the patient. The physical therapist is responsible for determining the frequency of the conferences consistent with accepted standards of practice. [10-15-97; 16.20.7.8 NMAC - Rn, 16 NMAC 20.7.8, 08-31-00; A, 03-02-06; A, 01-12-08; A, 08-01-09; A, 09-30-14]

**16.20.7.9 SUPERVISION OF UNLICENSED ASSISTIVE PERSONNEL (PHYSICAL THERAPY AIDE/TECHNICIAN/ATTENDANT):**

A licensed physical therapist may only supervise unlicensed aides working as caregiving assistive personnel, provided the assistive personnel's combined full time equivalency does not exceed ~~[eighty-80]~~ one hundred twenty (120) hours per week. [10-15-97; 16.20.7.9 NMAC - Rn, 16 NMAC 20.7.9, 08-31-00; A, 1-12-08; A, 08-01-09; A, 08-16-10; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.8 NMAC, Sections 7, 8 and 12, effective 09-30-2014.

**16.20.8.7 DEFINITIONS:**

A. One (1) "contact hour" requires sixty (60) minutes.

B. "Lecture" means an educational talk given by a qualified individual.

C. "Continuing professional education" means learning experiences which enhance and expand the skills, knowledge, and abilities of physical therapists and physical therapist assistants to enable them to remain current and render competent professional service to clients, the profession, and the public.

D. "Fellowship" means a planned program designed to provide greater depth in a specialty or subspecialty area and requires a minimum of 1000 hours of instruction.

E. "Panel" means the presentation of a number of views by several qualified individuals on a given subject.

F. "Workshop" means a series of meetings designed for intensive study, skill development, or discussion in a specific field of interest.

G. [~~"Seminar"~~] "Seminar/In-service" means directed study for a group for advanced study, work or discussion in a specific field of interest.

H. "Symposium" means a conference of more than a single session organized for the purpose of discussing a specific subject from various viewpoints and by various speakers.

[10-15-97; 16.20.8.7 NMAC - Rn & A, 16 NMAC 20.8.7, 08-31-00; A, 1-12-08; A, 09-30-14]

**16.20.8.8 RENEWAL REQUIREMENT:**

A. Renewal of license.

(1) A licensed physical therapist and a physical therapist assistant shall apply for license renewal and pay the renewal fee as set forth in 16.20.5 NMAC, Schedule of Fees.

(2) Licenses that expire February 1, 2010 will be renewed according to the following schedule:

(a) if the last digit of the license number ends in an even number, the license will expire on February 1, 2012 and biennially thereafter;

(b) if the last digit of the license number ends in an odd number, the license will expire on February 1, 2011 and biennially thereafter; the renewal fee will be prorated.

B. The board office will mail a renewal notice to each licensee no later than December 15 at the address on record. Timely renewal of license is the full and complete responsibility of the licensee. If the ~~[renewal form is not received by the licensee]~~ licensee does not receive the renewal notification within a reasonable time after December 15, it is the responsibility of the licensee to contact the board office. Non-receipt of the renewal form by the licensee will not exempt licensure expiration or late penalty fees.

C. Each licensee is responsible for submitting the required renewal fee by the expiration date whether or not a renewal notice is received by the licensee and licensee shall not practice if license is expired.

D. All license renewals postmarked after February 1 will be subject to a late fee of \$250.00 for a physical therapist and \$200.00 for a physical therapist assistant. (Refer to 16.20.5 NMAC, Schedule of Fees.)

[10-15-97; 16.20.8.8 NMAC - Rn & A, 16 NMAC 20.8.8, 08-31-00; A, 02-15-04; A, 11-01-04; A, 03-02-06; A, 1-12-08; A, 08-01-09; A, 09-30-14]

**16.20.8.12 APPROVAL OF CONTINUING EDUCATION CONTACT HOURS:**

A. The process for

approval of continuing education is as follows:

(1) the board or its designee will approve each request for continuing education credit; course approval must be requested by the course sponsor prior to the course or retroactively; however, licensee's are not required to obtain approval but can request approval prior to a course or retroactively to ascertain that a course is acceptable as continuing education;

(2) the party requesting approval will be informed of the board's or designee's determination within ~~[sixty (60)]~~ thirty (30) calendar days of receipt of the request;

(3) the course sponsor or licensee whose request has been denied may appeal the denial at the next board meeting; and

(4) the same program may be provided more than one time and at different locations within the calendar year in which the fee was paid without the payment of additional fees.

B. Programs must follow the criteria and guidelines established by the board as follows to receive continuing education credit:

(1) [each program adheres to the board's American physical therapy association (APTA) definition for continuing professional education;] each program or any course(s), with board approval that are sponsored by the APTA/ NMAPTA will automatically be accepted for CEU approval without the need to apply for such approval;

(2) each program addresses needs (problems and issues) faced by physical therapists and physical therapist assistants;

(3) each program has specific written learning outcomes (objectives) based on identified needs;

(4) each program is planned and conducted by qualified individuals;

(5) program content and instructional methods for each program are based on learning objectives; and

(6) participants demonstrate their attainment of the learning outcomes, (i.e., various methods can be used such as: questions, discussions, written oral exercises, problems, case studies, etc.); and

(7) programs approved by the APTA will be automatically accepted by the board.

C. Final determination of values of continuing education will remain at the discretion of the board.

D. Programs considered appropriate for continuing education,

include, but are not limited to those listed below.

(1) **Live programs**, (i.e., various programs such as workshops, [seminars;] in-service two (2) -way video conferencing, etc.) awarded by providing the board with the following:

- (a) certificate of completion;
- (b) course schedule;
- (c) learning outcomes (objectives); and
- (d) name of instructor and credentials; (up to thirty (30) contact hours will be accepted biennially).

(2) In the case of **university or college courses** taken for credit, provide the board with:

- (a) name of course;
- (b) number of course credit hours;
- (c) inclusive dates of attendance;
- (d) name of instructor and instructor's credentials;
- (e) published course description from college or university;
- (f) completed transcript or grade report with a passing grade of "C" or better;
- (g) name of institution; and
- (h) brief course summary demonstrating the course's relationship to physical therapy; (maximum [~~twenty (20)~~ thirty (30)] contact hours are awarded for each 3 credit course).

(3) **Physician in-service programs** or regular physical therapy staff in-service programs, provide the board with:

- (a) name of program;
- (b) number of hours spent in program;
- (c) inclusive dates of attendance;
- (d) name of instructor or supervisor of program; documentation of instructor background and expertise;
- (e) name of institution; and
- (f) brief course summary demonstrating the course's relationship to physical therapy; (maximum allowed biennially is [~~eight (8)~~ thirty (30)] contact hours).

(4) **Management courses**: (maximum allowed biennially is fifteen (15) contact hours.)

(5) **Preparation**

**or presentation of a workshop/in-service**, awarded on a case by case basis for any one given presentation, by providing the board the following:

(a) proof of preparation may be an outline, copy of handouts, copy of overheads or transparencies, and

(b) a copy of the agenda showing name of licensee as presenter; (maximum allowed biennially is fifteen (15) contact hours);

(c) contact hours for the presenter will be calculated at three (3) times the number of hours of audience participation (e.g., a two hour workshop equals 6 hours for the presenter).

(6) **Certificate courses for an advanced specialty**, provide the board a certificate of completion signed by the program sponsor. (Maximum allowed biennially is thirty (30) contact hours.)

(7) **Reading journal articles**, provide the board the following:

- (a) title of article and journal;
- (b) author and author's credentials'; and
- (c) summary (subject of article, what was learned, and how it relates to the physical therapy scope of practice or the licensee's position; (maximum allowed per article is one-half (.5) contact hour); (maximum allowed biennially is fifteen (15) contact hours).

(8) **Conducting physical therapy research**, provide the board the following:

- (a) title and description of research project, including brief timeline;
- (b) names of other persons involved in project (i.e., co-investigators or supervisors);
- (c) a brief statement indicating how participation in the project is related to the licensee's present or future position in the field of physical therapy;
- (d) a brief statement indicating how participation in the project is benefiting the applicant's therapy skills or research skills; and
- (e) provide a copy of the research report (if project has been completed); (if report is incomplete), credit will be allowed by providing the listed information or by receipt of the college transcript; (the board will determine the number of contact hours allowed); (maximum allowed biennially is thirty (30) contact hours).

(9) **Home study**

**courses**, awarded by providing the board with the following:

- (a) certificate of completion;
- (b) course schedule;
- (c) learning outcomes (objectives); and
- (d) name of instructor and credentials; (maximum allowed biennially is [~~fifteen (15)~~ thirty (30)] contact hours).

(10) **Internet courses**, awarded by providing the board with the following:

- (a) certificate of completion;
- (b) course schedule;
- (c) learning outcomes (objectives); and
- (d) name of instructor and credentials; (maximum allowed biennially is [~~fifteen (15)~~ thirty (30)] contact hours).

(11) **Alternative medicine seminars**, provide the board a letter from the licensee explaining how the course relates to the physical therapy scope of practice. The board will approve these courses on a case by case basis.

(12) **Courses where certificates of attendance are not issued**, provide the board the following:

- (a) a canceled check for the course registration fee (submit copy of front and back of check);
- (b) proof of transportation (i.e., copy of plane ticket and hotel receipt); and
- (c) list of courses attended and hours attended (i.e., copy descriptions of courses and hours from program agenda).

(13) **Credit for supervising a student in clinical education**, provide the board with a copy of the cover and signature page (with student's name blacked out to maintain confidentiality) of the student evaluation completed by the licensee-supervisor. One (1) continuing education contact hour may be approved for each forty (40) contact hours of supervision in clinical education. The maximum number of continuing education contact hours approved for supervision in clinical education is [~~sixteen (16)~~ fifteen (15)] contact hours biennially.

(14) **Residencies, fellowships, and examinations.**

- (a) Successful completion of a specialty examination may be submitted for continuing education consideration. A list of the specialty examinations that qualify for continuing education will be maintained

by the board. The maximum number of continuing education contact hours is thirty (30) biennially.

(b)

Successful completion of an American physical therapy association (APTA) credentialed residency or fellowship program may be submitted for continuing education consideration. The maximum number of continuing education contact hours is thirty (30) biennially.

(c)

Successful completion of an examination of the federation of state boards of physical therapy pertaining to continued competence may be submitted for continuing education consideration. The maximum number of continuing education contact hours is thirty (30) biennially.

(15) **The**

**American physical therapy association code of ethics for physical therapists and standards of ethical conduct for physical therapist assistants**, online course or live program, awarded by providing the board with the following:

(a)

certificate of completion;

(b)

course schedule;

(c)

learning outcomes (objectives); and

(d)

name of instructor and credentials; (the maximum number of contact hours awarded will be accepted).

(16) **Education**

**presentations on state and federal legislative updates, and APTA house of delegates at NMAPTA business meetings**, awarded by providing the board with the following:

(a)

proof of attendance;

(b)

outline of agenda; and

(c)

name of instructor and instructor's credentials; (maximum allowed biennially is eight (8) contact hours or four (4) contact hours annually).

**E. Ineligible activities**

include, but are not limited to:

(1) orientation

and in-service programs dealing with organizational structures, processes, or procedures;

(2) meetings for

purposes of policy making;

(3) annual

association, chapter, district, or organizational and non-educational meetings;

(4) entertainment

or recreational meetings or activities;

(5) committee

meetings, holding of offices, serving as an

organizational delegate;

(6) visiting

exhibits; and

(7) CPR

education.

[16.20.8.12 NMAC - Rn , 16.20.8.9 NMAC, 08-01-09; A, 08-16-10; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.9 NMAC, Sections 8 and 10, effective 09-30-2014

**16.20.9.8 EQUIVALENT:**

The foreign-educated applicant must have graduated from a physical therapist [education] educational program that prepares the applicant to practice without restriction in the United States. This includes coursework in those elements of practice that are necessary for autonomous practice such as determining a patient's diagnosis for physical therapy and managing a patient's care within healthcare systems found in the United States. The coursework content should be substantially equivalent to coursework completed by graduates of accredited programs in the United States. Substantially equivalent means the applicant has satisfied or exceeded the minimum number of credits required in general and professional education needed for a U.S. first professional degree in physical therapy. Substantial equivalency in coursework content, as well as, required semester credits is determined by a board-sanctioned coursework evaluation tool (CWT) adopted by the federation of state boards of physical therapy (FSBPT). The appropriate CWT means the latest edition CWT that applies to the time the foreign educated physical therapist graduated from his or her physical therapy program.

[03-29-83; 02-19-88; 01-28-93; 06-30-94; Rn, 16 NMAC 20.10, 12-15-97; 16.20.9.8 NMAC - Rn & A, 16 NMAC 20.9.8, 08-31-00; A, 02-15-04; A, 1-12-08; A, 09-30-14]

**16.20.9.10 CURRENT LICENSE:**

A. Foreign-educated applicants must show evidence of an active, valid license in good standing, without limitation, or other current authorization to practice physical therapy from an appropriate authority in the country where the foreign-educated applicant was educated or eligible for licensure. Original documentation must be sent directly to

the board by the licensure authority in the country of education (documents handled by a courier service or third party will not be accepted). All documentation must be in English or accompanied by a certified English translation.

B. Foreign-educated

applicants who have been licensed and have practiced in good standing for a minimum of one year in another state, in the United States, will not be required to provide proof of a license from their country of education. Proof of licensure will be required from each state [the applicant has been licensed in:] in which the applicant has been licensed. Such proof of licensure must be received by the New Mexico board directly from the state boards where currently and previously licensed.

[1-28-93; 06-03-94; 09-30-95; 11-30-95; Rn & A, 16 NMAC 20.10, 12-15-97; 16.20.9.10 NMAC - Rn, 16 NMAC 20.9.10, 08-31-00; A, 03-02-06; A, 09-30-14]

**NEW MEXICO  
REGULATION AND  
LICENSING DEPARTMENT  
PHYSICAL THERAPY BOARD**

This is an amendment to 16.20.11 NMAC, Sections 6, 11, 13, and 14, effective 09-30-2014

**16.20.11.6 OBJECTIVE:** The objective of Part 11 of Chapter 20 is to establish the procedures for filing complaints and taking disciplinary actions against licensed physical therapists and physical [therapy] therapist assistants, applicants for such licensure and unlicensed persons engaging in the practice of physical therapy.

[16.20.11.6 NMAC - N, 1-12-08; A, 9-30-14]

**16.20.11.11 COMPLAINT COMMITTEE:**

A. The board chair will appoint a complaint committee consisting of at least one member of the board, who will chair the committee. The board chair may also appoint to the complaint committee the board administrator or a complaint manager.

B. The complaint committee will handle complaints in a confidential manner as required by law.

C. The complaint committee will review all complaints received by the board and make recommendations for disposition of the complaint to the full board in executive session.

D. No complaint committee meeting will be held without the presence of the board member.



E. A complaint committee member who believes he or she is not capable of judging a particular complaint fairly on the basis of its own circumstances will not participate; another professional member will be appointed by the chair to serve as committee chair for the complaint being considered.

F. For any complaint which the complaint committee reasonably anticipates may be referred to the board for consideration of the issuance of a notice of contemplated action, the respondent will be provided a copy of the complaint and will be allowed a reasonable time in which to respond to the allegations in the complaint.

G. The foregoing notwithstanding, the complaint committee will not be required to provide the respondent with a copy of the complaint, or with notice of the filing of a complaint or any related investigation, prior to the issuance of a notice of contemplated action if the committee determines that disclosure may impair, impede or compromise the efficacy or integrity of the investigation.

H. If the complaint committee determines that further information is needed, it may issue investigative subpoenas pursuant to the Uniform Licensing Act; it may employ an investigator, experts, or other persons whose services are determined to be necessary to assist in the processing and investigation of the complaint. The complaint committee will have independent authority to employ such persons without prior approval of the board. The board administrator will determine budgetary availability and will contract for investigative services.

I. Upon completion of its review or investigation of a complaint, the complaint committee will present a summary of the case to the board for the purpose of enabling the board to decide whether to proceed with the case or to dismiss the case. ~~[The summary will be identified by complaint number]~~ A complaint number will identify the summary without identifying the complainant(s) or respondent(s) by name. [16.20.11.11 NMAC - N, 1-12-08; A, 9-30-14]

#### **16.20.11.13 SETTLEMENT AGREEMENT:**

A. The board may enter into a settlement with the licensee or registrant as a means of resolving the complaint.

B. Any proposed settlement agreement must be approved by the board, and must also be approved by the respondent, upon a knowing and intentional waiver by the respondent of his/her right to a hearing as provided by the Uniform Licensing Act.

C. ~~[The settlement agreement must be signed by either the licensee's attorney or the licensee]~~ The licensee's attorney must sign the settlement agreement or the licensee must acknowledge that he or she has been advised to seek the advice of an attorney. [16.20.11.13 NMAC - N, 1-12-08; A, 9-30-14]

#### **16.20.11.14 NOTICE OF CONTEMPLATED ACTION:**

A. All disciplinary proceedings will be conducted in accordance with the Uniform licensing Act.

B. The board chair, or his/her designee, will serve as hearing officer for disciplinary proceedings for the purpose of administering pre-hearing procedural matters. The hearing officer will be fully authorized to make all necessary procedural decisions on behalf of the board, including, but not limited to, matters related to discovery, continuances, time extensions, amendment, pre-hearing conferences, and proposed findings of fact and conclusions of law.

C. The hearing officer may make such orders as he or she determines may be necessary to implement the authority conferred by Subsection B of 16.20.11.14 NMAC above, including but not limited to discovery schedules, pleading schedules, and briefing schedules.

D. No party will engage in ex-parte communications with the hearing officer or any member of the board in any matter in which a notice of contemplated action has been issued.

E. Licensees and registrants who have been found culpable and sanctioned by the board will be responsible for the payments of all costs of the disciplinary proceedings.

F. Following the board's order for suspending or revoking the license, any license or registration, including a wall certificate, issued by the board and subsequently suspended or revoked will be promptly returned to the board office, but no later than 30 days of receipt of such order, by the licensee or registrant of the board's order suspending or revoking the license. [16.20.11.14 NMAC - N, 1-12-08; A, 9-30-14]

### **NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION**

The Workers' Compensation Administration is repealing 11 NMAC 4.1, Workers' Compensation - General Provisions effective October 1, 2014. It will be replaced with 11.4.1 NMAC, Workers' Compensation - General Provisions, effective October 1, 2014.

The Workers' Compensation Administration is repealing 11 NMAC 4.4, Workers' Compensation - Claims Resolution effective October 1, 2014. It will be replaced with 11.4.4 NMAC, Workers' Compensation - Claims Resolution effective October 1, 2014.

The Workers' Compensation Administration is repealing 11 NMAC 4.5, Workers' Compensation - Enforcement and Administrative Investigations effective October 1, 2014. It will be replaced with 11.4.5 NMAC, Workers' Compensation - Enforcement and Administrative Investigations effective October 1, 2014.

### **NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION**

#### **TITLE 11 LABOR AND WORKERS COMPENSATION CHAPTER 4 WORKERS' COMPENSATION PART 1 GENERAL PROVISIONS**

**11.4.1.1 ISSUING AGENCY:** Workers' Compensation Administration (WCA). [11.4.1.1 NMAC - Rp, 11 NMAC 4.1.1, 10/1/2014]

**11.4.1.2 SCOPE:** These rules govern all parties involved in claims arising under the Workers' Compensation Act. [11.4.1.2 NMAC - Rp, 11 NMAC 4.1.2, 10/1/2014]

**11.4.1.3 STATUTORY AUTHORITY:** The director is authorized by Section 52-5-4 NMSA 1978 (Repl. Pamp. 1991), to adopt reasonable rules and regulations to implement the legislative purposes of the Workers' Compensation Act. The Workers' Compensation Act specifically directs the adoption of definitions for the phrases "bad faith" and "unfair claims processing" in Section 52-1-28.1 NMSA 1978 (Repl. Pamp. 1991). The rules on record confidentiality are adopted pursuant to Section 52-1-21 NMSA 1978 (Repl. Pamp. 1991). [11.4.1.3 NMAC - Rp, 11 NMAC 4.1.3, 10/1/2014]

**11.4.1.4 DURATION:** Permanent. [11.4.1.4 NMAC - Rp, 11 NMAC 4.1.4, 10/1/2014]

**11.4.1.5 EFFECTIVE DATE:** October 1, 2014, unless a later date is cited at the end of a section. [11.4.1.5 NMAC - Rp, 11 NMAC 4.1.5,

10/1/2014]

**11.4.1.6 OBJECTIVE:** This part defines words and phrases frequently used in the rules adopted by the director and also establishes rules for review of agency records.

[11.4.1.6 NMAC - Rp, 11 NMAC 4.1.6, 10/1/2014]

**11.4.1.7 DEFINITIONS:** The definitions adopted below shall apply to all WCA rules unless expressly indicated otherwise in a specific part of these rules.

**A. "Act"** means collectively: the Workers' Compensation Act, the Workers' Compensation Administration Act, the Subsequent Injury Act, and the Occupational Disease Disablement Law, Sections 52-4-1 to 52-4-5 NMSA 1978 (Repl. Pamp. 1991). This definition includes prior law applicable to the particular facts of the claim.

**B. "Administration"** means the workers' compensation administration (WCA).

**C. "Bad faith"** means conduct in the handling of a claim by any person that amounts to fraud, malice, oppression or willful, wanton or reckless disregard of the rights of any party.

**D. "Cause"** means any and all proceedings before the WCA pertaining to the same disease or accidental injury and assigned the same file number by the clerk of the administrative court.

**E. "Claim"** means any allegation of entitlement to benefits or relief under the act, which has been communicated to the employer by the giving of notice as required by the act.

**F. "Clerk"** (also referred to as clerk of the administrative court or clerk of the WCA) means any individual assigned by the director to oversee the filing of claims and records with the WCA.

**G. "Complaint"** means a written request for workers' compensation benefits or any relief under the Act, filed on a mandatory form with the clerk of the WCA by a worker, employer, insurance carrier or the uninsured employers' fund.

**H. "Director"** means the director of the WCA.

**I. "Employer"** means, collectively, unless otherwise stated: an employer subject to the act; a self-insured entity, group or pool; a workers' compensation insurance carrier or its representative; or any authorized agent of an employer or insurance carrier, including any individual owner, chief executive officer or proprietor of any entity employing workers.

**J. "Health care provider"** (also referred to in the rules as "HCP") means any person, entity or facility

authorized to furnish health care to an injured worker pursuant to Section 52-4-1 NMSA 1978 (Repl. Pamp. 1991), including any provider designated pursuant to Sections 52-1-49 or -51 NMSA 1978 (Repl. Pamp. 1991) and may include a provider licensed in another state if approved by the director, as required by the act.

**K. "IME"**, or independent medical examination, means a medical examination of a worker, by a provider other than a previously designated health care provider, upon whom the parties have agreed or the judge has appointed according to the act.

**L. "Judge"** means a workers' compensation judge appointed by the director pursuant to Section 52-5-2 NMSA 1978 (Repl. Pamp. 1991).

**M. "Mediation conference"** means a mandatory conference at which all parties named in the complaint shall appear and present their positions to the mediator.

**N. "Mediator"** means a director's designee, who will evaluate and attempt to resolve a complaint by holding a mediation conference and issuing a recommendation for resolution of the complaint.

**O. "Medical records"** means:

- (1) all records, reports, letters, and bills produced or prepared by a HCP relating to the care and treatment rendered the worker;
- (2) all other documents generally kept by the HCP in the normal course of business relating to the worker, including, but not limited to, clinical, nurses' and intake notes, notes evidencing the patient's history of injury, subjective and objective complaints, diagnosis, prognosis and/or restrictions, reports of diagnostic testing, hospital records, logs and bills, physical therapy records and bills for services rendered.

**P. "Party"** may include any of the following:

- (1) an employer against whom a claim has been asserted by an injured or disabled worker;
- (2) an injured or disabled worker asserting a claim against an employer;
- (3) the uninsured employers' fund, if a claim has been asserted against it;
- (4) a health care provider named in a billing dispute or seeking qualification as an out-of-state provider; or
- (5) any other person or entity named in an administrative enforcement proceeding.

**Q. "Pending cause"** means any cause in which a party has filed a document with the clerk of the WCA within

the previous six months, and which has not yet been administratively closed by the clerk.

**R. "Person"** means any individual, association, organization, reciprocal or Lloyd's plan insurer, partnership, firm, syndicate, trust, corporation and every legal entity as defined in Section 59A-1-10 NMSA 1978 (Repl. Pamp. 1991).

**S. "Pleading"** means any document filed and endorsed by the clerk.

**T. "Rules of civil procedure"** means the Rules of Civil Procedure for the district courts, as adopted by the supreme court of New Mexico.

**U. "Rules of evidence"** means the Rules of Evidence as adopted by the supreme court of New Mexico.

**V. "Rules of the WCA"** means rules enacted by the WCA and cited as 11.4 NMAC.

(1) These rules are organized by title, chapter, part, section, paragraph and subparagraph.

(2) For ease of use, these rules may be referred to in writing and speech by part, section, paragraph and subparagraph.

**W. "Unfair claims processing"** means any practice, whether intentional or not, which unreasonably delays or prolongs the payment of benefits at a rate not consistent with the act. "Unfair claims processing" is a less severe violation than "bad faith" and includes, but is not limited to, any and all of the following practices with respect to claims, by an employer, worker or other person:

(1) knowingly misrepresenting pertinent facts relating to workers' compensation benefits or failing to disclose facts material to a workers' compensation claim;

(2) failing to acknowledge and act promptly upon communications with respect to claims;

(3) failing to adopt and implement reasonable standards for the prompt investigation and processing of claims;

(4) failing to affirm or deny coverage of claims within a reasonable time after a request for payment of benefits has been submitted to an employer;

(5) not attempting in good faith to develop prompt, fair and equitable settlements of claims in which liability has become clear;

(6) compelling litigation to recover amounts due by offering substantially less than the amounts ultimately recovered in actions brought by similarly situated workers;

(7) initiating litigation when benefits are currently being

paid at the maximum rate of entitlement under the act;

(8) soliciting, accepting or obtaining a complete release of liability in exchange for an acceleration of benefits, or discounting an acceleration of benefits, where such an acceleration is not made pursuant to a lump sum payment approved by a judge; and

(9) failing to timely pay authorized and undisputed medical bills.

**X. "Wage records"** means all records evidencing all wages, commissions, overtime pay, gratuities, meals, board, rent, housing or lodging received from any employer during all time periods relevant to the act.

**Y. "Worker"** means an injured or disabled employee. [11.4.1.7 NMAC - Rp, 11 NMAC 4.1.7, 10/1/2014]

**11.4.1.8 CONFIDENTIALITY:**

**A.** All records of the WCA are confidential except:

(1) as provided in NMSA 1978, Section 52-5-21;

(2) records required to be released by order of a court of competent jurisdiction;

(3) the identity of the insurance carrier for a particular employer, the fact that the employer is certified as a self-insurer or the fact that the administration has no record of compliance with the insurance requirement of the Act;

(4) any matter required to be made available to another state agency pursuant to statutes, joint powers agreements or memoranda of understanding; or

(5) as otherwise provided by law.

**B.** Procedure for requesting access to WCA records (both public and confidential records):

(1) Inspection of records will be allowed only during normal business hours.

(2) A written request to inspect must be submitted to the clerk. The written request to inspect shall indicate sufficient information to distinctively identify and retrieve the file to be inspected.

(3) The WCA shall charge a reasonable fee for copies of records, the amount of which shall be posted at the clerk's office and on the WCA website.

**C.** Right to inspect confidential WCA records:

(1) Once a disablement or accident occurs, any person who is a party to a claim arising from the disablement or accident shall have the right

to inspect all files relating to the accident or disablement, and all files relating to any prior accident, injury or disablement of the worker.

(2) The named party, representative or the attorney in a claim shall be required to provide acceptable proof of identity prior to being allowed to inspect confidential WCA records. Acceptable proof of identity shall be a driver's license or other identification bearing a photograph, name and address of the person requesting inspection. An attorney or other representative requesting confidential records on behalf of a party must show proof of the principal-agent relationship through a filed entry of appearance, a signed release or waiver, a signed power of attorney, written correspondence on law firm letterhead or through other reliable means.

(3) The clerk shall review the written request and determine if the person requesting the inspection has a right to inspect confidential WCA records.

(4) The clerk shall allow only authorized employees of the WCA, or parties to a claim, including their attorneys or other representatives, access to confidential WCA records.

[11.4.1.8 NMAC - Rp, 11 NMAC 4.1.8, 10/1/2014]

**HISTORY OF 11.4.1 NMAC:**

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

WCA 87-1, Workers' Compensation Self-Insurance, filed 6/22/87.

WCA 92-10, Workers' Compensation Administration Self-Insurance Rules, filed 2/24/92.

WCA 92.10, Workers' Compensation Administration Self-Insurance Rules, filed 10/30/92.

**History of Repealed Material:**

11 NMAC 4.1, General Provisions, filed 5/20/1996, Recompiled 11/30/2001, Repealed effective 10/1/2014.

**NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION**

**TITLE 11 LABOR AND WORKERS COMPENSATION  
CHAPTER 4 WORKERS' COMPENSATION  
PART 4 CLAIMS  
RESOLUTION**

**11.4.4.1 ISSUING AGENCY:** Workers' Compensation Administration.

[11.4.4.1 NMAC - Rp, 11.4.4.1 NMAC, 10/1/2014]

**11.4.4.2 SCOPE:** These rules apply to parties involved in claims arising under the Workers' Compensation Act (Act).

[11.4.4.2 NMAC - Rp, 11.4.4.2 NMAC, 10/1/2014]

**11.4.4.3 STATUTORY AUTHORITY:** Section 52-5-4 NMSA 1978 (Repl. Pamp. 1991), authorizes the director to adopt reasonable rules and regulations for effecting the purposes of the act.

[11.4.4.3 NMAC - Rp, 11.4.4.3 NMAC, 10/1/2014]

**11.4.4.4 DURATION:** Permanent.

[11.4.4.4 NMAC - Rp, 11.4.4.4 NMAC, 10/1/2014]

**11.4.4.5 EFFECTIVE DATE:** October 1, 2014, unless a later date is cited at the end of a section.

[11.4.4.5 NMAC - Rp, 11.4.4.5 NMAC, 10/1/2014]

**11.4.4.6 OBJECTIVE:** These claims resolution rules are a compilation of rules associated with WCA dispute resolution methods. Section eight (8) establishes rules for the ombudsman program. Section nine (9) contains general rules for all resolution processes and filing rules for the clerk. Section ten (10) outlines practices and procedures for informal resolution of claims. Section eleven (11) defines procedures for HCP dispute hearings and section twelve (12) establishes the rules for adjudication by a judge.

[11.4.4.6 NMAC - Rp, 11.4.4.6 NMAC, 10/1/2014]

**11.4.4.7 DEFINITIONS:** See 11.4.1.7 NMAC.

[11.4.4.7 NMAC - Rp, 11.4.4.7 NMAC, 10/1/2014]

**11.4.4.8 OMBUDSMAN RULES:**

**A.** The ombudsman shall provide information and facilitate communication regarding the act. The ombudsman is required to maintain a neutral position when providing information or facilitating communication. When responding to inquiries, an ombudsman shall:

(1) confer with workers, employers, insurers, HCPs or other interested persons;

(2) provide information or facilitate communication, when requested, about:



(a) individual rights and responsibilities established by the act;

(b) medical proof required to establish or deny the right to workers' compensation;

(c) HCP selection;

(d) mediation conferences and related forms and other administrative practices and procedures;

(e) determination of disability;

(f) the right to representation by a lawyer or the right to proceed as a pro se party; and

(g) other disputes arising under the act, except where prohibited by Subsection B of 11.4.4.8 NMAC;

(3) help workers, employers, insurers, HCPs or other interested parties complete mediation and HCP selection forms for submission to the administration;

(4) actively inquire into matters presented by workers, employers, insurers, HCPs or other interested persons. The ombudsman shall contact the parties involved and attempt to resolve the problem informally; and

(5) Refer all inquiries concerning uninsured employers to the WCA employer compliance bureau.

**B.** An ombudsman shall not:

(1) practice law or give legal advice;

(2) act as an advocate for any person;

(3) attend a mediation conference as a representative of a party;

(4) provide assistance to any party beyond mediation;

(5) provide assistance to a party represented by an attorney;

(6) discuss acceptance or rejection of a settlement offer or a recommended resolution with any person;

(7) be called as a witness in a mediation conference or adjudication proceeding before a WCA judge.

[11.4.4.8 NMAC - Rp, 11.4.4.8 NMAC, 10/1/2014]

**11.4.4.9 FORMS, FILING AND HEARING PROCEDURES:**

**A.** Requirements for filing with the clerk of the administrative court:

(1) All documents to be filed shall be legible, on 8 1/2 x 11 inch white paper, signed in black

ink, and shall include a caption with the name of each party and a descriptive title.

(2) A copy of all documents filed with the clerk shall be sent to the opposing party.

**B.** Computation of time: Any period of time prescribed or allowed by these rules shall be computed pursuant to the method set forth in the rules of civil procedure for the district courts, NMRA Rule 1-006.

**C.** Name of the insurer:

(1) The workers' compensation complaint, petition for lump sum payment or application to workers' compensation judge must indicate the name of the employer's insurance carrier or claims administrator, if self-insured. If the insurance carrier or claims administrator is not named, the cause shall not be referred for mediation or hearing.

(2) A party or representative may obtain the name of the insurance carrier by mailing or faxing a request to the employer compliance bureau of the WCA. The request must provide the name of the party making the request, date of the accident, and names of the worker and employer. The person requesting information may be required to provide proof of identification.

**D.** Time for filing of pleadings with the clerk:

(1) Pleadings will be accepted for filing only between 8:00 a.m. and 5:00 p.m., on business days. Pleadings received by fax or other methods of delivery after 5:00 p.m. shall be filed the next regular business day. Complaints submitted by mail shall be deemed filed, for purposes of the act, on the date postmarked.

(2) Faxed pleadings will be filed as the original by the clerk. The clerk may require confirmation of the fax transmission of a pleading. A faxed pleading must comply with requirements established in these rules.

**E.** Mandatory forms: Forms designated as mandatory by these rules shall be used when filing a pleading. The mandatory form may be reproduced or reprinted. Additional information may be provided at the end of the required text or by adding additional pages, with clear reference to the paragraph being supplemented.

**F.** Complete filing is required: The complaint shall be filed with a summons, and an executed authorization to release medical information if filed by the worker. The application to workers' compensation judge shall be filed with a summons, when no service of process has previously occurred in the cause. The clerk may accept an incomplete filing but shall not process the incomplete complaint, application or petition until all required

information or documents are submitted. A party must complete the filing within fifteen (15) days of being given notice from the clerk that the filing is incomplete or the clerk's office will issue a notice of administrative closure.

**G.** Service of process:

(1) The clerk shall serve the complaint to each named party by certified mail, domestic return receipt requested. Service may be accomplished by electronic mail for parties who have registered with the WCA. Service may be deemed complete upon filing. If service is not accomplished by certified mail, the clerk may have service performed by the county sheriff.

(2) The original pleading shall be filed with the clerk. The filing party must provide the clerk a copy of the complete filing for each named party.

(3) Application to workers' compensation judge, summons and notice of judge assignment, if applicable, shall be served by the clerk on each named party by certified mail, domestic return receipt requested. Service may be accomplished by electronic mail for parties who have registered with the WCA.

(4) The filing of a petition for a lump sum payment requires the assignment of a judge, if not previously assigned to the cause. The clerk shall issue a notice of judge assignment, unless waived. The petition and notice of judge assignment shall be served by the clerk upon each party by certified mail, domestic return receipt requested. Service may be accomplished by electronic mail for parties who have registered with the WCA.

**H.** Subpoenas: Unless otherwise stated herein, the issuance of subpoenas is governed by Supreme Court Rules Annotated 1986, 1-045. The clerk of the WCA may issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney authorized to practice law in New Mexico and who represents a party before the WCA, as an officer of the court, may also issue and sign a subpoena on behalf of the WCA.

**I.** File shall be segregated upon assignment to judge: Upon rejection of a recommended resolution, the clerk shall segregate the WCA file. The judge shall be provided only those documents file stamped by the clerk. All other documents will be placed in an administrative file by the clerk. The judge shall not have access to the administrative file.

**J.** Form of orders: Orders authorizing any type of monetary payment for benefits or professional fees, including awards for attorney's fees, shall specify the exact dollar amount and category of benefits awarded.

**K.** Copies made by clerk: The clerk may provide copies of pleadings or documents in WCA files to parties of record. Copies may be requested by completing a copy request form or by calling the clerk's office. The clerk shall charge a reasonable fee for each copy requested. If the requested copies are mailed, adequate postage for mailing must be paid to the clerk.

**L.** Notice of lien for child support: The clerk shall accept a notice of lien filed by the child support enforcement bureau of the New Mexico department of human services. The notice of lien shall state the worker's name and social security number, and the total dollar amount of the lien. The notice of lien shall include a copy of the district court order requiring the payment of child support by the worker.

**M.** Communications with WCA employees: WCA employees shall be addressed at all times in a courteous and respectful manner.

**N.** Appointment of interpreter:

(1) It is the responsibility of the parties to determine if interpretive services are necessary. The employer or the uninsured employers' fund when named and when an employer fails to do so shall be responsible for arranging for a qualified interpreter for the hearing or mediation conference and shall be responsible for the cost of the interpreter.

(2) An interpreter may be appointed by the judge, director, or mediator. The interpreter shall be a court-certified interpreter, except a non-certified interpreter may serve at mediation conferences.

**O.** Telephonic conference calls: The employer shall make all necessary arrangements and pay all costs incurred for telephonic conference calls. The director, judge, or mediator may appear telephonically for the conference call.

**P.** Withdrawal and substitution of counsel:

(1) The entry of appearance of an attorney or a firm for a party in a pending cause shall not be withdrawn without permission of the judge. If no judge has been assigned to the cause, the withdrawal must be approved by the director. A motion requesting withdrawal shall be filed with the clerk and shall indicate whether the client concurs with the motion.

(2) When a party changes counsel, a notice of substitution of counsel shall be filed with the clerk. A copy of the notice shall be mailed to each party. The notice shall contain the new attorney's mailing address, phone and fax numbers.

(3) The attorney of record shall be subject to notice of

hearings or other proceedings for six (6) months after the entry of the final order or accepted recommended resolution. After the expiration of six (6) months from the administrative closing date, the named party shall receive notice of any further proceedings in the cause. The clerk may require the party filing a pleading to serve a courtesy copy on the prior attorney of record.

**Q.** Return of records: A party who noticed a deposition may request the return of the original deposition after final disposition of the claim. The clerk may return a deposition or any exhibits tendered to the submitting party or its attorney. If no request for the deposition or exhibits is received, the deposition or exhibits will be destroyed. Notice of intent to destroy exhibits is published in the New Mexico bar bulletin.

**R.** WCA mandatory forms: The forms adopted by this rule are mandatory and must be fully and legibly completed by the filing party. Items on the mandatory forms may not be deleted, but additional information may be provided at the end of the text or by additional pages with clear reference to the paragraph being supplemented. The format for the forms is provided on the WCA website. The forms listed below have been adopted as mandatory forms:

- (1) workers' compensation complaint;
- (2) summons for workers' compensation complaint;
- (3) authorization to release medical information (HIPAA compliant);
- (4) form letter to health care provider (also referred to as form letter to HCP);
- (5) response;
- (6) notice of acceptance or rejection of recommended resolution;
- (7) notice of disqualification;
- (8) application to workers' compensation judge;
- (9) summons for application to workers' compensation judge;
- (10) subpoena or subpoena duces tecum;
- (11) request for setting;
- (12) notice of hearing;
- (13) HCP disagreement form; and
- (14) petition for lump sum payment.

**S.** Discovery: Upon the filing of a complaint and by written stipulation of the parties, good cause is presumed and, authorization granted, for the

following limited discovery:

- (1) the deposition of worker;
- (2) the deposition of an employer representative;
- (3) the deposition of any authorized health care provider;
- (4) the deposition of any provider of an independent medical examination.

[11.4.4.9 NMAC - Rp, 11.4.4.9 NMAC, 10/1/2014]

**11.4.4.10 MEDIATION RULES:**

**A.** Evaluation of complaints:

- (1) The director's designee, a mediator, shall evaluate all complaints for workers' compensation filed with the administration.
- (2) The director's designee, a mediator, shall evaluate the merits of every complaint for workers' compensation, including, but not limited to, jurisdiction, proper parties, compensability, extent of any benefits due the worker, and the strength or availability of any defenses. The mediator may also evaluate the compliance of the parties with the mediation rules.

**B.** Mandatory production:

- (1) No later than five (5) days before the mediation the parties shall exchange any and all:
  - (a) medical records;
  - (b) payroll records;
  - (c) witness statements; and
  - (d) any other documents related to a claim or defense.

(2) The documents outlined above do not need to be produced if they are unrelated to a claim or defense, have previously been produced or there is a good faith objection or privilege.

(3) The purpose of mandatory production is to insure the parties and the mediator have access to all pertinent information regarding the issues disputed in the complaint.

(4) The mandatory production shall be provided to the mediator by delivering it to the clerk of the court. Mandatory production delivered to the clerk of the court shall not be part of the case record, although parties may file a notice indicating compliance with the rule, and shall be destroyed by the WCA following issuance of the recommended resolution.

**C.** Mediation conferences:

- (1) Notice of the mediation conference shall be mailed



by certified mail, domestic return receipt requested, to the parties, accompanied by a copy of the complaint, summons and authorization to release medical information, at least ten (10) days before the mediation conference. Service may also be accomplished by electronic mail for parties who have registered with the WCA. Mediation conferences reset through the WCA electronic portal will result in notification via electronic mail to registered users.

(2) Responses:

(a) The respondent shall file a timely response not less than five (5) days prior to the mediation conference.

(b) The response shall include a short summary of reasons for denials of any benefits claimed, statements of facts and affirmative defenses.

(c) An answer, as set forth in Subsection D of 11.4.4.12 NMAC, may be filed in lieu of this response.

(3) Rescheduling and continuances: By agreement, the parties may reschedule a mediation to occur within 90 days of filing the complaint. Mediation conferences reset through the WCA electronic portal will result in notification via electronic mail to registered users.

(4) Mediation conference: The mediation conference shall be held at the workers' compensation administration building in Albuquerque, unless otherwise requested by the parties and agreed to by the assigned mediator. Parties to the conference who live outside of the Albuquerque area may appear via video conference equipment at one of the administration's regional offices. Mediation conferences may also be conducted telephonically with prior approval from the mediator.

(5) Amendments of caption/joiner of parties: The mediator may recommend an amendment to the caption of the complaint to correct an improperly named party or to reflect the joining of appropriate parties who otherwise have notice or attended the mediation conference.

(6) The purposes of mediation conferences and duties of mediator are:

(a) to bring the parties together and, with the use of mediation and other dispute resolution techniques, attempt to settle disputed issues by discussing the facts and applicable law pertaining to the complaint and by suggesting compromises or settlements;

(b) to define, evaluate, and make

recommendations on all issues remaining in dispute;

(c) to state an opinion of the strength of any argument or position, and the possible results if the complaint is tried by a judge;

(d) to issue a recommended resolution within sixty (60) days of the filing of the complaint;

(e) to identify all potential parties;

(f) to make a recommendation regarding attorney's fees; and

(g) to refer any violation of these rules or the act for administrative investigation, if appropriate.

(7) Conduct of mediation conferences:

(a) The conduct of the mediation conference shall be in the control of the mediator.

(b) The mediator shall be addressed in a courteous and respectful manner by all parties.

(c) Mediation conferences are informal meetings with no transcript of the proceedings. No motions practice shall be allowed. Conferences shall be conducted in a civil, orderly manner, with all presentation geared towards discussion and negotiation of disputed issues. Attorneys and other representatives of the parties shall be attired in an appropriate manner, suitable to a court proceeding.

(d) Employer and attorney, or a representative, if no attorney has entered an appearance, and worker and attorney, if any, shall appear in person at the mediation conference. The mediator may enter recommendations against any party failing, without excuse as determined by the mediator, to attend the conference.

(e) Appearances by a legal assistant, paralegal, or other agent or employee of the attorney, in lieu of a personal appearance by an attorney, are prohibited.

(f) This rule does not prohibit the appearance of an employer through an adjuster or third-party administrator, nor prohibit a worker from attending a mediation conference with an unpaid lay assistant.

(g) The attendance of any other person at the mediation conference is subject to the discretion of the mediator.

(h) All issues may be considered at the discretion of the mediator when consistent with the goals of economy and fairness, and when an opportunity can be granted for additional

response.

(i) The parties are encouraged to prepare written narratives and summaries to assist the mediator.

**D. Recommended resolutions:**

(1) The mediator shall issue the recommended resolution within sixty (60) days of the filing of the complaint unless the parties have stipulated to a waiver of the sixty (60) day requirement and the mediator approves. The mediator may allow additional time to supplement the file prior to issuance of the recommended resolution.

(2) The mediator shall serve a copy of the recommended resolution on the parties by certified mail, domestic return receipt requested, unless the parties have registered with the agency to receive electronic service and thereby waived their statutory right to service by certified mail.

(3) Receipt by the WCA of a certified mail domestic return receipt with a signature and date of receipt shall create a presumption of receipt by the party of the recommended resolution on the indicated date. Service by electronic mail will create a presumption of receipt upon transmission.

(4) Receipt by the WCA of a certified mail domestic return receipt with a signature, but without a date of receipt, shall create a rebuttable presumption of receipt of the recommended resolution on the fourth day following transmission of the recommended resolution by the WCA.

(5) Effect of recommended resolution:

(a) Parties shall timely file, within thirty (30) days of receipt of the recommended resolution, a notice of acceptance or rejection of recommended resolution. Failure to timely accept or reject the recommended resolution shall conclusively bind the parties to the recommended resolution. The thirty (30) day period begins on the date of receipt of the recommended resolution and ends on the date of actual receipt, by the clerk, of the notice of acceptance or rejection of recommended resolution. For purposes of this rule, mailing does not constitute actual receipt and no additional time shall be granted or allotted for mailed responses to the recommended resolution. Receipt by the clerk of a facsimile of notice of acceptance or rejection of recommended resolution shall constitute actual receipt.

(b) A rejection in whole or in part of a recommended resolution shall result in assignment to a judge for a new

determination of all issues in a formal hearing.

(c)

A rejection shall contain a statement of the party's reasons for rejecting the recommended resolution.

(d) The

judge shall have access to the recommended resolution.

(e)

Effect of acceptance or rejection: Once a party has filed an acceptance or a rejection of a recommended resolution, the party is bound to the acceptance or rejection, unless permitted to withdraw it by written order of the director. The party requesting leave to withdraw a previously filed acceptance or rejection shall submit a written motion and proposed order to the director, reciting good cause, within thirty (30) days following receipt by that party of the recommended resolution. The clerk may cancel any judge assignment when a rejection is withdrawn.

**E. Penalties:**

(1) Willful

failure or refusal to participate in the mediation process shall not preclude the issuance of a recommended resolution, and may constitute bad faith or unfair claims processing.

(2) The assigned

mediator, or any party, may refer any such violation for administrative investigation by the enforcement bureau.

(3) Failure to

comply with the mediation rules, including those requiring mandatory production of evidence prior to the mediation conference, or to cooperate with an inquiry of the enforcement bureau may subject a party to penalties pursuant to Sections 52-1-28.1, 52-1-54 and 52-1-61, NMSA 1978 (Repl. Pamp. 1991), and in accordance with 11.4.5 NMAC.

**F. Amendment**

of recommended resolution: The recommended resolution may be amended by a mediator or by the agreement of the parties within the time allowed for acceptance or rejection of a recommended resolution, which shall not be expanded or modified in any way by the issuance of an amended recommended resolution.

**G. Confidentiality:** Notes

of the mediator taken in conducting a mediation conference are not subject to discovery and shall not be admissible as evidence in any legal proceeding. [11.4.4.10 NMAC - Rp, 11.4.4.10 NMAC, 10/1/2014]

**11.4.4.11 HCP RULES:**

**A. HCP general provisions:**

(1) These rules

apply to claims governed by the 1990 amendments to the act.

(2) The assigned

judge shall decide HCP choice disputes. If no judge has been assigned, a judge shall be appointed by the clerk solely to resolve the HCP dispute.

(3) The HCP

judge appointed by the clerk is not assigned pursuant to Subsection C of Section 52-5-5 NMSA 1978 (Repl. Pamp 1991). The peremptory right to disqualify a judge allowed by Subsection D of Section 52-5-5 NMSA 1978 (Repl. Pamp. 1991), does not apply to the appointment of the HCP judge.

**B. HCP choice:**

(1) Emergency

care: The provision of emergency medical care shall not be considered a choice of a treating HCP by the employer or worker.

(2) Selection of

HCP:

(a)

The employer shall decide either to select the initial HCP or to permit the worker to select the initial HCP. The decision made by the employer shall be made in writing to the worker. Employer may communicate the decision to select the initial HCP or to permit the worker the selection by any method reasonably calculated to notify workers. The employer may use a wallet card, a poster stating the decision posted with the WCA poster, a flyer inserted semi-annually with pay checks, or any other method employer reasonably believes will be successful in alerting the worker.

(b)

If the decision of the employer is not communicated in writing to the worker, then the medical care received by the worker prior to written notification shall not be considered a choice of treating HCP by either party.

(c)

Medical treatment provided to the worker prior to the employer's written communicated decision to either select the HCP, or to permit the worker to select the HCP, shall be considered authorized health care, the cost of which shall be borne by the employer.

(d)

If a provider not licensed in New Mexico treats a worker, the employer must, upon receipt of the initial billing from that provider, either request approval of the out-of-state HCP pursuant to the act, or immediately notify the worker in writing that the provider is not acceptable pursuant to Section 52-4-1 NMSA 1978 (Repl. Pamp. 1991).

**C. Referrals by an**

authorized HCP:

(1) A referral by

an authorized HCP to another HCP shall be deemed a continuation of the selection of the referring HCP.

(2) The sixty (60)

day effective period allowed in Subsection

B of Section 52-1-49 NMSA 1978 (Repl. Pamp. 1991), is not enlarged by the HCP's referral.

**D. Notice of change of**

HCP:

(1) The sixty

(60) day period of initial HCP choice shall run from the date of first treatment or examination by, or consultation with, the initial HCP.

(2) The notice of

change of HCP shall provide:

(a)

name, address and telephone number of worker, employer and insurance carrier, if any;

(b) date

and county of accident;

(c)

nature of injury;

(d) the

names, addresses and telephone numbers of the current and proposed HCPs;

(e) the

signature of the party requesting the change of HCP; and

(f) the

following text: "your rights may be affected by your failure to respond to this notice; if you need assistance and are not represented by an attorney, contact an ombudsman of the WCA."

(3) After fifty

(50) days of the initial sixty (60) day period, the party denied the initial selection may give notice of change of HCP.

**E. Issuance of notice of**

change: The party seeking the change of HCP shall issue a notice of change of HCP. A copy of the notice shall be provided to the other party ten (10) days prior to provision of any medical treatment by the proposed HCP.

**F. Effective date of notice**

of change:

(1) The notice

of change shall be effective, unless an objection is filed with the clerk within three (3) days from receipt of the notice of change. A copy of the notice of change shall be attached to any objection filed with the clerk. If no objection is filed, the HCP declared on the notice of change form shall be designated as the authorized treating HCP and may begin treating the worker eleven (11) days after issuance of the notice of change.

(2) An objection

can be filed after the three (3) day period, but any bills incurred for medical treatment rendered after the effective date of the notice of change and prior to a ruling by the judge on the objection shall be paid by the employer. A party required to pay for medical treatment pursuant to this rule shall not be deemed to have waived any objections to the reasonableness or

necessity of the treatment provided.

**G. Responsibility for payment of HCP services:**

(1) The employer shall be responsible for all reasonable and necessary medical services provided by an authorized HCP from the date the notice of change is effective.

(2) The worker shall be responsible for any medical services rendered by an unauthorized HCP.

(3) The designation of an authorized HCP shall remain in effect until modified by agreement of the parties or by order of the judge.

(4) Effective July 1, 2013, all medical services rendered pursuant to recommended treatment contained in the most recent edition of the official disability guidelines™ (ODG) is presumed reasonable and necessary; there is no presumption regarding any other treatment.

**H. Reasonable and necessary disputes:** Disputes concerning the reasonableness and necessity of prescribed treatment may be brought before the administration pursuant to 11.4.7.13 NMAC.

**I. Hearing on objection to notice of change:** If an objection to notice of change of HCP is filed with the clerk, the objection shall be heard by the judge within seven (7) days from the filing of the objection. The judge may issue a minute order at the conclusion of the hearing on the objection.

**J. Request for change of HCP:** If a disagreement arises over the selection of a HCP, and the parties cannot otherwise agree, a request for change of HCP must be submitted to the clerk. The request for change of HCP may be submitted at any time, including the initial sixty (60) day period.

**K. Request for change of HCP form:**

(1) The request for change of HCP must state the specific reasons for the requested change.

(2) The request for change of HCP may suggest an alternative HCP's name.

**L. Burden of proof:** The applicant requesting a change of HCP must prove the authorized HCP is not providing the worker reasonable and necessary medical care. If the applicant fails to establish the provision of medical care is not reasonable, the request for change shall be denied.

**M. Hearing on request for change of HCP:** The request for change of HCP disagreement shall be heard by the judge within seven (7) days from the filing of the request for change of HCP. The judge

may issue a minute order at the conclusion of the hearing on the request for change. [11.4.4.11 NMAC - Rp, 11.4.4.11 NMAC, 10/1/2014]

#### **11.4.4.12 THE FORMAL HEARING PROCESS:**

**A. Application to judge:**

(1) Unless otherwise provided, all disputes under the act shall be pleaded on a complaint form, which shall be scheduled for mediation under 11.4.4.10 NMAC. A party may file an application to judge only for the following limited forms of relief:

(a) physical examination pursuant to Section 52-1-51 NMSA 1978 (Repl. Pamp. 1991);

(b) independent medical examination pursuant to Section 52-1-51 NMSA 1978 (Repl. Pamp. 1991);

(c) determination of bad faith, unfair claims processing, fraud or retaliation;

(d) supplemental compensation order;

(e) award of attorney fees;

(f) stipulated reimbursement agreement pursuant to Section 52-5-17 NMSA 1978;

(g) consolidation of payments into quarterly payments (not a lump sum under Section 52-5-12 NMSA 1978); or

(h) approval of limited discovery where no complaint is pending before the agency, including, but not limited to, approval of a communication to a treating health care provider when the parties cannot otherwise agree on the form or content.

(2) If any claim not enumerated in (1) (a) - (h) above is raised on an application to judge, the application shall be deemed a complaint and processed by the clerk under 11.4.4.9 NMAC and 11.4.4.10 NMAC.

(3) Except for an application seeking relief under Subparagraphs (e), (f) or (g) of Paragraph (1) of Subsection A of 11.4.4.12 NMAC above, an application to judge may not be filed if a complaint has previously been filed in the same cause, and the time period for acceptance or rejection of the recommended resolution has not yet expired. Any other claim for relief arising under Subsection A of 11.4.4.12 NMAC above during that time period shall be raised in the mediation process in accordance with 11.4.4.10 NMAC.

(4) Unless the relief sought is stipulated by both parties, the responding party shall file a response to application to judge within ten days of

receipt of an application. A response to application to judge may not raise new claims or issues unless enumerated in Subparagraphs (a) through (h) of Paragraph (1) of Subsection A of 11.4.4.12 NMAC above.

(5) All applications to a judge shall be accompanied by a proposed order or a request for setting, as appropriate, and by self-addressed stamped envelopes for all parties entitled to notice. Such hearings as necessary may be scheduled by the assigned judge.

**B. Approval of petition for lump sum:**

(1) All requests for approval of a lump sum shall be plead on the WCA mandatory petition form, which shall be signed and verified by the worker or his dependents pursuant to NMRA 1-011(B) or signed by the worker or his dependents before a notary public.

(2) Petitions under Subsection D of Section 52-5-12 shall also be signed by the employer/insurer or their representative or, where applicable, the UEF.

(3) Hearing. The lump sum hearing shall be for the purpose of determining that the agreement is voluntary, that the worker understands the terms, conditions and consequences of the settlement agreement or any release under Subsection D of Section 52-5-12 NMSA 1978, and that the settlement is fair, equitable and provides substantial justice to the parties.

(4) Any lump sum petition filed pursuant to this rule shall comply with Section 52-1-54 NMSA 1978 and counsel for the parties may concurrently file a petition for approval or award of attorney fees, if appropriate, to be heard in the context of the lump sum hearing.

(5) All petitions shall be accompanied by a summons, when a summons has not already issued in the case. All other petitions shall be accompanied by a request for setting and self-addressed, stamped envelopes for all parties entitled to notice. Such hearings will be promptly scheduled by the assigned judge.

**C. Assignment of judge:**

(1) Upon receipt of a timely rejection of a recommended resolution or application to judge, the clerk shall assign a judge to the cause and shall notify all parties of the judge assignment by certified mail, domestic return receipt requested. This notice shall be considered the initial notice of judge assignment.

(2) Each party shall have the right to disqualify a judge. To exercise the peremptory right to

disqualify a judge, a party must file a notice of disqualification of judge no later than ten (10) days from the date of filing of the notice of assignment of judge. The clerk shall assign a new judge to the cause and notify all parties by certified mail, domestic return receipt requested. A party who has not exercised the right of disqualification may do so no later than ten (10) days from the filing of the notice of reassignment of judge.

(3) No action may be taken by any judge on a cause until the expiration of the time for all parties to exercise the peremptory right to disqualify a judge. To expedite the adjudication process, the parties may file a stipulated waiver of the right to disqualify a judge, or a waiver of the ten (10) day period in which to disqualify a judge.

(4) Disputes related to the assignment, re-assignment, or disqualification of a judge shall be raised by written application to the director, which shall be filed with the clerk.

**D. Commencement of adjudication process and answer to complaint:** The adjudication process for complaints shall commence upon the clerk's receipt of a timely rejection of a recommended resolution. An answer to complaint shall be filed within twenty (20) days of date of filing of the initial notice of assignment of judge unless already filed in lieu of the response required under Paragraph (2) of Subsection C of 11.4.4.10 NMAC. The answer shall admit or deny each claim asserted in the complaint. Any affirmative defenses to the complaint shall be stated in the answer. The answer shall comply with the general rules of pleading set forth in the rules of civil procedure for the district courts of New Mexico.

**E. The assigned judge** may hold pre-trial conferences as necessary, establish appropriate deadlines, mandate evidentiary disclosures between the parties, approve formal discovery, and otherwise control all other aspects of the adjudication process in order to enable the prompt adjudication of the claim.

**F. Medical evidence:**  
(1) Live medical testimony shall not be permitted, except by an order of the judge.

(2) A form letter to HCP, completed by an authorized HCP, may be admitted into evidence. The employer shall pay the costs for completion of the form letter.

**G. Depositions:**  
(1) The parties should make a good faith effort to obtain a completed and signed form letter to HCP prior to setting the deposition of the HCP  
(2) Depositions shall be taken pursuant to Supreme Court

Rules Annotated 1986, 1-030. Reasonable notice shall be deemed to be not less than five (5) days prior to the date set for the deposition.

(3) The original deposition shall be kept by the party who noticed the deposition.

(4) Deposition testimony of authorized HCPs shall be admissible, in lieu of live testimony.

(5) The use of depositions shall otherwise be governed by Supreme Court Rules Annotated 1986, 1-032. A party intending to use a deposition shall notify the other party of the intended use at least ten (10) days prior to trial. Any objection to the use of the deposition shall be determined at the adjudication hearing.

**H. Written discovery procedures:** If authorized, interrogatories, request for production or inspection, and requests for admissions shall be governed by Supreme Court Rules Annotated 1986, 1-033, 1-034 and 1-036.

**I. Motions:** All motions, except in open court, shall be written and comply with Supreme Court Rules Annotated 1986, 1-007.1. Motions for summary judgment shall comply with Supreme Court Rules Annotated 1986, 1-056.

**J. Settlement/pre-trial conferences:** The judge shall have discretion to schedule settlement conferences or pre-trial conferences to expedite adjudication. A settlement conference with the assigned judge shall require the consent of all parties either on the record or in writing.

**K. Continuance of hearing:**  
(1) The continuance of an adjudication hearing shall be at the discretion of the judge for good cause shown.

(2) All discovery, disclosure and exchange deadlines shall be extended by the granting of a continuance unless otherwise ordered.

**L. Hearings:**

(1) Failure to appear at a hearing after proper notice and without good cause may result in the imposition of sanctions.

(2) The parties shall appear personally at the adjudication hearing, without the necessity of a subpoena. Unless excused by a judge, the parties shall appear personally or through their legal representatives at all other hearings properly noticed.

(3) All hearings shall be recorded by audio tape recording or by any other method approved by the director.

(4) Prior to commencement of the adjudication hearing, the parties shall confer with the court monitor to ensure that all exhibits are

properly marked. Any exhibit to be jointly tendered shall be marked and offered as a joint exhibit. All other exhibits shall be marked by party and exhibit number or letter. Depositions shall be marked as exhibits.

(5) Under exceptional circumstances and in the interest of justice, within ten (10) days of the close of the adjudication hearing, the judge has discretion to direct or allow supplementation of evidence.

**M. Additional rules:** Unless otherwise stated or necessarily implied in the preceding rules, the rules of evidence and the rules of civil procedure for the district courts of New Mexico shall apply to and govern proceedings within the adjudication process.

[11.4.4.12 NMAC - Rp, 11.4.4.12 NMAC, 10/1/2014]

#### **11.4.4.13 APPROVAL OF ATTORNEY'S FEES:**

**A. The award of attorney's fees** may be requested on an application to a judge. The application must contain sufficient information to determine if the fee requested is appropriate. The contested application should indicate the date and terms of any offers of settlement made; the present value of the benefits awarded the worker, including, but not limited to, medical expenses and past and future weekly benefits; the total number of hours reasonably expended by counsel to secure benefits for the worker; the hourly billing rate of counsel; and any other relevant information for the determination of fees.

**B. No attorney fees** shall be paid until the claim has been settled or adjudged. For purposes of the Workers' Compensation Act, settled or adjudged includes:

(1) the entry of a compensation order; or

(2) the acceptance by both parties of a recommended resolution; or

(3) an order granting or denying any petition or application when no other claims are pending before the administration; or

(4) the WCA has administratively closed the file; or

(5) when there is a good faith belief that all pending issues or questions have been resolved, whether or not the jurisdiction of the administration has been invoked.

[11.4.4.13 NMAC - Rp, 11.4.4.13 NMAC, 10/1/2014]

#### **11.4.4.14 SANCTIONS:**

**A. The judge may sanction** any party, attorney, or representative thereof, for conduct that interferes with



the orderly administration of the court or a hearing, including, but not limited to:

- (1) rejecting a recommended resolution without reasonable basis, or without reasonable expectation of doing better at formal hearing;
- (2) failing to obey a lawful order of the court;
- (3) failing to appear for a hearing or deposition; or
- (4) advancing a meritless position in order to harass or vex the opposing party.

**B.** The judge will conduct a separate hearing on the imposition of sanctions according to the procedures in this part.

**C.** As a sanction, the judge may do any or all of the following:

- (1) assess reasonable attorney's fees against a party pursuant to Section 52-1-54 NMSA 1978;
- (2) reduce the fees of an attorney for a party;
- (3) assess prejudgment interest from the date of the recommended resolution in the claim;
- (4) strike a claim or defense;
- (5) limit the evidence which may be introduced;
- (6) dismiss an action;
- (7) order the suspension or forfeiture of compensation benefits;
- (8) assess expenses and costs against a party; or
- (9) impose a civil penalty pursuant to Sections 52-1-28.1, 52-1-28.2, 52-3-45.1 or 52-3-45.2 NMSA 1978.

**D.** For patterns of misconduct beyond a single case, the judge may refer the matter to the enforcement bureau under 11.4.5 NMAC for further investigation, administrative prosecution and imposition of penalties.  
[11.4.4.14 NMAC - Rp, 11.4.4.13 NMAC, 10/1/2014]

#### **11.4.4.15 COURT AUTHORIZED RELEASE OF MEDICAL RECORDS:**

Any party or any authorized health care provider (HCP) may file a petition for court authorization to release medical records. Such petitions shall be allowed notwithstanding the provisions of any other rule, and shall be disposed of separate and apart from all rule provisions and procedures pertaining to resolution of other disputes arising from a claim for benefits.

**A.** The assigned workers' compensation judge (judge) shall decide medical record disputes. If no judge has been assigned, a judge shall be appointed

by the clerk upon the filing of a petition for court authorization to release medical records for the resolution of that matter only.

**B.** The judge appointed by the clerk is not assigned pursuant to Subsection C of Section 52-5-5 NMSA 1978 (1990). The peremptory right to disqualify a judge allowed by Subsection D of Section 52-5-5 NMSA 1978 (1993) does not apply. No party or authorized HCP may disqualify a judge appointed to hear a petition for court authorization to release medical records.

**C.** The judge will determine whether the protected health information in controversy is material to the resolution of any matter presently at issue or likely to be at issue in the administration of the claim, and shall order the release of protected health information upon a finding of materiality by a preponderance of evidence.

**D.** If a petition for court authorization to release medical records is filed with the clerk, the judge shall hear the petition within seven (7) days from the filing of the petition. The judge may issue a minute order at the conclusion of the hearing on the petition. If the judge does not issue a minute order, the judge shall issue an order not later than three (3) days after the conclusion of the hearing. A minute or formal order resolving the petition shall have the force of law with respect to the parties and to the authorized HCP.

**E.** If, after a judge has ordered the release of records pursuant to this rule, an HCP fails to provide records to a payer, the party which is to receive the records shall give the HCP (1) written notice of the obligation to produce the records and (2) an endorsed copy of the judge's order or minute order. If the records are not produced within five (5) days of the actual delivery of the notice, the payer's obligation to timely pay shall be tolled until the actual production of the records.

**F.** If any judge involved in the adjudication of the claim finds that the withholding of records of health information after an order to produce has obstructed the efficient administration or adjudication of a claim, then:

(1) Notice shall be given to the authorized HCP who has withheld records that have been ordered disclosed and a hearing shall be scheduled to determine if the withholding of records was unreasonable.

(2) If the judge finds after notice to the HCP and an opportunity to be heard that the continued withholding of records by the HCP is unreasonable, the director may find the HCP in violation of this rule and penalize

pursuant to Section 52-1-61 NMSA 1978 (1990).

[11.4.4.15 NMAC - Rp, 11.4.4.14 NMAC, 10/1/14]

#### **HISTORY OF 11.4.4 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:  
WCA 86-1, Informal Hearing Procedures, filed 5/26/87.  
WCD 89-1, Mediation Rules, filed 6/20/89.  
WCA 92-2, Workers' Compensation Administration Mediation Rules, filed 2/24/92.  
WCA 92.2, Rules Governing Mediation, filed 10/30/92.  
WCA 93.2, Rule Governing Mediation, filed 10/28/93.  
WCA 86-2, Formal Hearing Procedures, filed 5/26/87.  
WCD 89-2, Formal Hearing Rules, filed 6/20/89.  
WCA 92.3, Rules Governing Formal Hearings, filed 10/30/92.  
WCA 86-7, Attire, filed 5/26/87.  
WCD 89-7, Attire, filed 6/20/89.  
WCD 89-8, Workers' Compensation Division Forms, filed 6/20/89.  
WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 1/24/91.  
WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 5/29/91.  
WCA 92.1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/30/92.  
WCA 93.1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/28/93.

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

11.4.4 NMAC, Claims Resolution, filed 5/20/1996, Repealed effective 10/1/2014.

## **NEW MEXICO WORKERS' COMPENSATION ADMINISTRATION**

### **TITLE 11 LABOR AND WORKERS COMPENSATION CHAPTER 4 WORKERS' COMPENSATION PART 5 ENFORCEMENT AND ADMINISTRATIVE INVESTIGATIONS**

#### **11.4.5.1 ISSUING AGENCY:**

Workers' Compensation Administration.  
[11.4.5.1 NMAC - Rp, 11 NMAC 4.5.1, 10/1/2014]

**11.4.5.2 SCOPE:** Rules apply to any party to a claim arising under the act and any person receiving medical payments

from an employer under the act.

[11.4.5.2 NMAC - Rp, 11 NMAC 4.5.2, 10/1/2014]

#### 11.4.5.3 STATUTORY

**AUTHORITY:** Section 52-5-4 NMSA 1978 (Repl. Pamp. 1991), authorizes the WCA to adopt reasonable rules and regulations for effecting the purposes of the act. Section 52-1-28.1 NMSA 1978 (Repl. Pamp. 1991), authorizes the director to promulgate rules and regulations regarding the prohibition against bad faith and unfair claims processing. Section 52-5-1.3 NMSA 1978 (Repl. Pamp. 1991), empowers the director to investigate, penalize or refer allegations of fraud. Section 52-1-61 NMSA 1978 (Repl. Pamp. 1991), authorizes the director to penalize persons who violate the provisions of the act.

[11.4.5.3 NMAC - Rp, 11 NMAC 4.5.3, 10/1/2014]

#### 11.4.5.4 DURATION:

Permanent.

[11.4.5.4 NMAC - Rp, 11 NMAC 4.5.4, 10/1/2014]

#### 11.4.5.5 EFFECTIVE DATE:

October 1, 2014, unless a later date is cited at the end of a section.

[11.4.5.5 NMAC - Rp, 11 NMAC 4.5.5, 10/1/2014]

#### 11.4.5.6 OBJECTIVE:

The purpose of this rule is to provide a method for enforcement by the WCA of the prohibition against bad faith, unfair claims processing, fraud, and of any other obligation of a party or agent of a party under the act and the WCA rules and regulations.

[11.4.5.6 NMAC - Rp, 11 NMAC 4.5.6, 10/1/2014]

#### 11.4.5.7 DEFINITIONS:

**A.** "Enforcement Bureau" means the division of the WCA charged with investigating and prosecuting violations of the act or WCA rules.

**B.** See also 11.4.1.7 NMAC.

[11.4.5.7 NMAC - Rp, 11 NMAC 4.5.7, 10/1/2014]

#### 11.4.5.8 INITIATION OF INVESTIGATION:

**A.** Any person may bring an allegation of prohibited conduct under the act, including criminal fraud, bad faith, unfair claims processing, retaliation, or non-compliance with the requirements of the act, to the attention of the WCA's enforcement bureau.

**B.** Any party may initiate a charge of bad faith, unfair claims processing, or retaliation by the filing of a

complaint or an application to a judge.

**C.** The director may initiate an investigation of any act or pattern of action with potential for adverse impact upon the workers' compensation system by referring the matter for investigation to the enforcement bureau.

[11.4.5.8 NMAC - Rp, 11 NMAC 4.5.8, 10/1/2014]

#### 11.4.5.9 CONDUCT OF INVESTIGATIONS:

**A.** The enforcement bureau may serve a notice of pending investigation to appropriate persons or entities by hand delivery or certified mail, domestic return receipt requested, or by electronic mail for those parties registered with the WCA.

**B.** The notice of pending investigation shall identify, with reasonable specificity, the persons or entities subject to the investigation, and shall describe the alleged prohibited conduct.

**C.** Upon receipt of the notice of pending investigation, complainants and subjects must cooperate in the investigation of the charge. Upon request of the WCA, a party shall produce documentary evidence or other information related to a charge within the party's possession or control.

**D.** Upon receipt of the notice of pending investigation, complainants and subjects must make available any supervisor or employee for the purpose of permitting WCA personnel to take a statement regarding the charge.

[11.4.5.9 NMAC - Rp, 11 NMAC 4.5.9, 10/1/2014]

#### 11.4.5.10 ENFORCEMENT OF THE ACT BY THE DIRECTOR:

**A.** These rules establish a procedure for the administrative enforcement of the act by the director. These rules do not govern procedure for criminal prosecution by the WCA's enforcement bureau.

**B.** Administrative enforcement proceedings shall be presided over by the director or designee and shall be conducted with dignity, in a manner conducive to deliberation.

**C.** Administrative enforcement hearings shall be recorded by a certified court monitor in compliance with the rules governing the recording of judicial proceedings adopted by the New Mexico supreme court.

**D.** No right of peremptory disqualification: The peremptory right of disqualification does not apply to proceedings conducted under the provisions of this rule.

**E.** The rules of civil procedure and evidence shall apply where not inconsistent with the provisions of these

rules.

[11.4.5.10 NMAC - Rp, 11 NMAC 4.5.10, 10/1/2014]

#### 11.4.5.11 INITIATION OF ADMINISTRATIVE ENFORCEMENT PROCEEDINGS:

**A.** Commencement of action:

(1) An action may be commenced by the issuance of a notice of administrative enforcement proceeding by the enforcement bureau chief. The notice shall be delivered immediately to the director.

(2) The notice of administrative enforcement proceeding shall be in the form of a signed statement containing the name, address and phone number of the violator, a statement of facts, the specific violation charged and the specific rule or statutory provision violated.

**B.** Probable cause determination:

(1) A probable cause determination shall be made by the director in each case where a notice of administrative enforcement proceeding has been issued. The probable cause determination shall be made promptly, but in any event within thirty (30) days after the service of the notice.

(2) The director may make the determination of probable cause solely upon a paper review of the administrative file. The director may consider hearsay evidence from a credible source with a factual foundation.

(3) If the director determines no probable cause exists to believe a violation has been committed, the proceeding shall be dismissed and the notice of administrative enforcement shall not be filed with the clerk or served on any party.

(4) If the director determines probable cause exists, a finding of probable cause and a notice of proposed penalty indicating the maximum penalty shall be filed with the clerk along with the notice of administrative enforcement proceedings.

**C.** When the alleged violator is a party to a pending workers' compensation complaint and the director deems the alleged violations material to the issues raised in the pending complaint, the director shall file the finding of probable cause and notice of proposed penalty and the notice of administrative enforcement proceeding in the case file for the pending complaint and the enforcement proceedings shall be referred to the assigned workers' compensation judge for determination.

[11.4.5.11 NMAC - Rp, 11 NMAC 4.5.11, 10/1/2014]

**11.4.5.12 ADMINISTRATIVE ENFORCEMENT PROCEEDINGS BEFORE THE DIRECTOR:**

For every case not referred to a workers' compensation judge and upon the filing of the notice of administrative enforcement proceedings and finding of probable cause:

**A. SUMMONS:**

A summons shall be issued by the clerk, directed to the alleged violator and must contain:

(1) The name and street address of the WCA, the docket number of the case and the name of the person(s) the summons is directed to;

(2) A direction that the alleged violator shall appear in person before the director to respond to the charges and the time and place of the hearing;

(3) A notice that unless the alleged violator appears as directed, the maximum proposed penalty may be imposed; and

(4) The name, address, telephone number and e-mail address of the prosecuting attorney for the enforcement bureau.

**B. SERVICE OF THE SUMMONS:**

(1) The summons shall be served by the enforcement bureau by certified mail, domestic return receipt requested, or by other means, unless the director orders service in person.

(2) Service of the summons shall be completed no less than fifteen (15) days before the date the alleged violator is scheduled to appear for a hearing on the violation.

(3) The summons shall be served with endorsed copies of the notice of administrative enforcement proceeding and the director's finding of probable cause and notice of proposed penalty.

**C. SERVICE OF PAPERS:**

(1) Unless the director orders otherwise, every pleading subsequent to the service of the summons shall be served on the violator and filed with the clerk.

(2) When a party is represented by an attorney, service shall be made upon the attorney.

(3) Service shall be made either by mailing a copy by first class mail with proper postage or by handing a copy to the attorney or to the party, unless the director orders service by other means.

[11.4.5.12 NMAC - Rp, 11 NMAC 4.5.12, 10/1/2014]

**11.4.5.13 MOTIONS AND DISCOVERY:**

**A.** Unless otherwise stated in Part 5 or approved by the director, motion practice shall not be allowed in administrative enforcement proceedings.

**B.** The use of discovery is discouraged. Discovery may be approved in exceptional circumstances where justice demands.

[11.4.5.13 NMAC - Rp, 11 NMAC 4.5.15, 10/1/2014]

**11.4.5.14 SUBPOENAS:**

**A.** The issuance of subpoenas to compel attendance at the hearing shall be issued pursuant to the Supreme Court Rules Annotated 1986, 1-045. The clerk of the WCA may issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney authorized to practice law in New Mexico and who represents a party before the WCA, as an officer of the court, may also issue and sign a subpoena on behalf of the WCA.

**B.** Any objections to a subpoena shall be raised within five (5) days of actual receipt by filing a motion to quash with the WCA.

[11.4.5.14 NMAC - Rp, 11 NMAC 4.5.16, 10/1/2014]

**11.4.5.15 HEARING:**

**A.** Evidence shall be admitted in accordance with the rules of evidence. The hearing shall be conducted expeditiously, but each party shall be permitted to present their position amply and fairly.

**B.** The parties shall have the right to call and cross examine witnesses. Oath of witnesses shall be administered by the director.

**C.** Following the hearing, the director may orally announce the decision and enter the appropriate order.

**D.** The director may delay issuing the decision for a period not exceeding sixty (60) days if findings of facts and conclusions of law or briefs are to be submitted.

[11.4.5.15 NMAC - Rp, 11 NMAC 4.5.17, 10/1/2014]

**11.4.5.16 PENALTIES:**

**A.** If the director finds a violation of the act or these rules, a notice of penalty shall be filed. A notice of penalty shall contain sufficient facts to support the penalty, and the dollar amount of the penalty.

**B.** A party may request reconsideration of a notice of penalty by filing a motion for reconsideration within fifteen (15) days of service of the notice of penalty.

**C.** The director may file an action for enforcement of any final

penalty in the appropriate district court if payment is not made within thirty (30) days of entry of the notice of penalty or within fifteen (15) days of an order on a motion for reconsideration.

[11.4.5.16 NMAC - Rp, 11 NMAC 4.5.16, 10/1/2014]

**HISTORY OF 11.4.5 NMAC:**

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center: WCA 86-3, Evidentiary Rules, filed 5/26/87. WCA 89-3, Evidentiary Rules, filed 6/20/89. WCA 92.4, Evidentiary Rules, filed 10/30/92. WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 1/24/91. WCA 91-1, Miscellaneous Proceedings and Preliminary Questions of Fact, filed 5/29/91. WCA 92.1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/30/92. WCA 93-1, Rules Governing Miscellaneous Proceedings and Preliminary Questions of Fact, filed 10/28/93.

**History of Repealed Material:**

11 NMAC 4.5, Enforcement and Administrative Investigations, filed 5/20/1996, Recomplied 11/30/2001, Repealed effective 10/1/2014.

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## End of Adopted Rules Section

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## Other Material Related to Administrative Law

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**NEW MEXICO  
COMMISSION OF PUBLIC  
RECORDS  
ADMINISTRATIVE LAW DIVISION**

**NEW MEXICO REGISTER: NOTICE  
OF FEE INCREASE**

The Administrative Law Division, on behalf of the State Records Administrator, hereby gives notice that, effective October 15, 2014 and pursuant to amendments to 1.13.2.19 and 1.24.15.12 NMAC, the cost of publishing in the New Mexico Register will increase from **\$2.00 per columnar inch** to **\$2.50 per columnar inch**. The first issue that will be invoiced at the new rate will be Volume XXV, Issue 19 (published on October 15, 2014). The submittal deadline for that particular issue is October 1, 2014.

Copies of the amended rules pertaining to publication cost increase are available at the Administrative Law Division, State Records Center & Archives located at 1205 Camino Carlos Rey, Santa Fe, NM 87507 and on the Commission of Public Records website at: [www.nmcpr.state.nm.us/index.htm](http://www.nmcpr.state.nm.us/index.htm). Proposed rules can also be provided in various accessible formats.

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**End of Other Related Material  
Section**

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## Submittal Deadlines and Publication Dates 2014

Volume XXV	Submittal Deadline	Publication Date
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

## New Mexico Register Submittal Deadlines and Publication Dates Volume XXVI, Issues 1-24 2015

Volume XXVI	Submittal Deadline	Publication Date
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Issue Number 2	January 16	January 30
Issue Number 3	February 2	February 13
Issue Number 4	February 16	February 27
Issue Number 5	March 2	March 16
Issue Number 6	March 17	March 31
Issue Number 7	April 1	April 16
Issue Number 8	April 17	April 30
Issue Number 9	May 1	May 14
Issue Number 10	May 15	May 29
Issue Number 11	June 1	June 16
Issue Number 12	June 17	June 30
Issue Number 13	July 1	July 15
Issue Number 14	July 16	July 30
Issue Number 15	July 31	August 14
Issue Number 16	August 17	August 28
Issue Number 17	August 31	September 15
Issue Number 18	September 16	September 29
Issue Number 19	September 30	October 15
Issue Number 20	October 16	October 29
Issue Number 21	October 30	November 16
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