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# New Mexico Register

The official publication for all official notices of rulemaking  
and filing of proposed, adopted and emergency rules.

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## **The New Mexico Register**

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# New Mexico Register

Volume XXXI, Issue 1

January 14, 2020

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A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

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## Notices of Rulemaking and Proposed Rules

### AUDITOR, OFFICE OF THE STATE

#### NOTICE OF PROPOSED RULEMAKING AND PUBLIC HEARING

The Office of the State Auditor is in the process of amending 2.2.2.1 NMAC, *et seq.* (“Audit Rule”). The Audit Rule establishes policies, procedures, rules, and requirements for contracting and conducting financial audits, special audits, attestation engagements, performance audits, and forensic audits of governmental agencies of the state of New Mexico, and is governed by Sections 12-6-1 to 12-6-14 NMSA 1978 (“Audit Act”). The amendments to the Audit Rule are proposed pursuant to the Audit Act, Subsection A of Section 12-6-3 NMSA 1978.

Proposed amendments to the rule address the following: modifications to the definition of “Agency” to include joint power agreements; modifications to the definition of “Report” to include “special audit”; modifications to firm profile due date; modifications to the disqualification of firms; modifications for the approval/disapproval of unsigned contracts; modifications regarding independent public accountants’ (IPAs) independence requirements; modifications; modifications and new requirements related to the delivery and release of audit reports; modifications to the scope of annual financial and compliance audits; modifications to exit conference and related confidentiality issues; modifications regarding possible violations of criminal statutes in connection with financial affairs; modifications to requirements for school activity funds; modifications to GASBS 77 requirements; modifications to GASBS 75 requirements; modifications to continuing professional education requirements; modifications to special audit confidentiality requirements; modifications to the exemption from

financial reporting; modifications to the requirements related to the review of AUP reports and related workpapers; modifications and new requirements for special audits; modifications and new requirements for annual revenue reporting; modifications and new requirements for progress payments; modifications and new requirements related to report due dates, notification letters, and confidentiality; new requirements for audit findings; new requirements for procurement of IPA service; repeal of schedule of changes in assets and liabilities for agency funds. To the extent applicable, the full text for relevant technical information that served as a basis for proposed changes is available at [gasb.org](http://gasb.org) and at [gao.gov](http://gao.gov).

Copies of the full text of the proposed amendments to the Audit Rule are available at the Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507, and on the Office of the State Auditor’s website, <http://www.osanm.org>. The Office of the State Auditor will consider adopting the proposed new rule at a public hearing on February 17, 2020, at 1:30 p.m., at the Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507. Public comment is allowed at the public hearing on February 17, 2020. Please mail or deliver written comments on the proposed new rule to: Elise Mignardot, Director of Compliance and Quality Control, at the Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, New Mexico 87507, or by email at [Elise.Mignardot@osa.state.nm.us](mailto:Elise.Mignardot@osa.state.nm.us) between January 15, 2020 and February 17, 2020.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the public hearing, please contact the Office of the State Auditor at least one week prior to the

public hearing. Please contact Frank Valdez at 505-476-3841 or [Frank.Valdez@osa.state.nm.us](mailto:Frank.Valdez@osa.state.nm.us) if any such assistance is needed.

### ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT YOUTH CONSERVATION CORPS COMMISSION

#### NOTICE OF PROPOSED RULEMAKING

The Youth Conservation Corps Commission (Commission) hereby gives notice that the Commission will conduct a public hearing in Porter Hall on the first floor of the Energy, Minerals and Natural Resources Department, 1220 South St. Francis Drive, Santa Fe, NM 87505 on February 17, 2020 from 9:00am to 10:00am. The purpose of the public hearing will be to obtain input on the proposed amendment to 11.2.171.13 NMAC, The Youth Conservation Corps (YCC) Program and Outdoor Equity Grant (OEG) Programs. Oral and written comments will be accepted at the public hearing; and the hearings will be recorded.

The purpose of this proposed rule amendment is to bring the rule into conformance with the New Mexico Youth Conservation Corps Act, 9-5-B-10.1.F. which defines “applicant” for the purposes of entities eligible to receive OEG funding. The proposed amendment strikes Paragraphs (4) and (7) of Subsection A of 11.2.171.13 NMAC as these exceed the statutory authority, and re-number the section to reflect the deletions. There are no other proposed amendments or changes.

**Public comment period:** The Commission is currently accepting comments through 5:00pm, Monday, February 17, 2020. Interested individuals may submit written comments to Sarah Wood, via email

at sarah.wood@state.nm.us; fax (505) 988-7313; by postal mail to Youth Conservation Corps, 811 St. Michaels Drive, Santa Fe, New Mexico 87505; or by telephone at 505 988-9599. Individuals may also submit written or oral comments at the public hearing.

All comments will be posted to the Commission's website at <http://www.emnrd.state.nm.us/YCC/yccactrules.html> within three business days.

**Statutory Authority:** The Youth Conservation Corps Act, Sections 9-5B-1 to 9-5B-11 NMSA 1978 (1992, as amended through 2019), specifically authorizes the Commission to "adopt rules that are necessary for the proper administration of the New Mexico Youth Conservation Corps Act, including the outdoor equity grant program."

The proposed rule amendment is printed below. Copies of the proposed rule amendment may also be accessed on the Commission's website (<http://www.emnrd.state.nm.us/YCC/yccactrules.html>) or obtained from Sarah Wood, sarah.wood@state.nm.us (505) 988.9599.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Sarah Wood at (505) 988-9599 as soon as possible. The Department requires at least ten (10) days' advance notice to provide requested special accommodations.

**TITLE 11 LABOR AND WORKERS COMPENSATION  
CHAPTER 2 JOB TRAINING  
PART 171 THE YOUTH CONSERVATION CORPS (YCC) AND OUTDOOR EQUITY GRANT (OEG) PROGRAMS**

**11.2.171.13 OEG PROGRAM ELIGIBILITY**

**A.** The YCC Commission will accept applications from:

(1) A federally recognized sovereign tribal government within the state.

(2) A state agency.

(3) A local government agency.

~~[(4) A federal agency operating within the state.]~~

[(5)] (4) A non-profit organization with a 501(c) (3) internal revenue service designation operating within the state.

[(6)] (5) Any organization or agency with a 501(c) (3) fiscal sponsor.

~~[(7) A privately-owned New Mexico resident business.]~~

**B.** Programs must be consistent with the purposes of the outdoor equity grant program as described in the act; and may include, but are not limited to, programs that provide recreational opportunities and enhance outdoor skills and knowledge of activities such as bicycling, birdwatching, boating, camping, climbing, farming, fishing, flora and fauna identification, hang-gliding, hiking, horse-back riding, hot-air ballooning, hunting, jet skiing, mountain biking, mushrooming, nature study, off-highway vehicles, orienteering, paddling, rafting, ranching, rock-climbing, sandboarding, skiing, sledding, snowboarding, snowshoeing, and swimming.

[11.2.171.13 NMAC – N, 12/17/2019; A, 3/10/2020]

**MEDICAL BOARD**

**NOTICE OF PUBLIC RULE HEARING**

The New Mexico Medical Board will convene a regular Board Meeting on Thursday, February 20, 2020 at 8:30 a.m. and Friday, February 21, 2020 at 8:30 a.m. and conduct a Public Rule Hearing on Friday, February 21, 2020 at 10:20 a.m. at the New Mexico Medical Board office conference room, located at 2055 South Pacheco St., Bldg. 400, Santa Fe, NM 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 repealing and replacing 16.10.2 NMAC (Physicians: Licensure Requirements) and 16.10.9 NMAC (Fees). The Board will consider amending 16.10.14 NMAC (Management of Pain and Other Conditions with Controlled Substances) and 16.10.16 NMAC (Administering, Prescribing and Distribution of Medication). The Board will consider promulgating a new rule 16.10.22 (Naturopathic Doctors: Licensure and Practice Requirements). A copy of the proposed rules will available upon request from the Board office at 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, by phone (505) 476-7220, or on the Board's website at [www.nmmb.state.nm.us](http://www.nmmb.state.nm.us).

The hearing will be conducted in accordance with the Medical Practice Act, Section 61-6-5. B NMSA 1978, the Uniform Licensing Act Section 61-1-1 through 61-1-31 NMSA 1978, the State Rules Act, Section 14-4-5.3 NMSA 1978 and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views or arguments orally or in writing. The New Mexico Medical Board will consider all written comment on the proposed repeal and replacement of 16.10.2 NMAC and 16.10.9 NMAC; the amendments to 16.10.14 NMAC and 16.10.16 NMAC; and promulgation of new rule 16.10.16 NMAC that is submitted to the Board no later than 5:00 p.m. Friday, February 14, 2020. Comment must be sent to the New Mexico Medical Board, Attn: Sondra Frank, Esq., Executive Director, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505. All public comments may also be received via mail (Sondra.

frank@state.nm.us), or fax (505-476-7237) and will be posted on the Board's website at www.nmmb.state.nm.us within three days of receipt by the Board. All public comments will be made part of the official rule hearing record.

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 meeting or rule hearing, please contact Amanda Quintana at 505-476-7230 or AmandaL.Quintana@state.nm.us prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Executive director if a summary or other type of accessible format is needed.

#### NOTICE OF RULEMAKING

The New Mexico Medical Board may consider the following items of rulemaking at their February 21, 2020 Board meeting:

##### Repeal

16.10.2 NMAC Licensure Requirements	Physicians:
16.10.9 NMAC	Fees

##### Replacement

16.10.2 NMAC Licensure Requirements	Physicians:
16.10.9 NMAC	Fees

##### Amendment

16.10.14 Management of Pain and Other Conditions with Controlled Substances	
16.10.16 Administering, Prescribing and Distribution of Medication	

##### New Rule

16.10.22 Naturopathic Doctors: Licensure and Practice Requirements	
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#### **16.10.2 NMAC Physicians: Licensure Requirements**

##### **SYNOPSIS:**

The proposed replacement of 16.10.2 adds the licensure of out of state sports team physicians. The statutory authority for the New Mexico Medical Board's promulgation of this rule is found in the Medical Practice Act (NMSA 1978, Sections 66-6-1 to -35).

The purpose of the addition of licensure for out of state sports team physicians is the passage of Senate Bill 349 during the 2019 New Mexico Legislative Session. This addition to Part 2 allows for a limited license to be issued by the Board to physicians to provide care to team members and staff traveling with sports teams for a specific sporting event taking place in New Mexico.

#### **16.10.9 NMAC Fees**

##### **SYNOPSIS:**

The proposed replacement of 16.10.9 NMAC adds licensure fees for out of state sports team physicians and Naturopathic Doctors. The proposed replacement also adds licensure reinstatement fees for Anesthesiologist Assistants and Polysomnographic Technologists. There are some additional minor amendments to the reinstatement fee language for Physician Assistants and Genetic Counselors that make the rule consistent for all license types.

There is a proposal to change the fee from \$30.00 to \$37.00 for a license verification. The statutory authority for the New Mexico Medical Board's promulgation of this rule is found in the Medical Practice Act (NMSA 1978, Sections 66-6-1 to -35).

#### **16.10.14 NMAC Management of Pain and Other Conditions with Controlled Substances**

##### **SYNOPSIS:**

The proposed amendment to 16.10.14 NMAC updates the rule to require that a health care provider who prescribes, distributes or dispenses an opioid analgesic for the first time to a patient shall advise the patient of the risks of overdose and co-prescribe

an opioid antagonist for opioid prescriptions written for at least a five day supply. The statutory authority for the New Mexico Medical Board's promulgation of this rule is found in the Medical Practice Act (NMSA 1978, Sections 66-6-1 to -35).

The purpose of the amendment to Part 16 is to incorporate mandates set forth in Senate Bill 221 that was passed during the 2019 New Mexico Legislative Session.

#### **16.10.16 NMAC Administering, Prescribing and Distribution of Medications**

##### **SYNOPSIS:**

The proposed amendment to 16.10.16 is to correct a clerical error and take out "supervising physician" from "16.10.16.2 Scope: This part applies to physician assistants and their supervising physician." The statutory authority for the New Mexico Medical Board's promulgation of this rule is found in the Medical Practice Act (NMSA 1978, Sections 66-6-1 to -35).

During the repeal and replacement process for 16.10.16 NMAC in August of 2019 "supervising physician" was inadvertently left in the "Scope" of the rule.

#### **16.10.22 NMAC Naturopathic Doctors: Licensure and Practice Requirements**

##### **SYNOPSIS:**

The proposed new rule sets forth licensing and discipline requirements of Naturopathic Doctors by the New Mexico Medical Board. The statutory authority for the New Mexico Medical Board's promulgation of this rule is found in the Medical Practice Act (NMSA 1978, Sections 66-6-1 to -35) and in the Naturopathic Doctor's Practice Act (NMSA 1978, Sections 61-12G).

The purpose of this proposed new rule is to begin the licensing and regulation of Naturopathic Doctors as set forth by the passage of Senate Bill 135 during the 2019 New Mexico Legislative Session.



Specifically this rule provides duties for the Naturopathic Advisory Council, qualification for licensure as a naturopathic doctor, licensure process, scope of practice, practice limitations, process for disciplinary action, process for license expiration/renewal/change of licensure status, requirements for continuing medical education and exemption from licensure.

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**End of Notices of  
Rulemaking and  
Proposed Rules**

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## Adopted Rules

### Effective Date and Validity of Rule Filings

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

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**There are no Adopted Rules in this issue.**

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**Other Material Related to Administrative Law**


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**ENERGY, MINERALS AND  
NATURAL RESOURCES  
DEPARTMENT  
YOUTH CONSERVATION  
CORPS COMMISSION**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Youth Conservation Corps gives Notice of a Minor, Nonsubstantive Correction to its repeal statement to 11.2.171 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

The part number in repeal statement was changed from "11.171.2 NMAC" to "11.2.171 NMAC".

A copy of this Notification will be filed with the official version of the above rule.

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**ETHICS COMMISSION**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The State Ethics Commission gives Notice of a Minor, Nonsubstantive Correction.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the following rules:

**1.8.2.7 NMAC**

In Subsection B, the citation "NMSA 1978" was added in two places to conform to correct statutory citation style.

In Subsection E, the citation "NMAC" was added to conform to correct rule citation style.

**1.8.3.9 NMAC**

The citation "Subpart C..." was corrected to read "Subsection C..." to conform to correct statutory citation style in subparagraph (b) of paragraph (1) of Subsection A.

A copy of this Notification will be filed with the official version of each of the above rules.

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**HEALTH, DEPARTMENT  
OF**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Department of Health gives Notice of a Minor, Nonsubstantive Correction to its emergency rule: 7.8.4 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Numbers and abbreviations have been changed throughout the rule to conform to correct legislative style.

In Subsection G of 7.8.4.7 NMAC, removed extraneous language "Subsection 2 of..." before rule citation.

Subsection C of 7.8.4.38 NMAC was reformatted to remove

a paragraph (1) that did not have a paragraph (2).

In Subsection A of 7.8.4.48 NMAC, statutory citation was corrected to conform to correct legislative style.

In Subsection F of 7.8.4.60 NMAC, reference to "New Mexico" was removed and replaced with "state" to conform to correct legislative style.

In Subsection A of 7.8.4.65 NMAC, reference to "New Mexico" was removed and replaced with "state" to conform to correct legislative style.

In 7.8.4.66 NMAC, reference to "New Mexico" was removed as it related to state fire marshal to conform to correct legislative style. Subsection D of 7.8.4.366 NMAC was reformatted to remove a paragraph (1) that did not have a paragraph (2).

In 7.8.4.67 NMAC, reference to "New Mexico" was removed to conform to correct legislative style.

A copy of this Notification will be filed with the official version of the above rule.

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**HUMAN SERVICES  
DEPARTMENT  
MEDICAL ASSISTANCE  
DIVISION**
**NOTICE OF MINOR,  
NONSUBSTANTIVE  
CORRECTION**

The Human Services Department, Medical Assistance Division, gives Notice of a Minor, Nonsubstantive Correction to its amendment to 8.321.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection

D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

In 8.321.2.31 NMAC, the erroneous word “tdies” was corrected to “ties” on all electronic copies.

A copy of this Notification will be filed with the official version of the above rule.

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## PERSONNEL OFFICE

### NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The State Personnel Office gives Notice of a Minor, Nonsubstantive Correction to its amendment to 1.7.7 NMAC and 1.7.1 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

#### 1.7.7 NMAC:

The erroneous effective date of “01/10/2020” on the amendment was changed to “1/1/2020” to reflect the correct effective date of the amendment.

#### 1.7.1 NMAC:

There is extraneous and erroneous text in 1.7.1.13 NMAC “...department of the...” and “...and administration...” that have been removed from the section.

A copy of this Notification will be filed with the official version of each of the above rules.

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## PUBLIC SAFETY DEPARTMENT

### NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The Public Safety Department gives Notice of a Minor, Nonsubstantive Correction to its amendment to 10.2.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

The erroneous part number “200” was corrected to part number “2” on all electronic copies.

A copy of this Notification will be filed with the official version of the above rule.

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## End of Other Material Related to Administrative Law

# 2020 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXI, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 6</b>	<b>January 15</b>
<b>Issue 2</b>	<b>January 17</b>	<b>January 29</b>
<b>Issue 3</b>	<b>January 31</b>	<b>February 12</b>
<b>Issue 4</b>	<b>February 14</b>	<b>February 26</b>
<b>Issue 5</b>	<b>February 28</b>	<b>March 12</b>
<b>Issue 6</b>	<b>March 14</b>	<b>March 26</b>
<b>Issue 7</b>	<b>March 28</b>	<b>April 9</b>
<b>Issue 8</b>	<b>April 11</b>	<b>April 23</b>
<b>Issue 9</b>	<b>April 25</b>	<b>May 14</b>
<b>Issue 10</b>	<b>May 16</b>	<b>May 28</b>
<b>Issue 11</b>	<b>May 30</b>	<b>June 11</b>
<b>Issue 12</b>	<b>June 13</b>	<b>June 25</b>
<b>Issue 13</b>	<b>July 5</b>	<b>July 16</b>
<b>Issue 14</b>	<b>July 18</b>	<b>July 30</b>
<b>Issue 15</b>	<b>August 1</b>	<b>August 13</b>
<b>Issue 16</b>	<b>August 15</b>	<b>August 27</b>
<b>Issue 17</b>	<b>August 29</b>	<b>September 10</b>
<b>Issue 18</b>	<b>September 12</b>	<b>September 24</b>
<b>Issue 19</b>	<b>September 26</b>	<b>October 15</b>
<b>Issue 20</b>	<b>October 17</b>	<b>October 29</b>
<b>Issue 21</b>	<b>October 31</b>	<b>November 12</b>
<b>Issue 22</b>	<b>November 14</b>	<b>November 26</b>
<b>Issue 23</b>	<b>December 5</b>	<b>December 17</b>
<b>Issue 24</b>	<b>December 19</b>	<b>December 31</b>

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