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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 XXXII, Issue 22

November 30, 2021

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## Notices of Rulemaking and Proposed Rules

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rules *8.291.400 NMAC, Medicaid Eligibility, Affordable Care, 8.293.600 NMAC, Pregnant Women, Benefit Description, 8.294.600 NMAC, Pregnancy-Related Services, Benefit Description, 8.308.9 NMAC, Managed Care Plan, Benefit Package, 8.308.11 NMAC, Managed Care Plan, Transition of Care, 8.308.20 NMAC, Managed Care Plan, Reimbursement, 8.310.2 NMAC, Health Care Professional Services, General Benefit Description, and 8.326.3 NMAC, Case Management Services, Case Management Services for Pregnant Women and their Infants.*

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: November 30, 2021  
Hearing Date: December 30, 2021  
Adoption Date: Proposed as April 1, 2022

Technical Citations: American Rescue Plan Section 2021 Section 9812; 42 Code of Federal Regulations 435.170

#### The Department is proposing to amend the rules as follows:

##### Background

Section 9812 of the American Rescue Plan 2021 provides a new Medicaid State Plan option that allows states to extend the current 60-day postpartum period for pregnant women to 12-months. Section 9812 allows states to do the following:

1. Extends the current 60-day postpartum period for pregnant women to 12-months; and
2. provides full Medicaid benefits during the pregnancy and the 12-month postpartum period; and
3. allows for an implementation date of April 1, 2022; and
4. limits the new State Plan option to five years unless extended.

The Department through this proposed register is implementing the new State Plan option allowed in Section 9812. The Department is also adding 42 Code of Federal Regulation (CFR) 435.170 language to these rules regarding continuous eligibility for pregnant women.

#### **Implementation of a 12-month postpartum period for pregnant women is contingent upon legislative approval.**

Changes were made to Presumptive Eligibility (PE) rules to remove, revise, and add new language.

Changes were made to managed care rules to include that there are no age requirements to receive applied behavior analysis (ABA) services.

#### **8.291.400 NMAC**

Section 7 was updated to remove the word “alien” to be consistent with other rule changes. The term “alien” is being replaced with the term “non-citizen” throughout policy via a separate rule promulgation.

Section 13 regarding PE is updated to remove, revise, and add new language. New language is added that if an ongoing application is submitted at the time PE is granted or at any time during the approved PE period, the PE will remain open until the ongoing application is approved or denied.

A new Section 14 is added to include the continuous eligibility policy for pregnant women language found at 42 CFR 435.170 and the new 12-month postpartum provision. The

new provision requires the provision of full Medicaid coverage for the duration of the pregnancy including the 12-month postpartum period. These new provisions do not apply to presumptive eligibility periods. Continuous eligibility exceptions are due to client requested closure, the client moves out of state, or the client dies.

#### **8.293.600 NMAC**

Section 9 is updated to clarify that the pregnant women Medicaid category provides full Medicaid services during the pregnancy and the 12-month postpartum period.

Section 10 is updated to change the 60-day postpartum period to 12-months and reference the new continuous eligibility policy at 8.291.400.14 NMAC.

#### **8.294.600 NMAC**

Section 9 is updated to clarify that the pregnancy-related services Medicaid category provides full Medicaid services during the pregnancy and the 12-month postpartum period.

Section 10 is updated to change the 60-day postpartum period to 12-months and reference the new continuous eligibility policy at 8.291.400.14 NMAC.

#### **8.308.9 NMAC**

Section 19 is updated to include that there are no age requirements to receive ABA services.

#### Section 23

Paragraph (2) of Subsection C is updated to change the 60-day postpartum period to 12-months.

#### **8.308.11 NMAC**

##### Section 9

Paragraphs (1), (3) and (4) of Subsection D and Paragraph (2) of Subsection F are updated to change two-month postpartum period to 12-months.



**8.308.20 NMAC**

Section 9

Paragraph (4) of Subsection F is updated to change the two-month postpartum period to 12-months.

**8.310.2 NMAC**

Section 12

Paragraph (4) of Subsection A is updated to change the term “postnatal” to “postpartum” for rule consistency.

Section 13

Subsection N is revised to make postpartum one word.

**8.326.3 NMAC**

Sections 9 and 12 are updated to change 60 days postpartum to 12-months.

Changes have been made throughout all these rules to address formatting requirements.

The register for these proposed amendments to these rules will be available November 30, 2021 on the HSD web site at <https://www.hsd.state.nm.us/lookingforinformation/registers/> or at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have Internet access, a copy of the proposed rule may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement this rule effective April 1, 2022. A public hearing to receive testimony on these proposed rules will be held via conference call on **Thursday, December 30, 2021 at 10 a.m.**, Mountain Time (MT). **Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical

Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on December 30, 2021. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

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

**INFORMATION  
TECHNOLOGY,  
DEPARTMENT OF**

**NOTICE OF PROPOSED  
RULEMAKING**

**REPEAL AND REPLACEMENT  
OF 1.12.9 NMAC**

Pursuant to NMSA 1978, Sections 9-27-6(J) and 14-4-5.2, the New Mexico Department of Information Technology (DoIT) hereby gives notice of repeal and replacement of 1.12.9 NMAC, Project Certification of Technology Projects.

The repeal and replacement change the title of the Rule to *Certification of Information Technology Projects*; remove references to the no longer existing Information Technology Commission; update the statutory authority to refer to the New Mexico Department of Information Technology Act; remove several definitions not used in the Rule; add several new definitions; and update provisions delineating the information technology project certification process for executive agencies.

The purpose of the repeal and replacement is to update 1.12.9 NMAC to reflect the current information technology project certification process. 1.12.9 NMAC was enacted in 2005 – or two years prior to the creation of the Department of Information Technology in 2007 – and has not been updated since.

Pursuant to NMSA 1978, Section 9-27-6(E)(12), the Department of Information Technology Cabinet Secretary “shall . . . promulgate rules to ensure that information technology projects satisfy criteria established by the secretary and are phased in with funding released in phases contingent upon successful completion of the prior phase[.]” Further, Section 9-27-6(I)(5) authorizes “[t]he secretary [to] make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department . . . including . . . requirements for agency information technology projects and related plan, analysis, oversight, assessment and specifications.”

An electronic copy of this Notice and the full text of the proposed new rule

1.12.9 NMAC is available on DoIT's website - <https://www.doit.state.nm.us/newsreleases.html> and on the New Mexico Sunshine Portal - [https://statenm.secure.force.com/public/SSP\\_RuleHearingSearchPublic](https://statenm.secure.force.com/public/SSP_RuleHearingSearchPublic)

Hard copies of this Notice and the full text of the proposed new rule 1.12.9 NMAC are available at 715 Alta Vista, Santa Fe, NM 87505.

Written comments may be submitted via email to [epmo@state.nm.us](mailto:epmo@state.nm.us) and via regular mail to New Mexico Department of Information Technology, Attn: EPMO, P.O. Box 22550, Santa Fe, NM 87502-2550. Written comments must be received no later than 5 p.m. on December 30, 2021.

A public rule hearing will be held at 10 a.m. on January 4, 2022, via WebEx©. Members of the public may participate by:

videoconference –  
<https://nmdoit.webex.com/nmdoit/onstage/g.php?MTID=ea6cb142b89af3807281f54af1a91287e>  
 event number: 2488 102 8056  
 event password: RXp3mJkSP83

telephone –  
 1-408-418-9388 / access code: 2488 102 8056

Any individual with a disability in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Diane Rivera, IT Project Manager, [diane.rivera@state.nm.us](mailto:diane.rivera@state.nm.us) or (505) 795-4644 at least seven (7) days prior to the hearing.

**MEDICAL BOARD**

**NOTICE OF PUBLIC HEARING**

**Public Notice.** The New Mexico Medical Board (NMMB) gives notice that it will conduct a public rule hearing on January 12, 2022 at 3:00 p.m. (MDT). This rule hearing

is tentatively in person and can be accessed virtually. The purpose of the public hearing is to receive public input on the proposed amendments to 16.10.2 NMAC - Physicians: Physicians Licensure Requirements, 16.10.3 - Examinations, 16.10.4 NMAC - Continuing Medical Education, 16.10.5 - Disciplinary Power of the Board, 16.10.9 - Fees, 16.10.10 - Reporting of Settlements, Judgements, Adverse Actions & Credentialing Discrepancies, 16.10.11 - Physicians Supervising Pharmacist Clinicians, 16.10.14 - Management of Pain and Other Conditions with Controlled Substances, 16.10.15 - Physician Assistants: Licensure and Practice Requirements, and 16.6.1 - 16.6.11 NMAC - Naprapathic Practitioners. Physical Hearing Location is 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505.

Join Zoom Meeting  
<https://us02web.zoom.us/j/83140102469?pwd=M1diTzRtZmNiNUkxR1ltNzBkNG1SQT09>

Meeting ID: 831 4010 2469  
 Passcode: 947330  
 One tap mobile  
 +13462487799,,83140102469#,,,,\*947330# US (Houston)  
 +16699006833,,83140102469#,,,,\*947330# US (San Jose)

Dial by your location  
 +1 346 248 7799 US (Houston)  
 +1 669 900 6833 US (San Jose)  
 +1 253 215 8782 US (Tacoma)  
 +1 312 626 6799 US (Chicago)  
 +1 929 205 6099 US (New York)  
 +1 301 715 8592 US

(Washington DC) Meeting ID: 831 4010 2469  
 Passcode: 947330  
 Find your local number: <https://us02web.zoom.us/j/83140102469>

**Purpose.** During the 2021 Legislative Session SB279 passed and was signed by Governor Lujan Grisham on April 5, 2021. SB279 merged the Osteopathic Examiners Board with the New Mexico Medical Board. The proposed changes to

16.10.2 through 16.10.15 NMAC are to change any reference of Medical Doctor to Physician to incorporate Doctors of Osteopathic Medicine and to add the licensure requirements for Doctors of Osteopathic Medicine.

Also, during the 2021 Legislative Session New Mexico's criminal code for disqualifying criminal convictions under Section 61-1-1 NMSA 1978 was amended by SB2 to include a new section regulating exclusion from licensure. An additional proposed change to 16.10.2 NMAC is to incorporate this amendment into the NMMB Rules.

The purpose of the proposed changes to 16.10.9 NMAC is to add Naturopathic Doctor fees to the fees rule.

The purpose of the proposed changes to 16.6.3 NMAC is to change the title of Naprapathic Physicians to Naprapathic Practitioners and to change the Naprapathic Practitioners fees to be more in line with similar license type fees, this proposed change reduces the required fees. The purpose of the proposed changes to 16.6.5 NMAC revises the process for reinstatement of a Naprapathic Practitioners license from inactive status, these changes would lower the reinstatement fee for this license type. The purpose of the proposed changes to 16.10.7 is to combine the requirements for licensure by examination and endorsement because the requirements are the same. The purpose of 16.6.8 NMAC is to change the title of Naprapathic Physicians to Naprapathic Practitioners and to delete a diagnostic procedure not used by Naprapathic Practitioners. The purpose of the changes to 16.6.9 is to change the title of Naprapathic Physicians to Naprapathic Practitioners, and to clarify supervision requirements of intern naprapaths.

**The statutory authorization.** Sections 61-6-1 through 61-6-35 NMSA 1978, Sections 61-12G-1 through 61-12G-13 NMSA 1978 and

61-12F-1 through 61-12F-11 NMSA 1978 grants the NMMB authority to make rules not inconsistent with law in order to promote the public welfare and protect the citizens of New Mexico. Section 61-1-1 NMSA 1978 New Mexico Criminal Code.

**No technical information serves as a basis for this proposed rule change.**

**Public comment.** Interested parties may provide comment on the proposed amendments of this state rule at the public hearing or may submit written comments to Sondra Frank, Esq., New Mexico Medical Board, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, or by electronic mail to AmandaL.Quintana@state.nm.us. All written comments must be received no later than 5:00 p.m. (MDT) on January 12, 2022. All written comments will be posted to the agency website within (3) three business days.

**Copies of proposed rule.** Copies of the proposed rules may be accessed through the New Mexico Medical Board's website at www.nmmb.state.nm.us or may be obtained from the Board office by calling (505) 476-7220 or via email at AmandaL.Quintana@state.nm.us.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Amanda Quintana at (505) 476-7230 or via email at AmandaL.Quintana@state.nm.us. The New Mexico Medical Board requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

**Summary of proposed changes.**

The Board summarizes its proposed changes to its administrative rules as follows:

16.10.2 NMAC - Physicians: Licensure Requirements

As a general summary, the proposed changes to 16.10.2 NMAC change

the term "allopathic" physicians to physicians so that both allopathic doctors (MD's) and doctors of osteopathy (DO's) are incorporated into the rule. The proposed change adds osteopathic physician credentials and licensure requirements and adds the definition of physician which means "allopathic doctor (MD) or doctor of osteopathy (DO)."

An additional proposed change to 16.10.2 NMAC is to add to the NMMB's licensing requirements a list specific criminal convictions that could disqualify an applicant from receiving a license based on a previous felony conviction.

16.10.3 NMAC - Examinations

As a general summary, the proposed changes to 16.10.3 NMAC again changes the reference from allopathic physician to physicians and adds the required exams for osteopathic medical licensing.

16.10.4 NMAC - Continuing Medical Education

As a general summary, the proposed changes to 16.10.4 NMAC adds the required continuing medical education for osteopathic medical licensing.

16.10.5 NMAC - Disciplinary Power of the Board

As a general summary, the proposed changes to 16.10.5 NMAC is to update the rule to add more relevant language and take out obsolete processes.

16.10.9 NMAC - Fees

As a general summary, the proposed changes to 16.10.9 NMAC adds the licensing, renewal and miscellaneous fees for Naturopathic Doctors.

16.10.10 NMAC - Reporting of Settlements, Judgements, Adverse Actions & Credentialing Discrepancies

As a general summary, the proposed change is to add "locum tenens or staffing agencies" to the definition of "Health care entity".

16.10.11 NMAC - Physicians Supervising Pharmacist Clinicians

As a general summary, the proposed changes are to update the rule language with current practice and licensing processes and requirements.

16.10.14 NMAC - Management of Pain and Other Conditions with Controlled Substances

As a general summary, the proposed changes to 16.10.14 NMAC changes the term medical doctor to physician.

16.10.15 NMAC - Physician Assistants: Licensure and Practice Requirements

As a general summary, the proposed changes to 16.10.15 NMAC changes the term medical doctor to physician.

16.6.3 NMAC - Fees

As a general summary, the proposed changes to 16.6.3 NMAC lower the fees for Naprapathic practitioner licensing to align with the fees for other mid-level providers licensed by the NMMB.

16.6.5 NMAC - Inactive Status, Reinstatement

As a general summary, the proposed changes to 16.6.5 NMAC allow for a Naprapathic practitioner to inactivate their license with a one time fee of \$25.00 as opposed to \$100.00 per year.

16.6.7 NMAC - Licensure by Endorsement and Examination

As a general summary, the proposed changes to 16.6.7 NMAC combines the requirements for Naprapathic practitioner licensing by endorsement and by examination. The requirements are similar and did not need to be separated in the rule.

16.6.8 NMAC - Practice Procedures

As a general summary, the proposed changes to 16.6.8 NMAC changes the name Naprapathic physicians to Naprapathic practitioner and also deletes a diagnostic procedure that is not used, beaches emergency assistance ministry.

16.6.9 NMAC - Supervision of Interns

As a general summary, the proposed

changes to 16.6.9 NMAC clarify the procedures for the supervision of interns and also changes the term doctor to naprapathic practitioner.

**PUBLIC REGULATION COMMISSION**

**NOTICE OF PROPOSED RULEMAKING  
DOCKET NO. 21-00128-UT**

The New Mexico Public Regulation Commission (the “commission”) hereby gives notice of its initiation of a proposed rulemaking to adopt a repealed and replaced rule, **17.7.3 NMAC, “Integrated Resource Plans for Electric Utilities.”**

Summary of the full text of the proposed rule and short explanation of its purpose: The commission intends to adopt a repealed and replaced 17.7.3 NMAC to update the integrated resource plan (“IRP”) rule to comply with the following laws that have been enacted and/or amended since the original IRP rule was promulgated in 2007: Public Utility Act, Section 62-3-1 *et seq.* NMSA 1978; the Efficient Use of Energy Act, Section 62-17-1 *et seq.* NMSA 1978; the Renewable Energy Act, Section 62-16-1 *et seq.* NMSA 1978; the Energy Transition Act, 62-18-1 *et seq.* NMSA 1978; and the Grid Modernization Act, Section 62-8-13 NMSA 1978; b) to set forth the commission’s requirements for the preparation, filing, review, and acceptance of integrated resource plans by public utilities supplying electric service in New Mexico in order to identify the most cost-effective portfolio of resources to supply the energy needs of customers; c) to better assist utilities in identifying the most cost-effective portfolio, by establishing fair, robust, competition procurement regulations to ensure selection of the most cost-effective portfolio of resource; d) to ensure that utilities, when proposing resources, prioritize those that best comply with the state’s requirements for reducing greenhouse

gas emissions, fostering clean energy development, and grid modernization; e) to ensure that, in considering proposed resources, utilities shall properly prioritize distributed energy resources, demand response, energy efficiency, renewable energy, and flexible generation, including but not limited to low-emission fueled resources, energy storage systems, and transmission and distribution grid improvements; f) to improve transparency for regulators, intervenors, and the public in the planning and procurement process and g) to minimize hastily reviewed last minute regulatory decisions created by current deficiencies in commission planning and procurement processes.

Legal authority authorizing the proposed rule and the adoption of the rule: The commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, under the New Mexico Public Regulation Commission Act, Section 8-8-15 NMSA 1978; Paragraph 10 of Subsection B of 8-8-4 NMSA 1978; the Public Utility Act, Section 62-3-1 *et seq.* NMSA 1978; the Efficient Use of Energy Act, Section 62-17-1 *et seq.* NMSA 1978; the Renewable Energy Act, Section 62-16-1 *et seq.* NMSA 1978; the Energy Transition Act, 62-18-1 *et seq.* NMSA 1978; the Grid Modernization Act, Section 62-8-13 NMSA 1978; and the Community Solar Act, Sections 62-16B-1 and 62-16B-7 NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> or by calling Isaac Sullivan-Leshin of the commission’s office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are

due: Any person wishing to comment on the proposed rule may do so by submitting written initial comments no later than **January 10, 2022**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **February 1, 2022**. Any person wishing to reply to response comments or comments made at the hearing may do so by submitting written reply comments no later than **March 22, 2022**. Comments can be electronically filed by sending them in PDF format to [prc.records@state.nm.us](mailto:prc.records@state.nm.us). Comments must refer to Docket No. 21-00128-UT. All written comments will be posted on the commission’s website within three days of their receipt by the records bureau.

The record closure date for this proceeding is **April 12, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the proposed rule, to be presided over by the commission or its designee, will be held beginning at **1:00 p.m. on March 15, 2022**, via the Zoom online platform. Any person who wishes to make a comment at the hearing must contact Isaac Sullivan-Leshin at (505) 670-4830 or [isaac.sullivan-leshin@state.nm.us](mailto:isaac.sullivan-leshin@state.nm.us) by no later than **9:30 a.m. on March 15, 2022** to sign up as a hearing participant. The commission’s office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. The hearing will be held in order to receive oral comments. Commenters who have not submitted written comments or responses and commenters who have submitted written comments

or responses will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 21-00128-UT.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained:  
None.

## REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION

### NOTICE OF PROPOSED RULEMAKING AND AMENDMENTS

**Public Hearing.** The New Mexico Regulation and Licensing Department (RLD), Cannabis Control Division (CCD), will hold a public rule hearing on Thursday December 30, 2021 at 9:00am. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone. A PDF of the proposed rule and meeting details may be accessed through the Cannabis Control Division website: <https://ccd.rld.state.nm.us> or from Julia Valdez at the contact below.

**Purpose of Rule Hearing.** The purpose of the public rule hearing is to receive public commentary to make proposals for new rules as well as amendments to existing rules. Proposed new rules will contain packaging and labeling of cannabis products and advertising and marketing requirements for licensees. Rules related to quality control and food and product safety will also be proposed. Amendments to existing rules will relate to both general and specific license requirements to ensure consistency across license types.

Lastly, the division will also be amending definitions corresponding to the new licenses and permits proposed by the division including: testing laboratories, research laboratories, cannabis consumption areas, integrated cannabis microbusiness, training and education programs, and cannabis server permits.

Any technical information used to inform the proposed rules will be accessible by visiting: <https://ccd.rld.state.nm.us/>.

**Statutory Authority.** Legal authority for this rulemaking may be found the Cannabis Regulation Act, NMSA 1978 Section 26-2C-1 through Section 26-2C-42 NMSA (2021). Additional authority may be found at NMSA 1978 Section 9-7-6(E) (2017) and at NMSA 9-16-6 (2021).

**Public Comment.** The Division will begin accepting public comment on the proposed rules beginning November 30, 2021. Please submit written comments on the proposed rules to Robert Sachs, Deputy Director of Policy for the Cannabis Control Division, via electronic mail at [ccd.publiccomment@state.nm.us](mailto:ccd.publiccomment@state.nm.us). Written comment may also be submitted by visiting the Division website at [ccd.rld.state.nm.us](https://ccd.rld.state.nm.us) or by mailing the comment to the following address:

Cannabis Control Division  
Public Comment  
c/o Robert Sachs  
P.O. Box 25101  
Santa Fe, NM 87504

All public comments must be received by the close of the public rule hearing on Thursday, December 30, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. Comments received prior to the rule hearing will be posted to the RLD website at: [ccd.rld.state.nm.us](https://ccd.rld.state.nm.us).

No later than November 30, 2021, interested parties may obtain and review copies of the proposed rules and public comments by going to the Cannabis Control Division website at <https://ccd.rld.state.nm.us/> or by contacting the Cannabis Control Division at [rld.cannabiscontrol@state.nm.us](mailto:rld.cannabiscontrol@state.nm.us) or (505) 476-4995.

Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Julia Valdez, Executive Assistant for the Cannabis Control Division, [rld.cannabiscontrol@state.nm.us](mailto:rld.cannabiscontrol@state.nm.us) or (505) 362-2924 at least seven (7) days prior to the hearing.

### Summary of Proposed New Rules.

#### 16.8.1 NMAC: GENERAL PROVISIONS

Part 1 provides general requirements for licensees established under the Cannabis Regulation Act and required definitions. The proposed rule amendments to be discussed at the hearing will include the addition of definitions related to newly proposed and amended rules as listed below.

#### 16.8.2 NMAC: LICENSING AND OPERATIONAL REQUIREMENTS FOR CANNABIS ESTABLISHMENTS

Part 2 provides the requirements necessary for issuance of a license

under the Cannabis Regulation Act. Part 2 also governs the licensing and operational requirements for licenses. The proposed amendments to be discussed at the hearing will include general and specific license requirements to ensure consistency across license types.

**16.8.3 NMAC: PACKAGING, LABELING, ADVERTISING, MARKETING, AND COMMERCIAL DISPLAY REQUIREMENTS FOR CANNABIS PRODUCTS**

Part 3 provides the requirements related to packing, labeling, and commercial display of cannabis products as well as advertising and marketing requirements for licensees. The proposed rules to be discussed at the hearing will include proposed rules related to packaging and labeling requirements for cannabis products as well as advertising and marketing requirements for licensees.

**16.8.6 NMAC: HEALTH AND SAFETY, FOOD AND PRODUCT SAFETY, ENVIRONMENTAL IMPACTS, AND NATURAL RESOURCES**

Part 6 provides the requirements related to health and safety, food and product safety, environmental impacts, and natural resources. The proposed rules to be discussed at the hearing will include rules related to creating health and safety for the licensed premises and food and product safety standards for cannabis products, particularly edibles.

**16.8.7 NMAC: QUALITY CONTROL, INSPECTION, AND TESTING OF CANNABIS PRODUCTS**

Part 7 provides the requirements related to quality control, inspection, and testing of cannabis products. The proposed rules will outline quality control requirements for cannabis producers, manufacturers, and cannabis products themselves.

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

**NOTICE OF PROPOSED RULEMAKING AND RULE HEARING**

The Regulation and Licensing Department (Department) will hold a rule hearing on Friday, January 7, 2022 at 9:00a.m. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet based video conference and via telephone. The rule hearing will be held via Cisco WebEx, please use the following link:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=edf9830d78980ad5f502b0e34d3d3576e>

To join the meeting by phone: 1-415-655-0002 United States Toll

Event Number (Access Code): 2484 150 0267; no password

The purpose of the rule hearing is to consider proposed amendments to the following rules:

- 16.48.2 NMAC – Requirements for Licensure
- 16.48.5 NMAC – Fees
- 16.48.6 NMAC – Continuing Education
- 16.48.7 NMAC – License Renewal, Inactive Status and Reinstatement

On November 30, 2021 you may obtain and review copies of the proposed changes and public comments, by going to the Private Investigation’s website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/private-investigations/pi-laws-rules-and-policies/> or by contacting Austin Basham, Board Administrator at (505)690-5032.

The Department will begin accepting public comments on the

proposed amendments beginning November 30, 2021. Please submit written comments on the proposed changes to Austin Basham, Board Administrator, via electronic mail at: [pipolygraphbd@state.nm.us](mailto:pipolygraphbd@state.nm.us), or by regular mail at P.O. Box 25101, Santa Fe, NM 87504 no later than Thursday, January 6, 2022. Comments received prior to the rule hearing will be posted to the Private Investigations website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/private-investigations/pi-laws-rules-and-policies/> Persons will also be given the opportunity to present their comments during the rule hearing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Austin Basham, Board Administrator (505)690-5032.

**Statutory Authority:** Legal authority for this rulemaking may be found in the Regulation and Licensing Department Act, Section 9-16-5 and the Private Investigations Act, Sections 61-27B-1 through 61-27B-36 NMSA 1978, which among other provisions, specifically authorizes the Department to “adopt and enforce rules necessary to carry out the provision of the Private Investigations Act, including establishing professional ethical standards.” See Section 61-27B-5(C) NMSA 1978.

The purpose of these amendments is to comply with Executive Order 2021-060 issued on October 26, 2021 to “reduce, streamline, and eliminate rules imposing a regulatory burden or cost on members of the public to the greatest extent practicable.”

**Summary of Proposed Changes:**  
**16.48.2 NMAC – Requirements for Licensure and Registration**  
 Part 2 is amended to extend the initial term for all license and registration types from the current two year

period, to a period of three years. This section will also require that approved instructors that want to renew their approval, will be required to present certifications that take place within four years preceding the renewal request. Section 16.48.2.25 NMAC, Reciprocity is being amended to remove the requirement for an applicant for licensure or registration to be of good moral character in alignment with Section 61-1-36 NMSA 1978 of the Uniform Licensing Act.

**16.48.5 – Fees**

Part 5 is being amended to align the fees for licensure and registration with a three year initial and renewal cycle instead of a two year renewal cycle.

**16.48.6 NMAC – Continuing Education**

This section is being amended to align the requirements for continuing education for security guards, private investigators, private patrol operators and polygraph examiners to align with a three year licensure and registration renewal period.

**16.48.7 NMAC – License Renewal, Inactive Status and Reinstatement**

In the amendments to Part 7, the renewal period for licensure and registration is being extended from a biennial (two year) renewal period to a renewal period of three years. In order to transition to a three year cycle, from the date this rule goes into effect until December 31, 2023, licenses or registrations ending in an even number will renew for a three year period and licenses or registrations ending in an odd number will renew for a two year period. Beginning January 1, 2024, all licenses and registrations will renew for three year terms. All security guard level one, two, and three renewal applicants will be required to submit renewals online only, beginning on the first day of the first full month after the rule is final and paper applications will only be accepted for renewals by approval of the board administrator. The amendments to Part 7 will also

clarify that department of public safety background checks will only be required for individuals who hold a current firearms certification with their license.

**REGULATION AND LICENSING DEPARTMENT  
REAL ESTATE COMMISSION**

**REAL ESTATE COMMISSION  
NOTICE OF PUBLIC RULE  
HEARING AND REGULAR  
BOARD MEETING**

The New Mexico Real Estate Commission will hold a rule hearing on Thursday, December 30, 2021, at 9:00 a.m. Following the rule hearing, the Commission will convene a regular board meeting to adopt the rules and conduct regular business.

The rule hearing and board meeting will be held by Zoom hosted by the Greater Albuquerque Association of Realtors, 1635 University Boulevard NW, Albuquerque, New Mexico 87102.

The Zoom link to the rule hearing and meeting is:

[https://gaar.zoom.us/meeting/register/tZEpfu6urjojGtFvx28oMmqL\\_CrXBpyeOZIS](https://gaar.zoom.us/meeting/register/tZEpfu6urjojGtFvx28oMmqL_CrXBpyeOZIS)

Please register in advance for this meeting.

After registering, you will receive a confirmation email containing information about joining the meeting.

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.61.1.7 PP and RR NMAC – General Provisions and Definitions

PP. Property management  
RR. Property Manager

16.61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans

16.61.3.9 NMAC-Criminal Convictions

To obtain and review copies of the proposed changes and public comments, you may go to the Board’s website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/> or contact Commission Executive Secretary Wayne W. Ciddio by phone at (505) 785-3937 or by email at [wayne.ciddio.state.nm.gov](mailto:wayne.ciddio.state.nm.gov).

The Board is currently accepting public written comments on the proposed amendments.

Please submit written comments on the proposed changes to Wayne W. Ciddio, Commission Executive Secretary by email to [wayne.ciddio@state.nm.gov](mailto:wayne.ciddio@state.nm.gov) or by regular mail at 5500 San Antonio Drive NE, Albuquerque, New Mexico 87109, no later than Thursday, December 30, 2021. Written comments received prior to the rule hearing will be posted to the RLD website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/>. Real estate brokers and members of the public will also be given the opportunity to present their written or oral comments at the public rule hearing.

The agenda for the rule hearing and Commission meeting will be posted and available at least 72 hours before the rule hearing and meeting on the Board website at <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/real-estate-commission/rec-board-information/>. The agenda may also be obtained by contacting Commission Executive Secretary Wayne W. Ciddio, at (505) 785-3937 or by email at [wayne.ciddio@state.nm.gov](mailto:wayne.ciddio@state.nm.gov).

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing,

please contact Commission Executive Secretary Wayne W. Ciddio at (505) 785-3937.

**Statutory Authority:** Real Estate Brokers and Salesmen, 61.29.4 NMSA 1978, Creation of Commission, powers and duties. Authorizes the Commission to make and enforce rules to carry out the provisions of the Real Estate Brokers and Salesmen Act.

**The purpose of the rule hearing is four-fold:** The purpose of the rule hearing is to

(1) Receive written and oral comments from the public on enacting a new section under 16-61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans to comply with 2021

Legislative changes made during the regular session in HB 120 Military Spouses Expedited Licensure signed into law by Governor Lujan Grisham on April 6, 2021.

(2) Receive written and oral comments on enacting a new paragraph under 16.61.3.9 NMAC to comply with 2021 legislative changes made during the special session in Senate Bill 2 to comply with Expungement of Certain Records signed into law by the Governor Lujan Grisham on April 12, 2021.

(3) Receive written and oral comments on enacting new definitions made necessary by the enactment of House Bill 120 to wit:

- License.
- Licensing Fee.
- Military service member.
- Substantially equivalent.
- Veteran.

(4) Receive written and oral comments on enacting a new definition made necessary by the enactment of Senate Bill 2, to wit:

Disqualifying criminal conviction.

**Summary of Proposed Changes:**

**16.61.1.7 NMAC – General Provisions and Definitions**

The Commission will consider a proposal by the Community Associations Institute to repeal the definitions of Property Manager and Property Management as they relate to homeowners associations (HOA).

The language of concern to the Community Associations Institute in the definition of Property Manager is Property management: real estate services as specified by a written management agreement between a property owner or owner association and a third party management company and who conducts property management activities on behalf of a homeowners’ or unit owners’ association.

The language of concern to the Community Associations Institute in the definition of Property Manager is Property manager: a broker who, for a fee, salary, commission or other valuable consideration is engaged in management property for others including homeowners or unit owners’ association.

The Commission will consider new definitions for License, Licensing Fee, Military Service Member, Substantially Equivalent, and Disqualifying Criminal Convictions, as they relate to House Bill 120 and Senate Bill 2.

The Commission will consider what criminal felony convictions directly relate to the particular employment, trade, business or profession of real estate that may disqualify the applicant or licensee from holding a real estate broker’s license. The rule also defines how the conviction may and may not be used when reviewing an application for licensure.

**16.61.3.9 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans**

The amendments to this part includes a repeal and replace of 16-61-3-9 E NMAC due to the 2021 legislative change regarding HB120 Military Spouses Expedited Licensure. The proposed rule changes the time for approving an application for license from sixty days to thirty days and removes “recent” from the definition of veteran. The rule also sets out application and renewal requirements and waives the initial licensing fee for Military Service Members, Spouses, Dependent Children and Veterans.

**16.61.3.9 NMAC-Criminal Convictions**

The proposed rule establishes a new paragraph specifying what criminal felony convictions directly relate to the particular employment, trade, business or profession of a real estate broker that may disqualify the applicant or licensee from holding a license. The rule also defines how the conviction may and may not be used when reviewing an application for licensure or for violation of the Real Estate Broker and Salesmen Act or Commission Rules.

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

**NOTICE OF PUBLIC RULE HEARING AND REGULAR BOARD MEETING**

The New Mexico Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Board (Board) will hold a rule hearing on Thursday, December 30, 2021, at 9:00 a.m. Due to the ongoing public health concerns posed by the threat of the contagious disease Covid-19, the rule hearing will be virtual via an Internet video conference and via telephone. Following the rule hearing, the Board will convene a regular board meeting to consider adoption of the rules and address regular business.



The rule hearing and board meeting will be held via Cisco Webex Meetings:  
<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e2fbf7ebfce634190bf0c6244209c4c47>  
Meeting number (access code): 2487 691 1171

To join the meeting by phone:  
1-415-655-0002 United States Toll

The purpose of the rule hearing is to consider proposed amendments to the following rules:

16.26.2 NMAC – Licensure Requirements

16.26.7 NMAC – Grounds for Disciplinary Action

16.26.11 NMAC – Licensure for Military Service Members, Spouses and Veterans

On November 30, 2021, to obtain and review copies of the proposed rule amendments you may go to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/speech-language-pathology-audiology-and-hearing-aid-dispensing-practices/slp-rules-and-laws/> or contact the Sue Sneeringer, Board Administrator at (505) 476-4646 or by email at [speech.hearing@state.nm.us](mailto:speech.hearing@state.nm.us).

The Board will begin accepting public comments on the proposed amendments on November 30, 2021. Please submit written comments on the proposed changes to Sue Sneeringer, Board Administrator, via electronic mail at [speech.hearing@state.nm.us](mailto:speech.hearing@state.nm.us) or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Wednesday, December 29, 2021. Persons will also be given the opportunity to present their comments at the rule hearing. All written comments will be posted to the Board's website at: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/speech-language-pathology-audiology-and-hearing-aid-dispensing-practices/slp-rules-and-laws/>, no more than three business days following receipt to allow for public viewing.

An individual with a disability who is in need of a reader, amplifier, qualified signed language interpreter, or other form of auxiliary aid or service to participate in the hearing, please contact Sue Sneeringer, Board Administrator at (505) 476-4646.

**Statutory Authority:** Section 61-14B-11(A) of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices (Act), NMSA 1978, Sections 61-14B-1 through 61-14B-25 (1990, as amended through 2021), authorizes the Board to “adopt rules necessary to implement the provisions of the Act in accordance with the Uniform Licensing Act.” Section 61-14B-11(C) of the Act requires the Board to “adopt a code of ethics that includes rules requiring audiologists and hearing aid dispensers, at the time of the initial examination for possible sale and fitting of a hearing aid if a hearing loss is determined, to inform each prospective purchaser about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems.” Further, Section 61-14B-11(H) of the Act requires the Board to adopt rules that provide for licensure by reciprocity, including temporary permits for speech-language pathologists, audiologists, or hearing aid dispensers. Finally, Section 61-1-36 of the Uniform Licensing Act, NMSA 1978, Sections 61-1-1 to 61-1-36 (1957, as amended through 2021), requires the Board to “promulgate and post on the board's website rules relating to licensing requirements to list the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction.”

**Purpose of the proposed rules:**

The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and registrants, and to generally satisfy the Board's statutory obligation to “adopt rules and regulations and establish policy necessary to carry out the

provisions of the Act in accordance with the Uniform Licensing Act.” NMSA 1978, Section 61-14B-11(A). In addition, several of the proposed rule changes are intended to address to recent statutory changes to the Uniform Licensing Act codified in Sections 61-1-34 and 61-1-36 NMSA 1978.

**Summary of Proposed Changes:**

The Board summarizes its proposed changes to its administrative rules as follows:

**16.26.2 NMAC - Licensure Requirements**

As a general summary, the proposed changes to 16.26.2 NMAC add the requirement that all applicants certify that they have not been convicted of felonies listed in 16.26.7.8 NMAC. Additionally, the proposed changes provide for a bilingual/multicultural endorsement for out of state and out of country applicants that is consistent with the requirements for those applicants in New Mexico.

**16.26.7 NMAC – Grounds for Disciplinary Action**

As a general summary, the proposed changes to 16.26.2 NMAC would bring the rules into compliance with Section 61-1-36 NMSA 1978, which mandates that boards and commissions update identify specific disqualifying felony convictions which may preclude licensure under the Act. The proposed changes remove previous references to certain misdemeanors and violations of the Controlled Substances Act and replaces those references with a list of disqualifying felonies which are job related for the position in question and consistent with business necessity. Further, the proposed change to this subsection outlines that practitioner could be disciplined for failing to deliver a person supplied with a hearing aid a receipt that contains particular information mandated by statute. Finally, the proposed change outlines the Board's ability to consider certain evidence of disqualifying convictions.

**16.26.11 NMAC – Licensure for Military Service Members, Spouses and Veterans**

As a general summary, the proposed changes to 16.26.2 NMAC update the rule to reflect recent legislative changes regarding expedited licensure for military service members. The updated rule expands the definition of eligibility for individuals applying for expedited licensure as a service member and expands expedited licensure to all veterans with a license in good standing in another jurisdiction. Additionally, the new rule reflects the specific requirements for individuals applying through this process.

**SUPERINTENDENT OF INSURANCE,  
OFFICE OF THE**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public video/telephone hearing regarding the repeal and replace of rule 13.10.34 NMAC STANDARDS FOR ACCIDENT – ONLY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, DISABILITY INCOME, SUPPLEMENTAL, AND NON-SUBJECT WORKER EXCEPTED BENEFITS. This hearing will commence on January 7, 2022 at 9:00 a.m. MST.

**PURPOSE OF THE PROPOSED RULES:** The purpose of these rules is to establish regulatory requirements for the subject excepted benefit plans and to enhance consumer understanding and protection.

**STATUTORY AUTHORITY:** Sections 59A-18, 59A-16 and 59A-23G-3 NMSA 1978.

**TO ATTEND THE HEARING:**  
Join via Video: <https://us02web.zoom.us/j/86375502923> Join via telephone: 1-312-626-6799 Meeting ID: 863 7550 2923

The Superintendent designates Richard Word to act as the hearing officer for this rulemaking. Oral comments will be accepted at the public hearing from members of the public and other interested parties. Any updates concerning the hearing date, time, or location will be available by subscribing to the “Rulemaking and Ratemaking” newsletter at: <https://newsletter.osi.state.nm.us/>.

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5707> or the or by requesting a copy by calling (505) 476-0333. Note: Due to the COVID-19 pandemic, the physical offices of the OSI remain closed to the public until further notice.

Written comments will be accepted through 4:00 p.m. January 7, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on January 18, 2022. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5707> at or received by mail to:

OSI Records and Docketing, NM Office of Superintendent of Insurance 1120 Paseo de Peralta, P.O. Box 1689, Santa Fe, NM 87504-1689. For help submitting a filing, please contact [OSI-docketfiling@state.nm.us](mailto:OSI-docketfiling@state.nm.us).

The below docket number must be indicated on filed comments.  
Docket No. 2021-0084  
IN THE MATTER OF REPEALING AND REPLACING RULES CODIFIED AT 13.10.34 NMAC STANDARDS FOR ACCIDENT – ONLY, SPECIFIED DISEASE, HOSPITAL INDEMNITY, DISABILITY INCOME, SUPPLEMENTAL, AND NON-SUBJECT WORKER EXCEPTED BENEFITS

All filings must be received between the hours of 8:00 a.m. and 4:00 p.m.

Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

**SPECIAL NEEDS:** Any person with a disability requiring special assistance to participate in the hearing should contact Melissa Gutierrez at 505-476-0333 no later than ten (10) business days prior to the hearing.

DONE AND ORDERED this 30<sup>th</sup> day of November, 2021  
/S/RUSSELL TOAL

**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.

### ECONOMIC DEVELOPMENT DEPARTMENT

**TITLE 2 PUBLIC  
FINANCE  
CHAPTER 92 LEDA  
RECOVERY GRANT  
PART 1 GENERAL  
PROVISIONS**

**2.92.1.1 ISSUING**  
**AGENCY:** Economic development department.  
[2.92.1.1 NMAC – N, 11/30/2021]

**2.92.1.2 SCOPE:** All persons or entities applying for grants for the reimbursement of rent, lease or mortgage payments pursuant to House Bill 11 of 1st Session of the 55th Legislature (hereafter, the “LEDA Recovery Grants Legislation”).  
[2.92.1.2 NMAC - N, 11/30/2021]

**2.92.1.3 STATUTORY AUTHORITY:** Section 5-10-16 NMSA 1978 (hereafter, the “LEDA Recovery Grants Legislation”).  
[2.92.1.3 NMAC - N, 11/30/2021]

**2.92.1.4 DURATION:** Permanent.  
[2.92.1.4 NMAC - N, 11/30/2021]

**2.92.1.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.  
[2.92.1.5 NMAC - N, 11/30/2021]

**2.92.1.6 OBJECTIVE:** Explanatory note: On March 11, 2020, in response to the presence in New Mexico of a highly contagious respiratory novel coronavirus disease known as COVID-19, Governor Michelle Lujan Grisham declared

that a public health emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked all power and authority under the All Hazards Emergency Management Act. On March 23, 2020, the New Mexico department of health, pursuant to the All Hazards Emergency Management Act, issued a public health emergency order to close all businesses and non-profit entities except for those deemed essential, while also limiting mass gatherings due to COVID-19. Since March 23, 2020, the Public Health Emergency Order has been extended and modified to address the ongoing threat of COVID-19. On February 26, 2021, during the 1st Session of the 55th Legislature, the Governor signed into law House Bill 11 (hereafter, the “LEDA Recovery Grants Legislation”), whereby two hundred million dollars (\$200,000,000) was appropriated from the state of New Mexico general fund to the New Mexico economic development department (“department” or “NMEDD”) for expenditure in fiscal years 2021 through 2023 (“LEDA Grant Funds”) to provide grants, through the NMFA, for the reimbursement of rent, lease or mortgage payments. These rules govern the implementation and administration of the LEDA Recovery Grant Fund enacted under the LEDA Recovery Grants Legislation, and do not apply to other programs established by the economic development department.  
[2.92.1.6 NMAC – N, 11/30/2021]

**2.92.1.7 DEFINITIONS:**  
**A. “Full-time-equivalent employee or FTE”** is defined as an employee who works an average of 40 hours or more per week from their qualifying date of hire throughout the quarterly qualification

period. The hours of employees who work fewer than 40 hours are calculated as proportions of a single FTE and aggregated. An FTE must be paid wages that are reported to the department of workforce solutions quarterly and subject to unemployment taxes. To qualify, the FTE must be “net new”, representing:

**(1)** a growth of FTE beyond the “baseline” FTE count, with “baseline” defined as the number of FTE reported on December 31, 2020 or any subsequent quarterly ES903A filed with the department of workforce solutions prior to application whichever is lower;

**(2)** a growth of FTE beyond the number for which the recovery entity received total or partial grant payments in prior quarters; and

**(3)** a growth of FTE beyond the number in the quarter immediately preceding the request for a subsequent quarterly payment and for which a quarterly unemployment insurance report was filed with the department of workforce solutions.

**B. “Qualifying date of hire”** is a date on or after April 1, 2021 and falling within a quarterly department of workforce solutions reporting period prior to application for a quarterly payment subsequent to the initial payment.

**C. “Loss in revenue”** is defined as a decline in revenue for one or more quarters in 2020 compared with the same quarter or quarters in 2019. If the recovery entity is required to submit gross receipts taxes for these revenues, the recovery entity must provide the tax documentation supplied to the taxation and revenue department demonstrating this decline. If the recovery entity is not subject to

gross receipts taxes, the decline must be demonstrated through other documentation as provided through rule by the New Mexico finance authority.  
[2.92.1.7 NMAC - N, 11/30/2021]

**2.92.1.8 MAXIMUM EMPLOYEE COUNT:** The maximum employee count in House Bill 11 of “fewer than 75 people employed at any of the business’s business locations” for a business to qualify as a recovery entity includes all employees, both full- and part-time employees.  
[2.92.1.8 NMAC - N, 11/30/2021]

**2.92.1.9 PER JOB CALCULATION:** Pursuant to the Local Economic Development Act, the recovery grant shall be accompanied by net new FTE job creation. As part of the initial application, the recovery entity shall estimate the net new FTE to be created from the initial qualifying date of hire through March 31, 2022 and provide the job titles for those positions, the FTE calculations and the total average hourly wages. The maximum amount of the recovery grant to be provisionally awarded and set aside for disbursement shall be determined by the following calculation of funds per net new FTE job created:

- A. The base amount of the grant per net new FTE job created: \$10,000;
- B. If the recovery entity has a loss in revenue of at least twenty percent and less than forty percent: \$12,000;
- C. If the recovery entity has a loss in revenue of at least forty percent and less than sixty percent: \$14,000;
- D. If the recovery entity has a loss in revenue of at least sixty percent and less than eighty percent: \$16,000; or
- E. If the recovery entity has a loss in revenue equal to or in excess of eighty percent: \$18,000.
- F. Wage bonus:
  - (1) If the

average wage of all the recovery entity’s net new FTE is over \$13 per hour, the recovery entity may receive a bonus of \$1,000 per net new FTE for which a base payment is calculated.

(2) If the average wage of the recovery entity’s net new FTE is over \$17 per hour, the recovery entity may receive an additional \$1,000 per net new FTE for which a base payment is calculated.

G. The maximum grant amount per net new FTE job created is \$20,000.

H. The maximum number of FTE that may be included in the recovery entity’s estimates in the application is equal to the maximum number of FTE employed by the recovery entity in any quarterly period from January 1, 2019 to the date of application and documented through the ES903A filed with the department of workforce solutions.  
[2.92.1.9 NMAC - N, 11/30/2021]

**2.92.1.10 QUARTERLY PAYMENTS:** Quarterly payments to recovery entities shall be determined by taking the initial per job calculation above and multiplying it by the number of FTE being claimed by the recovery entity for a given quarterly period. The per job amount may be reduced if the New Mexico finance authority and the economic development department determine the actual average wages paid fall below the thresholds for either or both of the \$1,000 bonuses to a degree that indicates a reasonable attempt was not made to pay the wages estimated by the recovery entity in its grant application.  
[2.92.1.10 NMAC - N, 11/30/2021]

**2.92.1.11 QUARTERLY PAYMENT LIMIT:** Quarterly payments to recovery entities are limited to the lesser of twenty-five percent of the provisional grant award or the eligible amount under the requirements and calculations set forth in this rule. The maximum amount that may be distributed in total to a recovery entity under the

LEDA Recovery Grant project is \$100,000.  
[2.92.1.11 NMAC - N, 11/30/2021]

**2.92.1.12 DOCUMENTATION REQUIRED FOR PROOF OF QUALIFYING NET NEW FTE JOBS CREATED:**

A. A recovery entity must provide its quarterly unemployment insurance filings with the department of workforce solutions (ES903A) at time of application for the quarter ending March 31, 2021 and, if applicable, the most recent quarterly ES903A filed with the department of workforces solutions available at the time of application.

B. A recovery entity provided an initial quarterly payment must provide the most recent quarterly filing of the ES903A prior to additional funds being released for a subsequent quarterly payment. The recovery entity must also provide documentation, in a form and manner to be prescribed by the New Mexico finance authority, to list the net new FTE requested to qualify for additional funds with the associated average hourly wage, hours worked per week and the total average wage for all net new FTE.

C. Upon request, the recovery entity shall submit to the New Mexico finance authority and the economic development department additional payroll documentation to validate the calculations and request.  
[2.92.1.12 NMAC - N, 11/30/2021]

**2.92.1.13 DOCUMENTATION REQUIRED FOR PROOF OF PAYMENT OF RENT, LEASE OR MORTGAGE:**

To prove payment of rent, mortgage or lease, a recovery entity must complete the affirmation provided by the economic development department to the New Mexico finance authority for distribution to recovery entities, along with proof of payment including a bank statement, canceled check, credit card receipt, ACH transaction or other forms of proof generally accepted. The rent, lease or mortgage payments must be for the recovery entity’s place

of business within New Mexico and must be payments related to land or buildings. Equipment rentals or leases do not qualify under the Local Economic Development Act.  
[2.92.1.13 NMAC - N, 11/30/2021]

**HISTORY OF 2.92.1 NMAC:**  
[RESERVED]

**NURSING, BOARD OF**

The New Mexico Board of Nursing, reviewed and approved, at its 9/27/2021 hearing, to repeal its rule 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 and replace it with 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions, adopted 11/10/2021 effective 12/30/2021.

**NURSING, BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS  
PART 1 GENERAL PROVISIONS**

**16.12.1.1 ISSUING**  
**AGENCY:** New Mexico Board of Nursing.  
[16.12.1.1 NMAC - Rp, 16.12.1.1 NMAC, 12/30/2021]

**16.12.1.2 SCOPE:** These rules apply to the board and all those licensed by or subject to the jurisdiction of the board.  
[16.12.1.2 NMAC - Rp, 16.12.1.2 NMAC, 12/30/2021]

**16.12.1.3 STATUTORY AUTHORITY:** These rules are promulgated pursuant to the Nursing Practice Act, Sections 61-3-1 to 30 NMSA 1978 and the Lactation Care Provider Act, Sections 61-36-1 to 6 NMSA 1978.

[16.12.1.3 NMAC - Rp, 16.12.1.3 NMAC, 12/30/2021]

**16.12.1.4 DURATION:** Permanent.  
[16.12.1.4 NMAC - Rp, 16.12.1.4 NMAC, 12/30/2021]

**16.12.1.5 EFFECTIVE DATE:** December 30, 2021, unless a later date is cited at the end of a section.  
[16.12.1.5 NMAC - Rp, 16.12.1.5 NMAC, 12/30/2021]

**16.12.1.6 OBJECTIVE:** The objective of Part 1 is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, lactation care providers, certified medication aides, certified hemodialysis technicians, approve schools of nursing and medication aide and hemodialysis technician training programs in the state.  
[16.12.1.6 NMAC - Rp, 16.12.1.6 NMAC, 12/30/2021]

**16.12.1.7 DEFINITIONS:**  
**A. "Board"** means the New Mexico board of nursing.  
**B. "Certificate"** means a legal document granting permission to an unlicensed person to perform specific functions considered the practice of nursing.

**C. "CEU"** is the abbreviation for continuing education unit.

**D. "CHT"** is the abbreviation for certified hemodialysis technician.

**E. "CMA"** is the abbreviation for certified medication aide.

**F. "Client"** means any person domiciled, residing, or receiving care, service or treatment from a licensed nurse, licensed lactation care provider, or certified unlicensed assistive person. This includes but is not limited to patients, residents, or consumers.

**G. "Contact hour"** means the unit of measurement describing an approved and organized learning experience equivalent to 60 clock minutes.

**H. "Continuing education"** means planned learning experiences beyond a basic nursing education program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public.

**I. "Continuing education unit"** means 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

**J. "Coordinated licensure information system"** means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

**K. "License"** means a legal document granting an individual the privilege and authority to engage in practice of an occupation or profession.

**L. "Licensure period"** means the length of time for which a license or certificate is valid. The initial (first) licensure period it is from the date of initial license or certificate issuance to the day the license or certificate expires. For subsequent licensure periods it is the day after the previous licensure period ended to the end next license or certificate expiration date.

**M. "Multistate/compact license"** means a license granted through New Mexico's participation in the nurse licensure compact that grants the licensee the legal authority to practice in all party states of the nurse licensure compact.

**N. "National practitioner data bank"** means the database operated by the U.S. department of health and human services that contains medical malpractice payment and adverse action reports on health care professionals.

[16.12.1.7 NMAC - Rp, 16.12.1.7 NMAC, 12/30/2021]

**16.12.1.8 MISSION OF THE BOARD:** The mission of the board is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, schools of nursing, hemodialysis technicians, medication aides, and lactation care providers in New Mexico. The board is not an advocacy organization but is instead a regulatory body responsible at all times and in all situations for acting in the interest of the public.  
[16.12.1.8 NMAC - N, 12/30/2021]

**16.12.1.9 BOARD ADMINISTRATION:**  
**A. Organization:**  
**(1)** The board shall annually elect a chair, vice-chair, and secretary. The term of office begins immediately after the conclusion of the meeting at which the election occurred.

**(2)** All members of the board, including public members, are eligible to serve as an officer of the board.

**B. Executive director:**  
**(1)** The board shall hire and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive director.

**(2)** The executive director shall be accountable to the board for the administration and management of the board office and staff, including but not limited to the board's fiscal operations, records, and management of personnel (including hiring, supervising, and firing staff).

**(3)** The executive director, or designee, shall represent the board to the public.

**(4)** As provided in the Nursing Practice Act, the board shall not delegate to the executive director the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act.

**C. Board meetings:**  
**(1)** The board shall meet at least once every three months.

**(2)** The board shall annually review and adopt an open meetings resolution, consistent with the Open Meetings Act, Sections 10-15-1 to 4 NMSA 1978.

**(3)** The board shall approve a schedule of regular meeting dates at a regular meeting prior to the beginning of the next calendar year. The board shall publish this schedule in its newsletter and on its website.

**(4)** Individual board members may attend meetings through telephonic or similar communications equipment when it is difficult or impossible for the person to be physically present. Whenever attending a meeting in such a manner, board members must fully comply with all requirements set by the Open Meetings Act and the board's annual open meetings resolution.

**D. Signatures:** A record, order, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the chair, vice-chair, or executive director.  
[16.12.1.9 NMAC - Rp, 16.12.1.8 NMAC, 12/30/2021]

**16.12.1.10 AGENCY:**

**A. Verification of license or certificate:**

**(1)** The board staff shall make informal verification of licensure or certification status available immediately on the board website.

**(2)** Any employer or other interested person or entity may request informal verification of the status of a license or certificate.

**(3)** Formal verification of licensure may only be requested through postal mail or fax through the submission of the board's verification request form and remittance of the required fee pursuant to 16.12.2.9 NMAC.

**(4)** Formal verification of registered nurse or licensed practical nurse licensure for the purposes of another U.S. nursing regulatory body must be requested

through the national council of state boards of nursing (NCSBN) web-based system.

**B. Reporting of discipline and other licensure matters:** The board staff shall complete all required reporting of disciplinary matters and other reportable actions to the national practitioner databank and coordinated licensure information system as required by federal and state law.

[16.12.1.10 NMAC - N, 12/30/2021]

**16.12.1.11 COMMITTEES:**

**A. Advisory function:** To assist and advise the board in its functions and mission, the board may appoint and utilize, at its discretion, advisory committees consisting of at least one board member and at least two members expert in the pertinent field of relevant health care to assist in the performance of the board's duties. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind.

**B. Membership:** Except as otherwise provided in the board's rules, the board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee.

**C. Duties and responsibilities:** The board shall annually, at an open meeting, review the duties and responsibilities of each committee and subsequently provide each committee with written objectives to satisfy within the following year.

**D. Except as otherwise provided in the board's rules:**

**(1)** Committee members may serve two-year terms.

**(2)** The board may reappoint currently serving committee members to serve additional terms.

**(3)** An individual's service on a committee is voluntary, and the individual may resign from the committee at any time upon written notification to the executive director.

(4) Advisory committee members may be reimbursed as provided in the per diem and Mileage Act, provided that mileage may only be paid when there is a total of 60 miles or more traveled.

(5) Termination of membership:  
 (a) Members of committees serve at the pleasure of the board, and the board may remove a member from a committee at any board meeting.

(b) The executive director shall automatically terminate an individual's membership on a committee if the individual fails to attend three consecutive committee meetings.

E. Any committee shall, if ordered by the executive director or the board, meet virtually rather than in person as a means of achieving greater efficiency and productivity.  
 [16.12.1.11 NMAC - N, 12/30/2021]

**16.12.1.12 ETHICAL RESPONSIBILITIES OF BOARD MEMBERS, STAFF, AND COMMITTEE MEMBERS:**

A. High ethical standards: Pursuant to the mission of the board, all members of the board, employees of the board, and committee members shall act in their official capacities in the interest of the public and not for personal gain or the benefit of the members of a particular profession.

B. All members of the board, employees of the board, and committee members shall abide by the requirements of the Governmental Conduct Act and all other New Mexico laws governing the ethical conduct of public officers and employees.

C. Code of conduct: The board shall annually adopt, at a regularly scheduled board meeting, a code of conduct for all members of the board, employees of the board, and committee members.  
 [16.12.1.12 NMAC - N, 12/30/2021]

**16.12.1.13 INFORMATIONAL OBLIGATIONS OF LICENSE AND CERTIFICATE HOLDERS:**

A. Use of legal name: A licensee or certificate holder must use the licensee or certificate holder's legal name on all applications and licenses.

B. Name changes:  
 (1) A licensee or certificate holder may submit a name change to the board at any time.

(2) A licensee or certificate holder must submit, as part of any name change request, a copy of one of the following legal documents verifying the name change: a recorded marriage certificate, a divorce decree, or a court order.

(3) The licensee or certificate holder must continue to use the name on record with the board for work purposes until the board acknowledges the official change of name.

C. Contact information:  
 (1) A licensee or certificate holder is obligated to maintain current and accurate contact information on file with the board.

(2) A licensee or certificate holder shall notify the board within 30 days of a change of the licensee or certificate holder's contact information.

(3) Failure to disclose a change of mailing or residential address shall constitute grounds for disciplinary action.

(4) For the purposes of this rule, "contact information" means the licensee or certificate holder's mailing address, residential address, email address, and telephone number.

D. Name and mailing address of employer:  
 (1) A licensee or certificate holder is obligated to maintain the current and accurate name and mailing address of the licensee or certificate holder's employer on file with the board.

(2) A licensee or certificate holder shall notify the board within 30 days of any change in

the name and address of the licensee or certificate holder's employer.

(3) Failure to disclose a change of the name and mailing address of the licensee or certificate holder's employer shall constitute grounds for disciplinary action.  
 [16.12.1.13 NMAC - N, 12/30/2021]

**HISTORY of 16.12.1 NMAC:**

**Pre-NMAC History:**  
 The material in this part was derived from that previously filed with the state records center & archives under: BON 70-2, Administrative Policy, filed 7/17/1970; BON 73-1, Rules and Regulations of the Nursing Practice Act, filed 3/13/1973; BON 78-1, Administrative Rules and Regulations of the New Mexico Board of Nursing, filed 11/02/1978; BON MANUAL #83-1, Administrative Rules and Regulations of the Board of Nursing, filed 6/13/1983; BON MANUAL #85-1, Administrative Rules and Regulation of the Board of Nursing, filed 8/13/1985; BON MANUAL 91-2, Administrative Rules and Regulations of the New Mexico board of nursing, filed 10/09/1991.

**History of Repealed Material:**

16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions, filed 6/12/2001 - Repealed effective 10/1/2016.  
 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 - Repealed effective 12/30/2021.

**Other History:** 16 NMAC 12.1, Nursing and Health Care Related Providers - General Provisions, filed 12/10/1997, renumbered, reformatted and amended to 16.12.1 NMAC, General Provisions effective 7/30/2001.  
 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 Replaced 16.12.1 NMAC, Nursing and Health



Care Related Providers - General Provisions effective 12/30/2021.

**NURSING, BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS  
PART 12 DISCIPLINE AND APPLICATION DENIALS**

**16.12.12.1 ISSUING**  
**AGENCY:** New Mexico Board of Nursing.  
[16.12.12.1 NMAC - N, 12/30/2021]

**16.12.1.2 SCOPE:** These rules apply to all applicants, nurses licensed in New Mexico, nurses not licensed in New Mexico and who wish to practice in New Mexico pursuant to a multi-state license privilege as provided in the nurse licensure compact, certified medication aides, hemodialysis technicians, and all others licensed by the board.  
[16.12.12.2 NMAC - N, 12/30/2021]

**16.12.12.3 STATUTORY**  
**AUTHORITY:** These rules are promulgated pursuant to the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978, and the Lactation Care Provider Act, Sections 61-36-1 to -6 NMSA 1978.  
[16.12.12.3 NMAC - N, 12/30/2021]

**16.12.12.4 DURATION:**  
Permanent.  
[16.12.12.4 NMAC - N, 12/30/2021]

**16.12.12.5 EFFECTIVE**  
**DATE:** December 30, 2021, unless a later date is cited at the end of a section.  
[16.12.12.5 NMAC - N, 12/30/2021]

**16.12.12.6 OBJECTIVE:** The objective of Part 12 is to establish the procedures for denying applications for licensure, processing complaints against licensees and applicants, reinstatement of suspended or revoked

licenses, and taking disciplinary action against licensees.  
[16.12.12.6 NMAC - N, 12/30/2021]

**16.12.12.7 DEFINITIONS:**  
**A.** Refer to Definitions, 16.12.1.7 NMAC.

**B. "Abandonment"** means, in the context of disciplinary action, a nurse's abrupt severance of, or disengagement from, the relationship between the nurse and the patient or client without giving reasonable notice to a qualified person for the purpose of making arrangements for the continuation of care by others. This definition does not include the abandonment of employment, such as contract issues, no call, no show, refusal to work mandatory overtime, refusal to float to unfamiliar areas, or resignation from a position, since the board has no jurisdiction over employment issues. Abandonment, which can only occur after the nurse has accepted an assignment to provide care, service or treatment to the patient or client, typically consists of one or more of the following elements that, as result of the nurse's abandonment of the patient or client, caused or may have caused harm:

- (1) failure to provide observation, including but not limited to assessment and intervention;
- (2) failure to assure competent intervention at any time, including but not limited to delayed treatment, insufficient treatment, or refusal to treat; or
- (3) failure to provide for provision of qualified coverage, including but not limited to adequate time to arrange nursing coverage of assigned care.

**C. "Competency"** means, in the context of the nursing profession, the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise.

**D. "Complaint"** means, in the context of disciplinary action, a written allegation by any person of one or more wrongful acts or omissions by an applicant, licensee, certificate holder, or anyone else subject to the jurisdiction of the board. A complaint may include knowledge of a judgment or settlement against a licensee.

**E. "Disqualifying criminal conviction"** has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

**F. "HSD"** means the New Mexico human services department.

**G. "Incompetent"** means the failure to possess or to apply to a substantial degree the knowledge, skill and care that is ordinarily possessed and exercised by other nurses of the same licensure status and required by the generally accepted standards of the profession. In performing nursing functions, whether those be direct patient care or the administration or management of that care, a nurse is under a legal duty to exercise this knowledge, skill and care. Charges of incompetence may be based on a single act of incompetence or on a course of conduct or series of acts or omissions, which extend over a period of time and which, taken as a whole, demonstrates incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient/client or to the public from the act or omission or series of acts or omissions.

**H. "Statement of compliance"** means, in the context of the Parental Responsibility Act, a certified statement from HSD stating that an applicant or licensee/certificate holder is in compliance with the judgment and order for support.

**I. "Statement of non-compliance"** means, in the context of the Parental Responsibility Act, a certified statement from HSD stating that an applicant or licensee/certificate holder is not in compliance with a

judgment and order for support.

**J. “Unprofessional conduct”** means any departure from or failure to conform to the minimal standards of acceptable and prevailing nursing practice, including but not limited to such conduct which is or may be harmful to the health, safety, or welfare of the public or which reflects negatively on the individual’s fitness to practice nursing or on the profession more broadly.

Unprofessional conduct includes, but is not limited to, the following:

(1) Misconduct involving misappropriation, such as:

(a) misappropriation of money, drugs, or property;

(b) obtaining or attempting to obtain any fee for patient/client services for one’s self or for another through fraud, misrepresentation, or deceit;

(c) obtaining, attempting to obtain, possessing, administering or furnishing prescription drugs to any person, including but not limited to one’s self, except as directed by a person authorized by law to prescribe;

(2) Misconduct involving the delivery of nursing services, such as:

(a) intentionally engaging in sexual contact with or toward a patient or client in a manner that is commonly recognized as outside the scope of the individual nurse’s practice; abandonment;

(b) engaging in the practice of nursing when judgment or physical ability is impaired by alcohol or drugs or controlled substances;

(c) intemperance, addiction, incompetence, or unfitness manifesting itself during the course of employment as a nurse in a fashion or manner which is contrary to the provision of good health care;

(d) failure to maintain appropriate professional boundaries which may cause harm to the patient;

(e) inappropriate delegation of medication administration, evaluation and nursing judgment to non-licensed persons;

(f) practicing beyond the scope of a license, certificate, or other similar credential.

(3) Misconduct involving patient records, such as:

(a) falsifying or altering patient or client records or personnel records for the purpose of reflecting incorrect or incomplete information;

(b) making statements or disclosures that create a risk of compromising a patient’s privacy, confidentiality and dignity; or

(c) dissemination of a patient or client’s health information or treatment plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law or hospital or agency policy from disclosure.

(4) Misconduct involving legal process, such as:

(a) refusing to cooperate with the board in the course of an investigation or otherwise refusing to provide information requested by the board;

(b) physically intimidating or threatening, or attempting to physically intimidate or threaten, the board or its staff, whether in connection with an investigation or otherwise;

(c) obtaining or attempting to obtain a license to practice nursing for one’s self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the licensure by examination or endorsement process, or re-licensure process;

(d) practicing nursing in New Mexico without a valid, current New Mexico license or permit, or aiding, abetting

or assisting another to practice nursing without a valid, current New Mexico license;

(e) failure to report a nurse or certificate holder who is suspected of violating the New Mexico Nursing Practice Act or rules;

(f) failure to follow state and federal laws, policies and procedures for the prescription and distribution of dangerous drugs including controlled substances;

(5) Misconduct involving other procedures or policies, such as:

(a) aiding, abetting, assisting or hiring an individual to violate the nursing practice act or duly promulgated rules of the board of nursing;

(b) failure to follow established procedure and documentation regarding controlled substances;

(c) failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of nursing; or

(d) physical, verbal, written, electronic, or other abuse of a patient, client or colleague.

[16.12.12.7 NMAC - N, 12/30/2021]

**16.12.12.8 DISCIPLINARY PHILOSOPHY:**

The board operates its disciplinary program with the ultimate goals of protecting the citizens of New Mexico and ensuring professionalism in the nursing profession. In carrying out this mandate, the board considers all alleged violations based on the merits of each case. Unless the licensee or applicant posed or poses a real or potential danger to the public, the board will consider, but may not eventually utilize, remedial measures of corrective action rather than denial, suspension, or revocation of a license or certificate.

[16.12.12.8 NMAC - N, 12/30/2021]

**16.12.12.9 GROUNDS FOR DISCIPLINARY ACTION OR DENIAL OF AN APPLICATION:**

The Board may take disciplinary action against a licensee or deny an application for licensure upon finding that the licensee or applicant is guilty of:

- A. committing fraud or deceit in procuring or attempting to procure a license or certificate of registration;
  - B. having been convicted of a disqualifying criminal conviction;
  - C. being unfit or incompetent;
  - D. being intemperate or addicted to the use of habit-forming drugs;
  - E. being mentally incompetent;
  - F. committing unprofessional conduct;
  - G. having willfully or repeatedly violated any provisions of the Nursing Practice Act or any rule or regulation adopted by the board;
  - H. having been, while licensed to practice nursing in any jurisdiction, territory or possession of the United States or another country, the subject of disciplinary action as a licensee for acts similar to acts described in this rule;
  - I. using conversion therapy on a minor;
  - J. unlicensed practice;
  - K. failure to comply with obligations under the Parental Responsibility Act; or
  - L. for hemodialysis technicians or medication aides, any of the offenses identified in 16.12.4.11 NMAC and 16.12.5.11 NMAC.
- [16.12.12.9 NMAC - N, 12/30/2021]

**16.12.12.10 CRIMINAL CONVICTIONS:**

A. Convictions for any of the following felony offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license or certificate issued by the board:

- (1) homicide;

(2) aggravated assault, aggravated battery, kidnapping, false imprisonment, human trafficking, or other crimes of violence against persons;

(3) robbery, larceny, burglary, extortion, receiving stolen property, possession of burglary tools, unlawful taking of a motor vehicle, or other crimes involving theft or appropriation of personal property or funds;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, child solicitation, or other crimes constituting sexual offenses;

(5) driving under the influence of intoxicating liquor or drugs;

(6) trafficking controlled substances;

(7) crimes involving child abuse or neglect;

(8) fraud, forgery, money laundering, embezzlement, credit card fraud, counterfeiting, financial exploitation, or other crimes of altering any instrument affecting the rights or obligations of another;

(9) making a false statement under oath or in any official document;

(10) evasion of a lawful debt or obligation, including but not limited to tax obligations; or

(11) an attempt, solicitation or conspiracy involving any of the felonies in this subsection.

B. The board shall not consider the fact of a criminal conviction as part of an application for a license or certificate unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

C. The board shall not deny, suspend or revoke a license or certificate on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an application or disciplining a licensee or certificate holder on the basis of an

individual's conduct to the extent that such conduct violated the Nursing Practice Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule.

E. In connection with an application for a license or certificate, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or pardoned;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of 16.12.12.10 NMAC.

[16.12.12.10 NMAC - N, 12/30/2021]

**16.12.12.11 PARENTAL RESPONSIBILITY ACT**

**COMPLIANCE:** The board shall suspend or revoke licenses or certificate holders and deny applications for licenses or certificates in accordance with the Parental Responsibility Act, Sections 40-5A-1 to 13 NMSA 1978.

A. All terms defined by the Parental Responsibility Act shall have the same meaning in this section.

B. If an applicant, licensee, or certificate holder is not in compliance with a judgment and order for support, the board:

(1) shall deny an application for a license or certificate;

(2) shall deny the renewal of a license or certificate; and

(3) has grounds for suspension or revocation of the license or certificate.

C. Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order

for support; the board shall match the applicant against the current certified list of board licensees, certificate holders, and applicants.

(1) Upon the later receipt of an application for licensure, certification or renewal, the board shall match the applicant against the current certified list.

(2) By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants, licensees, and certificate holders who are on the certified list and the action the board has taken in connection with such applicants, licensees, or certificate holders.

D. Upon determination that an applicant, licensee, or certificate holder appears on the certified list, board staff shall automatically issue a notice of contemplated action in accordance with the Uniform Licensing Act, Section 61-1-1 NMSA 1978, to take the appropriate action.

(1) The notice of contemplated action shall state that the board has grounds to take such action unless the applicant, licensee, or certificate holder:

(a) mails a letter, certified mail return receipt requested, within 20 days of receipt of the notice of contemplated action requesting a hearing; and

(b) provides the board, prior to the scheduled hearing date, with a statement of compliance from HSD.

(2) If the applicant, licensee, or certificate holder disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant, licensee, or certificate holder should contact the HSD child support enforcement division.

E. In any hearing under this subsection, a statement of non-compliance is conclusive evidence that requires the board to take the action to deny the application or suspend or revoke the license, unless the applicant, licensee, or certificate holder provides the board with a subsequent statement of

compliance which shall preclude the board from taking any action.

F. When the board takes disciplinary action solely because the applicant, licensee, or certificate holder is not compliance with a judgment and order for support, the final decision and order shall state that the applicant, licensee, or certificate holder shall be reinstated upon presentation of a subsequent statement of compliance.

G. Reinstatement: The executive director shall, upon presentation of a subsequent statement of compliance, reinstate a license or certificate previously revoked solely due to noncompliance with a judgment and order for support, provided that the licensee or certificate holder must meet the requirements for reinstatement and pay the appropriate reinstatement fee. [16.12.12.11 NMAC - N, 12/30/2021]

**16.12.12.12 DISCIPLINARY AND APPLICATION PROCEEDINGS:**

A. The board shall conduct all disciplinary and application proceedings in accordance with the Uniform Licensing Act and the Open Meetings Act.

B. Filing of a complaint:

(1) A person must file a written complaint with the board before the board can initiate disciplinary proceedings.

(2) Any person, including a member of the public, a member of the board, or an employee of the board, may file a complaint.

(3) A nurse or certificate holder who suspects that another nurse or certificate holder has violated any provision of the Nursing Practice Act or rules of the board must file a written complaint with the board, unless the nurse or certificate holder suspected of violating the Nursing Practice Act or rules of the board is a patient and patient confidentiality therefore applies.

C. Investigation of a complaint:

(1) The board's staff may investigate

complaints to determine whether a violation of law has occurred.

(2) The executive director or, in the director's absence, an assistant director or designee may authorize and sign investigative subpoenas in connection with any investigation.

(3) Upon receipt of a complaint, board staff may forward the complaint to the applicable licensee or certificate holder and request a response within 10 business days of receipt. A licensee or certificate holder's failure to respond to the complaint within this specified time frame shall be grounds for disciplinary action, up to and including revocation of the license at the discretion of the board.

D. Notices of contemplated action:

(1) The board's administrative prosecutor shall draft all notices of contemplated action.

(2) The executive director or, in the director's absence, an assistant director or designee shall sign all notices of contemplated action on behalf of the board.

E. Notices of hearings: Upon receipt of a respondent's timely request for hearing, the hearing officer or board staff shall, without exception, set the matter for a hearing as required by the Uniform Licensing Act. One or both parties may file a motion to continue or stay proceedings only after the issuance of the notice of hearing, subject to other limitations as provided in these rules.

F. Settlement agreements: The board encourages settlement agreements throughout the disciplinary process as a means of resolving cases in a mutually satisfactory manner without the time and expense of formal hearings.

(1) If the administrative prosecutor and the licensee or certificate holder agree upon a settlement agreement to propose to the board, the parties shall present the agreement in writing to the board for consideration and possible approval at a meeting.

(2) The proposed agreement is not binding on the board until approved by the board at a meeting. The board may approve, reject, or propose an amendment to any proposed stipulation and agreement.

(3) No board member may be presumed to be biased or excused for cause based solely on the basis that the member considered, approved, or rejected a proposed settlement, consent agreement, or other proposal for the resolution of a pending disciplinary case.

G. Default orders: If the licensee or applicant does not respond to the notice of contemplated action by timely requesting a hearing on the matter, the board may take the action contemplated in the notice of contemplated action at a meeting and that action shall be final.

H. Requests to reopen: An applicant who has been denied a license or certificate in New Mexico or a licensee or certificate holder who has had disciplinary action taken by the board and who wishes to have the case reopened may submit a written request to reopen their case prior to filing a petition for review with the district court. The administrative prosecutor shall be given an opportunity to respond to any written request to reopen a case.  
[16.12.12.12 NMAC - N, 12/30/2021]

**16.12.12.13 HEARINGS AND THE AUTHORITY OF HEARING OFFICERS:**

A. If a licensee or applicant requests an evidentiary hearing in response to a notice of contemplated action, the executive director shall designate a hearing officer to preside over the hearing. Alternatively, upon vote of the board, the entire board may preside over the hearing.

B. Subpoenas: The hearing officer or, if the board as a whole presides over the hearing, the board chair shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books, documents or

records pertinent to the matter of a case before the board.

C. Continuances:

(1) Following the issuance of a notice of hearing, no party may file a motion for continuance, motion to vacate, or proposed settlement agreement less than seven calendar days prior to the hearing except under extraordinary, unforeseen circumstances beyond the control of the movant. In the absence of such circumstances, a hearing officer may not continue or vacate a hearing in response to a motion submitted to the board later than seven calendar days prior to the hearing. Lack of knowledge or familiarity with this rule are not extraordinary or unforeseen circumstances.

(2) Except as provided in Paragraph (1) of this section, the hearing officer may grant a continuance if the party requesting the continuances submits proof to verify good cause such as illness, availability of new evidence or unavailability of the licensee or licensee’s attorney.

(3) A licensee or applicant may only request a continuance if the licensee or applicant signs an affirmative statement that the licensee or applicant waives the right to a hearing held not more than 60 days from the date of service of the notice of hearing.

D. Motions: Parties to a disciplinary case may file written motions for the consideration of the hearing officer or the full board. Any motion must state its legal grounds, including all necessary citations to legal authority, as well as the specific relief requested. Where a party raises an issue in the form of a dispositive motion, the hearing officer shall take any such dispositive motion under advisement and shall present the motion in writing to the board as part of the final hearing officer report.  
[16.12.12.13 NMAC - N, 12/30/2021]

**16.12.12.14 SERIOUS LETTERS OF CONCERN:**

A. Purpose: As an

alternative to disciplinary action, the board may issue non-disciplinary serious letters of concern to licensees, certificate holders, applicants, and those accused of unlicensed practice.

B. Content: A serious letter of concern shall state expressly that it does not constitute disciplinary or corrective action, a letter of reprimand, or a determination of guilt of any kind. For the benefit of the recipient, a serious letter of concern shall identify and explain the applicable provision of the Nursing Practice Act or board rules identified as the allegation in the complaint.

C. Function: A serious letter of concern operates as a dismissal of the complaint.

[16.12.12.14 NMAC - N, 12/30/2021]

**16.12.12.15 REINSTATEMENT OF LICENSE OR CERTIFICATE:**

A. The board shall not consider a petition to reinstate a license or certificate prior to the expiration of one year from the date of signature of the order of revocation, except for the following circumstances:

(1) where the board revoked the license or certificate solely due to noncompliance with a judgment and order for child support; or  
(2) where the board’s written order expressly permitted reinstatement sooner than one year.

B. An individual seeking to reinstate a license or certificate must file with the board a written petition for reinstatement containing, at a minimum, the following information:

(1) the individual’s name, former license number, and the date of the individual’s prior revocation;  
(2) a detailed explanation of why good cause supports reinstatement of the license or certificate, along with any accompanying documentation or evidence;

(3) an affirmative statement as to whether,

as a condition of reinstatement, the individual agrees to participate in the board’s diversion program if found appropriate by the board; and

(4) an affirmative statement that the individual agrees to abide by all of the rules and regulation of the board and, where applicable, the diversion program.

C. The board’s determination of good cause and its accompanying grant or denial of a petition for reinstatement is entirely discretionary, provided that the board shall consider at least the length of time having elapsed since the license was revoked, the gravity of the violations which represented the basis for the prior order of revocation, the risk the individual might pose to public health if licensed or certified, and evidence of the individual’s rehabilitation since revoked.

D. In the event that the board grants the petition for reinstatement, the individual seeking reinstatement shall be required to submit the following prior to the issuance of the license or certificate:

- (1) a completed reinstatement application;
- (2) proof of meeting the renewal requirements as set forth in these rules adopted by the board;
- (3) payment of the reinstatement fee;
- (4) a completed criminal background check, unless the individual seeking to reinstate a license or certificate applies for reinstatement within less than one year of the date of signature of the order of revocation; and
- (5) any additional documents, materials, or evidence required by the board.

E. If the results of a criminal background check indicate that the individual seeking reinstatement has been convicted of a disqualifying criminal conviction, the matter of the individual’s reinstatement shall be decided by the board at a subsequent meeting.  
[16.12.12.15 NMAC - N, 12/30/2021]

**16.12.12.16 COMPLAINTS REGARDING FIRMS, ASSOCIATIONS, INSTITUTIONS, AND CORPORATION VIOLATING THE NURSING PRACTICE ACT:**

A. The board shall accept and determine the disposition of written complaints regarding firms, associations, institutions and corporations violating the nursing practice act, causing the violation of the nursing practice act, or asking employees to violate the nursing practice act by policy or directive. In determining the disposition of these complaints, the board is not obligated to abide by the Uniform Licensing Act.

B. In the event that the board receives a written complaint regarding a firm, association, institution, or corporation, the board shall give the firm, association, institution, or corporation the opportunity to respond in writing to the allegations in the complaint.

C. If the board determines that the firm, association, institution, or corporation violated Subsection A through H of Section 61-3-30 NMSA 1978 of the Nursing Practice Act, the board shall inform the firm, association, institution, or corporation of the requirements set out in Section 61-3-30 NMSA 1978 of the Nursing Practice Act.

D. The board shall keep a record of the number of complaints received and the disposition of said complaints processed in accordance with this rule.

[16.12.12.16 NMAC - N, 12/30/2021]

**PUBLIC ACCOUNTANCY, BOARD OF**

**This is an amendment to 16.60.1 NMAC, Section 7, effective 12/12/2021**

**16.60.1.7 DEFINITIONS:**

A. **“Acceptance letter”** means a document issued by the sponsoring organization indicating the peer review report has

been accepted and, if applicable, any remedial/corrective actions to be agreed to and completed by the firm.

B. **“Accounting and auditing services”** for peer review purposes means providing any one or more of the following:

(1) engagements performed in accordance with the “statements on auditing standards”;

(2) engagements, other than preparation services, performed in accordance with the “statements on standards for accounting and review services”;

(3) examination, review or agreed upon procedures engagements performed in accordance with the “statements on standards for attestation engagements”;

(4) engagements performed in accordance with public company accounting oversight board (PCAOB) standards that are not subject to PCOAB permanent inspection.

C. **“Act”** means the New Mexico 1999 Public Accountancy Act, Sections 61-28B-1 to 61-28B-29 NMSA 1978.

D. **“Agreed upon procedures”** are those which are to be performed in accordance with applicable attestation standards. They are also those in which a license is engaged to issue a written finding that is based on specific procedures that the specified parties agreed are sufficient for their purpose, is restricted to the specified parties, and does not provide an opinion or negative assurance.

E. **“Attest”** means to provide the following services:

(1) An audit or other engagement performed in accordance with the statements on auditing standards;

(2) a review of a financial statement performed in accordance with the statement on standards for accounting and review services;

(3) an engagement performed in accordance with the statements on standards for

attestation engagements adopted by the board; and

(4)

an engagement to be performed in accordance with the auditing standards of the public company accounting oversight board.

**F. “Blended**

**learning”** is an educational program incorporating different learning or instructional delivery methods, both asynchronous and synchronous learning activities, or different levels of guidance.

**G. “Client”** means the person or entity who retains a licensee for the performance of professional services.

**H. “Completion**

**letter”** means a document issued by the sponsoring organization after a firm has provided evidence of remedial/corrective actions taken, which were specified in the acceptance letter, and its peer review committee has determined no further actions are required.

**I. “Disqualifying**

**criminal conviction”** has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

**J. “Electronic mail**

**or an Email”** means an electronic mail message created in or received through an electronic mail system, including all attachments that are sent over a communications network, using a computer or other electronic device.

**K. “Electronic**

**Signature”** means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

**L. “Enterprise”**

means any person or entity who retains a licensee for the performance of professional services.

**M. “Financial**

**statements”** means statements and footnotes related thereto that purport to show an actual or anticipated financial position or results of operations, cash flow, or changes in financial position based on generally accepted accounting principles or another comprehensive basis of

accounting. The term includes specific elements, accounts, or items of such statements, but it does not include incidental financial data included in management advisory service reports which support recommendations made to clients. In addition, it does not include tax returns and supporting schedules.

**N. “He, his, him”**

means masculine pronouns when used herein also include the feminine and the neuter.

**O. “Holding out to the public as a permit holder or registered firm”**

means the phrase “holding himself out to the public as a permit holder or registered firm” as used in the definition of “practice of public accountancy” in Section 3L of the act, and in these rules it means any representation, other than by an individual holding a certificate or firm registration issued by this board pursuant to the 1999 Public Accountancy Act, Sections 61-28B-7 thru 61-28B-9, 61-28B-1 or 61-28B-13 NMSA 1978, of the fact that a certificate holder holds a permit, certificate or is a registered firm in connection with the performance of, or an offer to perform, services for the public, except as allowed under the practice privilege pursuant to the 1999 Public Accountancy Act, Sections 61-28B-26 NMSA 1978. Any such representation is presumed to invite the public to rely upon the professional skills implied by the certificate, registration, or permit in connection with the professional services offered to be performed. For the purpose of this rule, a representation shall be deemed to include any oral or written communication conveying the fact that the person holds a certificate, permit or firm registration, including without limitation the use of titles or legends on letterheads, business cards, office doors, advertisements, internet, email, or other electronic media.

**P. “License”** has the same meaning as defined in Subsection C of Section 61-1-2 NMSA 1978.

**Q. “Licensing fee”** has the same meaning as defined in

Paragraph (2) of Subsection F of Section 61-1-34 NMSA 1978.

**R. “Mail”** as used in the rules shall include mail sent by the United States Postal Service or commercial courier.

**S. “Manager”** has, when used in these rules, the same meaning as the term “manager” in a limited liability company.

**T. “Member”** has, when used in these rules, the same meaning as the term “member” in a limited liability company.

**U. “Military service member”** has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

**V. “Nano learning program”** is a program designed to permit a participant to learn a given subject in a minimum of 10 minutes and less than 20 minutes through the use of electronic media (including technology applications and processes and computer-based or web-based technology) and without interaction with a real-time instructor. A nano learning program differs from a self-study program in that it is typically focused on a single learning objective and is not paper-based. A nano learning program is not a group program. Nano learning is not a substitute for comprehensive programs addressing complex issues.

**W. “Non-technical”** fields of study are subjects that contribute to the maintenance and/or improvement of the competence of a CPA in areas that indirectly relate to the CPA’s field of business and subject to board determination. These fields of study include, but are not limited to:

- (1) Behavioral ethics
- (2) Business management & organization
- (3) Communications and marketing
- (4) Computer software and applications
- (5) Personal development
- (6) Personnel/human resources;
- (7) Production

~~[F:]~~ X. “PCAOB” means the public company accounting oversight board.

~~[H:]~~ Y. “Peer review program” means the sponsoring organization’s entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance and materials.

~~[V:]~~ Z. “Peer review committee” means a committee comprised exclusively of CPAs practicing public accountancy and formed by a sponsoring organization for the purpose of overseeing the administration, acceptance, and completion of peer reviews.

~~[W:]~~ AA. “Peer review oversight committee” means a board appointed committee to provide oversight of the sponsoring organization in order to provide reasonable assurance that peer reviews are being administered, conducted, and reported on in accordance with the minimum standards for performing and reporting on peer reviews.

~~[X:]~~ BB. “Practice” means performing or offering to perform public accountancy for a client or potential client by a person who makes a representation to the public as a certified public accountant or a registered firm.

~~[Y:]~~ CC. “Public accountancy” means the performance of one or more kinds of services involving accounting or auditing skills, including the issuance of reports on financial statements, the performance of one or more kinds of management, financial advisory or consulting services, the preparation of tax returns or the furnishing of advice on tax matters.

~~[Z:]~~ DD. “Practice privilege” as defined in the 1999 Public Accountancy Act, Section 61-28B-26 NMSA 1978, a person whose principal place of business or residence is not in New Mexico shall be presumed to have qualifications substantially similar to New Mexico’s requirements, may exercise all the

practice privileges of certificate holders of New Mexico without the need to obtain a certificate pursuant to the 1999 Public Accountancy Act, Sections 61-28B-9 NMSA 1978, if the individual meets the requirements of the 1999 Public Accountancy Act, Section 61-28B-26 NMSA 1978.

~~[AA:]~~ EE. “Professional engagement” means a written or oral agreement between a client and a licensee relative to the performance of professional services and the services performed under this agreement. Oral agreements may only be used when allowed by professional standards.

~~[BB:]~~ FF. “Professional services” means any service performed or offered to be performed by a licensee for a client in the course of the practice of public accountancy.

~~[CC:]~~ GG. “Public communication” means a communication made in identical form to multiple persons or to the world at large, including but not limited to television, radio, motion pictures, newspaper, pamphlet, mass mailing, letterhead, business card, the internet, email or directory.

~~[DD:]~~ HH. “Quality review” means an interchangeable term for peer review.

~~[EE:]~~ II. “Report” As provided in Section 61-28B-3 N of the act, the term “report” includes the issuance of reports in conjunction with an accounting and auditing practice using the forms of language set out in the American institute of certified public accountants (AICPA) “statements on auditing standards,” “statements on standards of accounting and review services,” “statements on standards for attestation engagements,” and PCOAB standards.

~~[FF:]~~ JJ. “Services involving accounting or auditing skills” means “services involving accounting or auditing skills” as used in the definition of “practice of public accountancy” in Sections 3K and L of the act. It includes the provision of advice or recommendations in connection with the sale or offer for

sale of products, when the advice or recommendations require or imply the possession of accounting or auditing skills or expert knowledge in auditing or accounting.

~~[GG:]~~ KK. “Sponsoring Organization” means a board approved professional society, or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.

~~[HH:]~~ LL. “Statement of compliance” means a certified statement from the human services department (HSD) stating that an applicant or licensee is in compliance with a judgment and order for support.

~~[H:]~~ MM. “Statement of non-compliance” means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and order for support.

NN. “Substantially equivalent” means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Act.

~~[JJ:]~~ OO. “Technical” fields of study are technical subjects that contribute to the maintenance and/or improvement of the competence of a CPA in the profession of accountancy and that directly relate to the CPA’s field of business. These fields of study include, but are not limited to:

- (1) Accounting
- (2) Government accounting
- (3) Auditing
- (4) Government auditing
- (5) Business law
- (6) Economics
- (7) Finance
- (8) Information technology



- (9) Management services
- (10) Regulatory ethics
- (11) Specialized knowledge
- (12) Statistics
- (13) Taxes

**PP.** “Veteran” has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978.

[16.60.1.7 NMAC - Rp 16 NMAC 60.1.7 and 16 NMAC 60.11.7, 2/14/2002; A, 11/30/2007; A, 4/15/2008; A, 6/30/2008; A, 1/17/2013; A, 9/15/2015; A, 10/1/2016; A, 10/1/2020; A, 12/12/2021]

**PUBLIC ACCOUNTANCY,  
BOARD OF**

**This is an amendment to 16.60.3 NMAC, Sections 9, 12, 14 and 15, effective 12/12/2021.**

**16.60.3.9 INITIAL CERTIFICATE/LICENSE REQUIREMENTS:**

**A.** An applicant for initial certification/licensure shall demonstrate to the board’s satisfaction that he:

(1) ~~[is of good moral character and]~~ lacks a history of dishonest or felonious acts;

(2) meets the education, experience and examination requirements of the board; and

(3) passes the American institute of certified public accountants ethics examination with a score of ninety percent or higher.

**B.** ~~[Moral character requirements]~~ Integrity requirement: The board may assess ~~[moral character requirements]~~ integrity based upon applicant-provided ~~[character]~~ references and background checks to determine an applicant’s history of dishonest or felonious acts. The board may request the presence at a board meeting of an applicant for whom it has unanswered questions.

**C.** Criminal history background check: Pursuant to Section 61-28B-8.1 of the act, all applicants for initial issuance or reinstatement of a certificate and license in New Mexico shall be required to be fingerprinted to establish positive identification for a state and federal criminal history background check. Applicants can submit fingerprints through the board approved live scan location prescribed by the New Mexico Department of Public Safety (DPS).

(1) The applicant will register online, through the approved live scan website, with the board’s Originating Agency Identification (ORI) number and make payment with registration. After the process is complete, the applicant will receive a registration confirmation.

(2) The applicant shall take their registration confirmation to an approved live scan facility and conduct the electronic fingerprinting process.

(3) Results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant’s background check has been successfully completed.

(4) Out-of-State applicants, who are unable to visit an approved live scan fingerprinting facility, may follow the same registration process and submit a hardcopy fingerprint card to the approved live scan facility. The results will be sent to the board electronically. The board shall not issue a certificate or license until the applicant’s background check has been successfully completed.

**D.** Education and examination requirements: Education and examination requirements are specified in Section 8 of the act and are further delineated in Part 2 of board rules. An applicant who has passed the uniform CPA examination prior to July 1, 2004, is exempt from the 150-semester-hour requirement.

**E.** Experience required: Applicants documenting their required experience for issuance of an initial certificate pursuant to

Subsection H of Section 7 of the act, and after July 1, 2004 Subsection H of Section 8 of the act shall:

(1) provide documentation of experience in providing any type of services or advice using accounting, attest, management advisory, financial advisory, tax or consulting skills; acceptable experience shall include experience gained through employment in industry, government, academia or public practice;

(2) have their experience verified by an active, licensed CPA as defined in the act or by an active, licensed CPA from another state; the board shall consider and evaluate factors such as complexity and diversity of the work in determining acceptability of experience submitted:

(a) one year of experience or it’s 2,000 hour equivalent shall consist of full or part-time employment that extends over a period of no more than three years and includes no fewer than 2,000 hours of performance of services described above;

(b) the CPA verifying an applicant’s experience must be employed by, or a consultant to, or provide professional services to, the same organization as the applicant;

(c) experience documented in support of an initial application must be obtained within the seven years immediately preceding passing of the examination or within seven years of having passed the examination upon which the application is based; this does not apply to applicants who qualified and sat for the examination during or prior to the November 2001 administration;

(d) any licensee requested by an applicant to submit evidence of the applicant’s experience and who has refused to do so shall, upon request of the board, explain in writing or in person the basis for such refusal; the board may require any licensee who has furnished evidence of an applicant’s experience to substantiate the information;

(e) the board may inspect documentation relating to an applicant’s claimed experience; any applicant may be required to appear before the board or its representative to supplement or verify evidence of experience.

F. Certificate and license issuance: upon receipt of a complete application packet and successful completion of a fingerprint background check [~~that revealed no arrests~~], board staff are authorized to approve and issue a certificate and license to an applicant for whom no licensing issues are present. Pursuant to Section I of 16.60.2.13 NMAC, uniform CPA examination scores must be approved by the board’s administrative staff prior to the issuance of a certificate and license to an applicant who sat for the uniform CPA examination as a New Mexico candidate.

G. Swearing in ceremony: Every new licensee must participate in a swearing in ceremony before the board within one year from the date of the issuance of the initial license. Swearing in ceremonies may be held two times per year in locations to be determined by the board or the board’s administrative staff. Upon good cause presented in writing prior to the expiration of the one-year period of initial licensure, the board may extend the period for being sworn in or arrange an alternate method for the licensee to be sworn in. If an extension for good cause is granted, the licensee shall arrange with the board’s administrative staff to present him or herself for swearing in before the board within the time prescribed by the board. Failure to appear at a swearing in ceremony before the board may result in the imposition of a fine or other disciplinary action, as deemed appropriate by the board.

H. Replacement wall certificates and licenses to practice: Replacement wall certificates and licenses to practice may be issued by the board in appropriate cases and upon payment by the CPA or RPA of the fee as set by the board. A certificate/license holder

is specifically prohibited from possessing more than one wall certificate and more than one license to practice as a CPA or RPA. When a replacement wall certificate or license to practice is requested, the certificate/license holder must return the original certificate/license or submit a [~~notarized affidavit~~] statement describing the occurrence that necessitated the replacement certificate or license.

I. Renewal requirements: Certificates/licenses for individuals will have staggered expiration dates based on the individual’s birth month. Deadline for receipt of certificate/license renewal applications and supporting continuing professional education affidavits or reports is no later than the last day of the CPA or RPA certificate/license holder’s birth month or the next business day if the deadline date falls on a weekend or holiday.

(1) The board may accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications.

(2) Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

(3) Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the continuing professional education requirements of Subsection E of Sections 9 and Subsection A of Section 12 of the act and of these rules.

(4) The board shall send renewal application notices no less than 30 days prior to the renewal deadline.

J. [~~Expedited licensure/ certification by reciprocity for military spouses licensed in another jurisdiction:~~] The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to Section 61-1-34 NMSA 1978.

(1) [~~If a military service member, the spouse of a military service member, or a recent veteran submits an application for a license or certification and is a qualified applicant pursuant to this part, the board shall expedite the processing of such application and issue the license as soon as practicable. The terms “military service member” and “recent veteran” are defined in the Uniform Licensing Act, NMSA 1978, Section 61-1-34. Any qualified veteran applicant seeking expedited licensure pursuant to this section shall submit a copy of form DD214, Certificate of Release or Discharge from Active Duty, with the application.~~] Applications for registration shall be completed on a form provided by the board.

(2) The applicant shall provide a complete application that includes the following information:

- (a) applicant’s full name;
- (b) current mailing address;
- (c) current electronic mail address, if any;
- (d) date of birth;
- (e) background check, if required; and
- (f) proof as described in subsection (3) below.

(3) The applicant shall provide the following satisfactory evidence as follows:

- (a) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;
- (b) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and
- (c) the following documentation:
  - (i) for military service member: copy of military orders;

(ii) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;

(iii) for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;

(iv) for dependent children of military service members: copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;

(v) for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

(4) The license or registration shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

(5) Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

(6) A license issued pursuant to this section shall be valid for the time period that is specified in the Act.

(7) A license issued pursuant to this section shall not be renewed automatically, and shall be renewed only if the licensee satisfies all requirements for the issuance and renewal of a license pursuant to the 1999 Public Accountancy Act, including Section 61-28B-9 NMSA 1978 and Subsection I of 16.60.3.9 NMAC.

(8) As a courtesy, the board, will send via electronic mail license renewal notifications to licensees or registrants

before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date.

[16.60.3.9 NMAC - Rp 16 NMAC 60.4.8.2 & 16 NMAC 60.4.8.3, 2/14/2002; A, 1/15/2004; A, 6/15/2004; A, 12/30/2004; A, 4/29/2005; A, 7/29/2005; A, 11/30/2007; A, 6/30/2008; A, 2/27/2009; A, 1/17/2013; A, 12/1/2014; A, 9/15/2015; A, 10/1/2020; A, 12/12/2021]

**16.60.3.12 REINSTATEMENT REQUIREMENTS:**

**A.** Requests to reinstate a certificate/license that lapsed or expired as a result of non-renewal shall meet all board prescribed requirements for reinstatement including the current year's renewal fee and continuing professional education. An individual whose certificate/license has been subject to board disciplinary action pursuant to the Uniform Licensing Act, Sections 61-1-1 to 61-1-31 NMSA 1978, may, upon application in writing and for good cause, request reinstatement of the certificate/license after completion of all requirements contained in the board's original order or agreement.

**B.** A reinstatement application pursuant to Section 21 of the act and this rule will be processed by the board upon the basis of the materials submitted in support thereof and supplemented by such additional inquiries as the board may require. Upon receipt of a complete reinstatement application packet and successful completion of a fingerprint background check [~~that revealed no arrests~~], board staff are authorized to reinstate a certificate and license to an applicant for whom no licensing issues are present. If the individual has not held an active license in any jurisdiction within the five years preceding the date of application for reinstatement, the approval of the board will be required. For reinstatement of a certificate/license,

a hearing may be held, and the board may, at its discretion, impose terms and conditions on an application following procedures the board may find suitable for the particular case.

**C.** The reinstatement request shall set out in writing the reasons constituting good cause for the relief sought and shall be accompanied by at least two supporting recommendations, under oath, from practitioners who have personal knowledge of the activities of the applicant since board disciplinary action was imposed. In considering a reinstatement application, the board may consider all activities of the applicant since the disciplinary action from which relief is sought was imposed; the offense for which the applicant was disciplined; the applicant's activities during the time the certificate/license was in good standing; the applicant's rehabilitative efforts; restitution to damaged parties in the matter for which the penalty was imposed; and the applicant's general reputation for trust and professional probity.

**D.** No application for reinstatement will be considered while the applicant is under sentence for any criminal offense, including any period during which the applicant is on court-imposed probation or parole.

[16.60.3.12 NMAC - Rp 16 NMAC 60.4.11, 2/14/2002; A, 12/30/2005; A, 1/17/2013; A 10/1/2020; A, 12/12/2021]

**16.60.3.14 SUBSTANTIAL EQUIVALENCY/INTENT TO PRACTICE REQUIREMENTS:**

**A.** Effective July 1, 2008, a person whose principal place of business is not New Mexico and who has a valid certificate/license as a certified public accountant from another state shall be presumed to have qualifications substantially equivalent to New Mexico's requirements if the person meets the requirements of Subsection A of Section 26 of the act.

**B.** The board may rely on NASBA, AICPA, or other professional bodies approved as

acceptable to the board to provide qualification appraisal in determining whether an applicant’s qualifications are substantially equivalent to New Mexico’s requirements.

C. A person exercising the practice privilege afforded by Section 26 of the act shall be deemed to have:

(1) submitted to the personal and subject matter jurisdiction and disciplinary authority of the board;

(2) agreed to full compliance with the act and related board rules; and

(3) consented to appointment of the state board that issued the license as agent upon whom process may be served in an action or proceeding by the New Mexico public accountancy board against the licensee.

D. A person exercising the practice privilege afforded by Section 26 of the act shall cease offering or rendering professional attest services in New Mexico in the event the license from the state of the person’s principal place of business is no longer valid.

E. An individual who qualifies for practice privileges pursuant to Section 26 of the act may offer or render professional services whether in person or by mail, telephone, or electronic means without the need to notify the board or remit a fee.

F. Pursuant to the Uniform Accountancy Act, an individual entering into an engagement to provide professional services via a web site pursuant to Section 23 shall disclose, via any such web site, the individual’s principal state of licensure, license number, and an address as a means for regulators and the public to contact the individual regarding complaints, questions, or regulatory compliance.

G. Reporting [~~moral-character~~] integrity violations.

(1) Any individual using practice privileges in New Mexico shall notify the board within 30 days of any occurrence

described in board rule Subsection B of Section 16.60.5.11 NMAC.

(2) Any licensee of New Mexico using practice privileges in another state shall notify the New Mexico board and the state board of any other state in which said licensee uses practice privileges within 30 days of any occurrence described in board rule Subsection B of 16.60.5.11 NMAC, which includes Subsection A of Section 16.60.5.14 NMAC.

[16.60.3.14 NMAC - N, 2/14/2002; A, 7/30/2004; A, 7/29/2005; A, 6/30/2008; A, 1/17/2013; A, 12/12/2021]

**16.60.3.15 CONTINUING PROFESSIONAL EDUCATION (CPE) REQUIRED TO OBTAIN OR MAINTAIN AN “ACTIVE” CPA LICENSE:**

A. The following requirements of continuing professional education apply to certificate/license renewals and reinstatements pursuant to Subsection E of Sections 9 and Subsection A of Section 12 of the act. An applicant for certificate/license renewal shall show completion of no less than 120 clock hours of CPE, complying with these rules during the 36-month period ending on the last day of the certificate/license holder’s birth month.

(1) Any applicant seeking a license/certificate or renewal of an existing license shall demonstrate participation in a program of learning meeting the standards set forth in the statement on standards for continuing professional education (CPE) programs jointly approved by NASBA and AICPA or standards deemed comparable by the board. An initial license is the first license issued to an individual. CPE reporting will begin on the first day following the licensee’s initial expiration date (birth month) for license renewal. No CPE will be required for the period between issue date and first expiration date (birth month).

(2) Each person holding an active CPA

certificate/license issued by the board shall show completion of no less than 120 hours of continuing professional education complying with these rules during the preceding 36-month period ending on the last day of the certificate/license holder’s birth month, with a minimum of 20 hours completed in each reporting year. For any CPE reporting period which begins on or after January 1, 2010, continuing professional education must include a minimum of four hours of ethics education during the 36-month period after January 1, 2010. Licensees shall report CPE completion on board prescribed forms including a signed statement indicating they have met the requirements for participation in the CPE program set forth in board rules.

(3) The board may, at its discretion, accept a sworn affidavit as evidence of certificate/license holder compliance with CPE requirements in support of renewal applications in lieu of documented evidence of such. Reciprocity and reinstatement applications shall require documented evidence of compliance with CPE provisions.

(4) Deadline for receipt of license renewal applications and supporting CPE reports or affidavits is no later than the last day of the certificate/license holder’s birth month. Renewal applications and supporting CPE affidavits or reports shall be postmarked or hand-delivered no later than the renewal deadline date or the next business day if the deadline date falls on a weekend or holiday.

(5) In the event that [a] renewal [~~applicant has~~] applicants have not completed the requisite CPE by the renewal deadline, he [~~shall~~] may provide a written explanation for failure to complete CPE and [~~shall also~~] may submit a written request for an extension for completion of the required CPE prior to license expiration date.

(a) The approval of an extension request is not automatic. The board has the discretion to grant or deny a request.

**(b)**

The request for extension shall include documentation of the extenuating circumstances that prevented him from completing the CPE. A written plan of action to remediate the deficiency must accompany the renewal application and extension request.

**(c)**

If a request for extension is received in the board office after the expiration date of the license, the license shall be renewed, and the file shall be referred to the board for possible disciplinary action.

**(d)**

An extension up to 60 days beyond the expiration date of the license may be granted by board staff; extenuating circumstances beyond the control of the licensee necessitating an extension beyond 60 days requires the approval of the board. [~~Failure to complete the required CPE within the extension period shall result in disciplinary action against the licensee.~~]

**(e)**

The board may waive [this] a fine for good cause or require community service acceptable to the board.

**(f)**

If all CPE requirements are not met [~~within 90 days beyond the~~] by the expiration date of the license or granted extension date, the license shall be subject to [~~cancellation~~] disciplinary action.

**(6)** Renewal applications and CPE reports received after prescribed deadlines shall include prescribed delinquency fees.

**(7)**

Applications will not be considered complete without satisfactory evidence to the board that the applicant has complied with the CPE requirements of Subsection E of Sections 9 and Subsection A of Section 12 of the act and of these rules.

**(8)**

Reinstatement applicants whose certificates/licenses have lapsed shall provide documented evidence of completion of 40 hours of CPE for each year the certificate/license was expired, not to exceed 200

hours. If the license was expired for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was expired, the continuing professional education must include a minimum of four hours of ethics education during the 36 months preceding reinstatement.

**(a)**

The length of expiration shall be calculated from the date the license expired to the date the application for reinstatement was received by the board office.

**(b)**

If the license was expired for less than one year, documented evidence of 40 hours of CPE earned within the 12 months immediately preceding the date of application for reinstatement must be provided.

**(c)**

If the license was expired for longer than one year, for the purpose of determining the number of CPE hours required, the length of expiration shall be rounded down to the last full year if the partial year was less than six months and rounded up to the next full year if the partial year was more than six months.

**B.** Exemption from CPE requirements through change of certificate/license status between inactive/retired and active status.

**(1)** Licensees

granted an exception by the board must place the word “inactive” adjacent to their CPA title on any business card letterhead, or any other document or device, with the exception of their CPA certificate, on which their CPA title appears. Licensees granted the exception who are at least 55 years of age may replace “inactive” with “retired”. Any of these terms must not be applied in such a manner that could likely confuse the public as to the current status of the licensee.

**(2)** Licensees

granted the use of “inactive” or “retired” may volunteer their time to nonprofit or governmental organizations, to the extent provided in the statute. Licensees may not be

compensated for such volunteer work other than through reimbursement of actual expenses.

**(3)** Licensees

have the responsibility to maintain professional competence relative to the volunteer services they provide even though exempt from specific CPE requirements of 16.60.3.15 NMAC.

**C.** Persons requesting to change from “inactive” or “retired” to “active” certificate/license status shall:

**(1)** complete

board-prescribed change-of-status forms and remit related fees; and

**(2)** provide

documented evidence of 40 hours of CPE for each year the certificate/license was inactive, not to exceed 200 hours; if the license was inactive for longer than 36 months, at least 120 of the hours must have been earned within the preceding 36 months. For any post-2009 year for which the certificate/license was inactive, the continuing professional education must include a minimum of four hours of ethics education during the 36 months preceding application for change of status to “active”.

**(3)** If an

individual has not held an active license within five years preceding the date of the application for “change of status”, the approval of the board will be required.

**D.** Hardship

exceptions: The board may make exceptions to CPE requirements for reason of individual hardship including health, military service, foreign country residence, or other good cause. Requests for such exceptions shall be subject to board approval and presented in writing to the board. Requests shall include such supporting information and documentation as the board deems necessary to substantiate and evaluate the basis of the exception request.

**E.** Programs qualifying

for CPE credit: A program qualifies as acceptable CPE for purposes of Subsection E of Sections 9 and Subsection A of Section 12 of the act and these rules if it is a learning

program contributing to growth in professional knowledge and competence of a licensee. The program must meet the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the statement on standards for continuing professional education programs jointly approved by NASBA and AICPA, by accounting societies recognized by the board, or such other standards deemed acceptable to the board.

(1) The following standards will be used to measure the hours of credit to be given for acceptable CPE programs completed by individual applicants:

(a) an hour is considered to be a 50-minute period of instruction;

(b) a full one day program will be considered to equal eight hours;

(c) only class hours or the equivalent (and not student hours devoted to preparation) will be counted;

(d) one-half credit increments are permitted after the first credit has been earned in a given learning activity;

(e) Nano-learning – The credit to be earned for a single nano-learning program is one fifth-credit. Only a total of eight CPE credit hours can be reported in a three year reporting cycle using nano-learning credits.

(f) For blended learning programs included in rule 16.60.3.15, the CPE credit must equal the sum of the CPE credit determination for the various completed components of the program.

(g) for reporting periods on or after January 1, 2010, acceptable ethics topics may include, but are not limited to, instruction focusing on the AICPA code of professional conduct, the New Mexico occupational and professional licensing code of professional conduct applicable to certified public accountants, Treasury Circular 230,

malpractice avoidance, organization ethics, ~~[moral-reasoning]~~ integrity, and the duties of the CPA to the public, clients, and colleagues; ethics hours may be earned as part of any professional development program otherwise qualifying under this rule, provided the ethics content and the time devoted to such content are separately identifiable on the program agenda.

(2) Service as a lecturer, discussion leader, or speaker at continuing education programs or as a university professor/instructor (graduate or undergraduate levels) will be counted to the extent that it contributes to the applicant's professional competence in accountancy.

(3) Credit as a lecturer, discussion leader, speaker, or university professor/instructor may be allowed for any meeting or session provided that the session would meet the continuing education requirements of those attending.

(4) Credit allowed as a lecturer, discussion leader, speaker or university professor/instructor will be on the basis of one hour of preparation and one hour for each hour of presentation. Credit for subject preparation may only be claimed once for the same presentation.

(5) Authors of published articles, books and other publications may receive credit for their research and writing time to the extent it maintains or improves their accountancy professional competence. For the author to receive CPE credit the article, book or CPE program must be formally reviewed by an independent subject matter expert or reviewed and approved by the board. Not more than fifty percent of the total CPE credits required for the CPE reporting period can be claimed for author CPE credit. The board will determine the amount of credit awarded.

(6) Credit allowed under provisions for a lecturer, discussion leader, speaker at continuing education programs, or university professor/instructor

or credit for published articles and books may not exceed one half of an individual's CPE requirement for a three year reporting period (shall not exceed 60 hours of CPE credit during a 3-year reporting period).

(7) For a continuing education program to qualify under this rule, the following standards must be met:

(a) an outline of the program is prepared in advance and preserved;

(b) the program is at least one hour in length;

(c) a qualified instructor conducts the program; and

(d) a record of registration or attendance is maintained.

(8) The following programs are deemed to qualify, provided the above are met:

(a) professional development programs of recognized national and state accounting organizations;

(b) technical sessions at meetings of recognized national and state accounting organizations and their chapters; and

(c) no more than four hours CPE annually may be earned for board meeting attendance.

(9) University or college graduate-level courses taken for academic credit are accepted. Excluded are those courses used to qualify for taking the CPA exam. Each semester hour of credit shall equal 15 hours toward the requirement. A quarter hour credit shall equal 10 hours.

(10) Non-credit short courses - each class hour shall equal one hour toward the requirement and may include the following:

(a) formal, organized in-firm educational programs;

(b) programs of other accounting, industrial, and professional

organizations recognized by the board in subject areas acceptable to the board;

(c) formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify with the amount of credit to be determined by the board.

(11) The board may look to recognized state or national accounting organizations for assistance in interpreting the acceptability of the credit to be allowed for individual courses. The board will accept programs meeting the standards set forth in the NASBA CPE registry, AICPA guidelines, NASBA quality assurance service, or such other programs deemed acceptable to the board.

(12) For each three year reporting period, at least 96 of the hours reported shall be courses, programs or seminars whose content is in technical fields of study. Technical fields of study are technical subjects that contribute to the maintenance and improvement of the competence of a CPA in the profession of accountancy and that directly relate to the CPA's field of business. Definitions of technical fields of study and non-technical fields of study can be found in section 16.60.1.17 NMAC.

(13) Effective for CPE reporting periods ending on or after July 31, 2007, for each three year reporting period, at least 24 of the hours reported shall not include CPE sponsored by the licensee's firm, agency, company, or organization but may include all methods of CPE delivery, provided that each hour meets the standards specified in Paragraphs (1) through (10) of this Subsection.

(14) For each three year reporting period, credit will be allowed once for any single course, program or seminar unless the individual can demonstrate that the content of such course, program or seminar was subject to substantive technical changes during the reporting period.

F. Programs not qualifying for CPE:

(1) CPA examination review or "cram" courses;

(2) industrial development, community enhancement, political study groups or similar courses, programs or seminars;

(3) courses, programs or seminars that are generally for the purpose of learning a foreign language;

(4) partner, shareholder or member meetings, business meetings, committee service, and social functions unless they are structured as formal programs of learning adhering to the standards prescribed in this rule.

G. Continuing professional education records requirements: When applications to the board require evidence of CPE, the applicants shall maintain such records necessary to demonstrate evidence of compliance with requirements of this rule.

(1) Reinstatement and reciprocity applicants shall file with their applications a signed report form and statement of the CPE credit claimed. For each course claimed, the report shall show the sponsoring organization, location of program, title of program or description of content, the dates attended, and the hours claimed.

(2) Responsibility for documenting program acceptability and validity of credits rests with the licensee and CPE sponsor. Such documentation should be retained for a period of five years after program completion and at minimum shall consist of the following:

(a) copy of the outline prepared by the course sponsor along with the information required for a program to qualify as acceptable CPE as specified in this rule; or

(b) for courses taken for scholastic credit in accredited universities

and colleges, a transcript reflecting completion of the course. For non-credit courses taken, a statement of the hours of attendance, signed by the instructor, is required.

(3) Institutional documentation of completion is required for formal, individual self-study/correspondence programs.

(4) The board may verify CPE reporting information from applicants at its discretion. Certificate holders/licensees or prospective certificate holders/licensees are required to provide supporting documentation or access to such records and documentation as necessary to substantiate validity of CPE hours claimed. Certificate holders/licensees are required to maintain documentation to support CPE hours claimed for a period of five years after course completion/CPE reporting. Should the board exercise its discretion to accept an affidavit in lieu of a CPE report, the board shall audit certificate/license holder CPE rules compliance of no less than 10 percent of active CPA/RPA licensees annually.

(5) In cases where the board determines requirements have not been met, the board may grant an additional period of time in which CPE compliance deficiencies may be removed. Fraudulent reporting is a basis for disciplinary action.

(6) An individual who has submitted records of completion, or a sworn affidavit on their renewal application as evidence of compliance with CPE requirements and is found, as the result of a random audit, not to be in compliance will be subject to a minimum \$250.00 fine and any other penalties deemed appropriate by the board as permitted by Subsection B of Section 20 of the act.

(7) The sponsor of a continuing education program is required to maintain an outline of the program and attendance/registration records for a period of five years after program completion.

**(8)** Licensees reporting of CPE must document their participation and retain evidence for a period of five years after course completion. Documentation and/or evidence must include, at minimum:

- (a)** sponsor name and identification number;
- (b)** title and description of content;
- (c)** date(s) of completion;
- (d)** location;
- (e)** number of credit hours; and
- (f)** name of the registered licensee who completed the course.

**(9)** The board may, at its discretion, examine certificate holder/licensee or CPE sponsor documentation to evaluate program compliance with board rules. Non-compliance with established standards may result in denial of CPE credit for non-compliant programs and may be a basis for disciplinary action by the board for fraudulent documentation and representation by a CPE sponsor or certificate holder/licensee of a knowingly non-compliant CPE program.

[16.60.3.15 NMAC - Rp 16 NMAC 60.6.6, 2/14/2002; A, 9/16/2002; A, 6/15/2004; A, 7/30/2004; A, 12/30/2004; A, 4/29/2005; A, 12/30/2005; A, 5/15/2006; A, 7/29/2007; A, 2/27/2009; A, 9/15/2010; A, 1/17/2013; A, 12/01/2014; A, 9/15/2015; A, 3/3/2017; A, 10/1/2020; A, 12/12/2021]

**PUBLIC ACCOUNTANCY,  
BOARD OF**

**This is an amendment to 16.60.4 NMAC. Section 8, effective 12/12/2021.**

**16.60.4.8 FIRM PERMIT APPLICATION, RENEWAL, REINSTATEMENT AND NOTIFICATION REQUIREMENTS:**

**A.** Pursuant to Subsection B of Section 12 and Subsections A, B, E, F and L of Section 13 of the act, any CPA or RPA acting as the sole proprietor, partner, shareholder or member of a legal business entity who performs or offers to perform accountancy for a client or potential client by holding themselves out to the public must obtain a firm permit to be granted authority to practice public accountancy as a CPA or RPA firm. Pursuant to Subsection I of Section 13 of the act, each office of the firm within New Mexico must obtain a firm permit. All firm permit applications for initial issue, renewal, or reinstatement shall be made on board-prescribed forms and meet all information and fee requirements to be considered complete and filed with the board.

**B.** Renewal requirements: Deadline for receipt of firm permit renewal applications is no later than ~~[30 calendar days]~~ prior to the expiration date printed on the firm permit. ~~[Renewal applications shall be postmarked or hand-delivered no later than the last day of the month preceding the month of expiration or the next business day if the deadline falls on a weekend or holiday.]~~ The board shall send firm permit renewal ~~[application forms]~~ notices to firm permit holders no less than 30 days prior to the renewal deadline date.

**C.** Reinstatement requirements:

**(1)** Reinstatement due to non-renewal/expiration: Requests to reinstate a firm permit that lapsed or expired as a result of non-renewal shall be made on board-prescribed forms and meet all board-prescribed requirements for reinstatement including the current year's renewal fee and peer review program requirements. This rule shall not apply to firms whose permits lapsed or expired for a period of three years or more.

**(2)** Reinstatement applications for relief from disciplinary penalties: A firm whose permit to practice has been subject to board disciplinary action may apply to the board for

modification of the board action after completion of all requirements contained in the board's original order:

- (a)** the application shall be in writing and substantiate the reasons constituting good cause for the relief sought; and
- (b)** shall be accompanied by at least two supporting recommendations, under oath, from practitioners who have personal knowledge of the activities of the applicant since the board action was imposed.

**D.** Action by the board: An application pursuant to Section 21 of the act will be processed by the board upon the basis of the application materials submitted, supplemented by such additional inquiries the board may require. At the board's discretion, a hearing may be held on an application following procedures the board may find suitable for the particular case.

**(1)** The board may impose appropriate terms and conditions for firm permit reinstatement or modification of board disciplinary action.

**(2)** In considering a reinstatement application, the board may consider:

- (a)** all activities of the applicant since the disciplinary penalty from which relief is sought was imposed;
- (b)** the offense for which the applicant was disciplined;
- (c)** the applicant's activities during the time the firm permit was in good standing;
- (d)** the applicant's rehabilitative efforts;
- (e)** restitution to damaged parties in the matter for which the penalty was imposed; and
- (f)** the applicant's general reputation for trust and professional probity.

**(3)** No application for reinstatement will be considered while the applicant is under sentence for any criminal



offense, including any period during which the applicant is on court imposed probation or parole.

**E. Notification requirements:** A firm registered pursuant to Section 13 of the act shall file written notification with the board of any of the following events concerning the practice of public accountancy within this state within 30 days of occurrence:

- (1) formation of a new firm;
- (2) change in legal form or name of a firm;
- (3) firm termination;
- (4) establishment of a new branch office, (register by obtaining a new firm permit for the new branch office, pursuant to Subsection I of Section 61-28B-13, NMSA 1978) or the closing or change of address of a branch office in this state; or
- (5) the occurrence of any event or events which would cause such firm not to be in conformity with the provisions of the act or these rules.

**F. Unregistered firm compliance with applicable compliance assurance requirements:** Any firm not required to register in this state, but which provides attest services as permitted under section Subsection C and D of Section 13 of the Act, shall maintain records as prescribed by 16.60.4.10 NMAC regarding its participation in a comparable compliance assurance program for any period in which the firm provided attest services in this state and shall provide copies of such records upon this board's written request; provided, however, the board shall not make such a request except upon probable cause and in accordance with the firm mobility regulations.

**G. Electronic signature** will be acceptable for applications submitted pursuant to 16.60.1 NMAC through 16.60.5 NMAC. [16.60.4.8 NMAC - Rp 16 NMAC 60.4.11, 2/14/2002; A, 4/29/2005; A, 5/15/2006; A, 6/30/2008;

A, 9/15/2015; A, 10/1/2020; A, 12/12/2021]

**PUBLIC ACCOUNTANCY,  
BOARD OF**

**This is an amendment to 16.60.5 NMAC, Section 11 and 14, effective 12/12/2021.**

**16.60.5.11 RULES OF CONDUCT:** In addition to abiding by the AICPA code of professional conduct, New Mexico CPA/RPA certificate/license holders shall abide by the following board rules:

**A. Responses to board communications.** The individual applicant, certificate holder, or registration holder of a certificate/license or firm permit shall, when requested by the board, substantively and honestly respond in writing to all communication from the board within thirty days of receipt of board communications. Board communications may be sent by regular mail, registered or certified mail, hand delivered or by commercial courier, to the last known address on record with the board. Board communications may also come by email to the last known email address on record with the board. The individual may respond to the board by regular mail, registered or certified mail, hand delivery, by commercial courier. Email is only a valid response to the board if the original communications from the board was delivered by email.

(1) Failure to respond substantively and honestly to written board communications or failure to furnish requested documentation or working papers constitutes conduct indicating lack of fitness to serve the public as a professional accountant and shall be grounds for disciplinary action.

(2) Each applicant, certificate or firm permit holder and each person required to be registered with the board under the act shall notify the board, in writing, of any and all changes in such person's mailing address and the effective date

thereof within 30 days before or after such effective date.

**B. Reportable events.**

A licensee shall report in writing to the board the occurrence of any of the following events within 30 days of the date the licensee had knowledge of these events:

(1) Receipt of a final peer review report indicating "pass with deficiencies" or "fail" or a public company accounting oversight board (PCAOB) firm inspection report containing deficiencies or identifying potential defects in the quality control systems. For the purposes of Subsection B of 16.60.5.11 NMAC, "deficiency reports" are reports indicating either "pass with deficiencies" or "fail" as defined in the AICPA peer review standards.

(2) Receipt of a second consecutive deficiency peer review report.

(3) Imposition upon the license of discipline, including, but not limited to, censure, reprimand, sanction, probation, civil penalty, fine, consent decree or order, suspension, revocation, or modification of a license, certificate, permit, or practice rights by:

(a) the securities and exchange commission (SEC), the PCAOB, or the internal revenue service (IRS); or

(b)

another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy; or

(c) any other federal or state agency regarding the licensee's conduct while rendering professional services; or

(d) any foreign authority or credentialing body that regulates the practice of accountancy.

(4) The occurrence of any matter reportable that must be reported by the licensee to the PCAOB pursuant to Sarbanes Oxley Action Section 102(b)(2)(f)

and PCAOB Rules and forms adopted pursuant thereto.

(5) Notice of disciplinary charges filed by the SEC, the PCAOB, the IRS, or another state board of accountancy, or a federal or state taxing, insurance or securities regulatory authority, or a foreign authority or credentialing body that regulates the practice of accountancy.

(6) Unless prohibited by the terms of the agreement, any judgment, award or settlement of a civil action or arbitration proceeding of \$150,000 or more in which the licensee was a party if the matter included allegations of gross negligence, violation of specific standards of practice, fraud, or misappropriation of funds in the practice of accounting; provided, however, licensed firms shall only notify the board regarding civil judgments, settlements, or arbitration awards directly involving the firm's practice of public accounting in this state.

(7) ~~[Criminal charges, deferred prosecution or conviction]~~ Conviction or plea of no contest to which the licensee is a defendant if the crime is: a criminal conviction listed in Subsection A of 16.60.5.14 NMAC.

~~(a) any felony under the laws of the United States or of any state of the United States or any foreign jurisdiction; or~~

~~(b) a misdemeanor if an essential element of the offense is dishonesty, deceit, or fraud;]~~

C. Frivolous complaints. An individual certificate/license or firm permit holder who, in writing to the board, accuses another certificate/license or firm permit holder of violating the act or board rules shall assist the board in any investigation or prosecution resulting from the written accusation. Failure to do so, such as not appearing to testify at a hearing or to produce requested documents necessary to the investigation or prosecution, without good cause, is a violation of this rule.

D. Compliance with the Parental Responsibility Act. If an applicant for a certificate/license or a CPA or RPA certificate/license or firm permit holder is identified by the state of New Mexico human services department (HSD) as not in compliance with a judgment and order for support, the board or its legally authorized designee shall: deny an application for a license; deny the renewal of a license; have grounds for suspension or revocation of a license; and shall initiate a notice of contemplated action under provisions of the Uniform Licensing Act.

(1) If an applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division. An applicant or licensee can provide the board with a subsequent statement of compliance, which shall preclude the board from taking any action based solely on the prior statement of non-compliance from HSD.

(2) When a disciplinary action is taken under this section solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplications or reinstatement of lapsed licenses.

E. Specialty designations. A CPA/RPA certificate/license holder may only represent a claim of special expertise through the use of "specialty designations" in conjunction with the CPA/RPA designation if the specialty designation is:

- (1) consistent with designations prescribed by national or regional accreditation bodies offering the designations pursuant to a prescribed course of study, experience, or examination, and
- (2) cannot be construed by the public or clients of

the CPA/RPA practitioner to be a false fraudulent, misleading, or deceptive claim unsubstantiated by fact.

F. A CPA firm permit holder shall display the firm permit in a clearly visible place to the public in the office or space for which the permit is issued. The license(s) of the qualifying CPA and any licensed CPA employee or CPA associated with the firm shall be displayed in a clearly visible place to the public in the office or space for which the firm permit is issued/registered. Any licensed CPA or firm permit holder shall provide a copy of their license or firm permit upon request.

[16.60.5.11 - Rp 16 NMAC 60.7, 16 NMAC 60.9, and 16 NMAC 60.10, 2/14/2002; A, 6/30/2008; A, 1/1/2011; A, 1/17/2013; A, 9/15/2015; A, 10/1/2020; A, 12/12/2021]

**16.60.5.14 CRIMINAL CONVICTIONS:**

**A.** Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license issued by the board:

- (1) Crimes involving homicide, murder, manslaughter, or resulting in death;
- (2) crimes involving human trafficking, or trafficking in controlled substances;
- (3) kidnapping, false imprisonment, assault, aggravated assault, battery or aggravated battery;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, prostitution, or other sexual crimes;
- (5) crimes involving great bodily harm, adult abuse, child abuse, neglect, abandonment, stalking, aggravated stalking, injury to pregnant woman, custodial interference, breaking and entering, sabotage, property damage, or financial exploitation;
- (6) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud,

forgeries, embezzlement, identity theft, credit card fraud or unauthorized use of a credit card; receiving stolen property, money laundering, burglary tools, or stolen vehicles;

(7) crimes involving arson, explosives, incendiary devices, facsimile bombs, hoax explosives, deadly weapons, or firearms;

(8) crimes involving seizing or exercising control of a bus by force or violence or by threat of force or violence;

(9) violation of Partial-Birth Abortion Ban Act or the Endowed Care Cemetery Act;

(10) violations of the Model State Commodity Code, the New Mexico Uniform Securities Act, the Mortgage Loan Company Act, Uniform Money Services Act, or the New Mexico Mortgage Loan Originator Licensing Act;

(11) crimes involving bribery, intimidating witnesses, retaliation against a witness, tampering with evidence, tampering with public records, performing an official act for personal gain, demanding or receiving a bonus, gratuity or bribe, unlawful interest in a contract involving an irrigation district, or receiving profits derived from an unlawful interest in a contract involving an irrigation district, or unlawful interest in a public contract;

(12) crimes involving jury tampering;

(13) crimes involving escape from custody, jail or penitentiary;

(14) crimes involving harboring or aiding a felon;

(15) crimes involving tax evasion or tax fraud;

(16) willful failure to collect and pay over taxes;

(17) crimes involving attempts to evade or defeat any tax;

(18) crimes involving violations of officers or employees engaging in the administration of the property tax who buy property sold for delinquent property taxes that is unlawful;

(19) crimes involving paying or receiving public money for services not rendered;

(20) crimes involving violations of the Cigarette Tax Act, including packaging cigarettes and counterfeit stamps;

(21) crimes involving violations of the Cigarette Enforcement Act;

(22) crimes involving the Savings and Loan or the Credit Union Act;

(23) crimes involving perjury, public assistance, false swearing of oath or affidavit, false voting, falsely obtaining services or accommodations, falsifying documents, filing false documents, making false statements, making an unauthorized withdrawals, issuing a worthless check, obtaining information under false pretenses, or providing the credit bureau information of a consumer to an entity who is not authorized to receive that information;

(24) Medicaid fraud,

(25) an act or omission, with intent to defraud, expressly declared to be unlawful by the Banking Act,

(26) crimes involving improper disposition of certain court funds or improper sale, disposal, removal or concealing of encumbered property;

(27) crimes involving the possession of 4 or more incomplete credit cards or machinery, plates or other contrivance;

(28) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;

(29) crimes involving any contractor or subcontractor justly indebted to a supplier of material or labor who accepts payment for construction and knowingly and intentionally applies the proceeds to a use other than paying those persons with whom they contracted;

(30) crimes involving knowingly authorizing or assisting in the publication,

advertising, distribution or circulation of any false statement or representation concerning any subdivided land offered for sale or lease, or with knowledge that any written statement relating to the subdivided land is false or fraudulent, issuing, circulating, publishing or distributing it;

(31) crimes involving making or permitting a false public voucher;

(32) crimes involving a false public voucher, false reports, uttering false statements, paying or receiving public money for services not rendered;

(33) crimes involving unlawful influencing, unlawful sale of a lottery ticket, unlawful representation of a business or individual as a credit union, conducting business as a credit union when not authorized to do so, or violations of the New Mexico Uniform Securities Act;

(34) crimes involving extortionate extensions of credit or racketeering;

(35) crimes involving the Pyramid Promotional Scheme Act or Antitrust Act;

(36) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of and official act, or illegal kickbacks;

(37) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;

(38) crimes involving the practice of medicine, dentistry or osteopathic medicine without a license or authorization of the appropriate regulating authority;

(39) fourth or subsequent driving under the influence of intoxicating liquor or drugs;

(40) crimes involving controlled substances, including violations of the Controlled Substances Act;

(41) crimes involving violations of the Drug

Precursor Act or the Drug, Device and Cosmetic Act;

(42) crimes involving violations of the New Mexico Subdivision Act or the Mortgage Foreclosure Consultant Prevention Act;

(43) misuse of funds;

(44) intent to defraud uses on a public security or instrument of payment;

(45) crimes involving a violation of the Governmental Conduct Act; or

(46) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

B. The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

C. The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this rule.

D. Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule.

E. In connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

(1) an arrest not followed by a valid conviction;

(2) a conviction that has been sealed, dismissed, expunged or pardoned;

(3) a juvenile adjudication; or

(4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this rule.  
[16.60.5.14 NMAC - N, 12/12/2021]

**REGULATION AND LICENSING DEPARTMENT  
COUNSELING AND THERAPY PRACTICE BOARD**

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule General Provisions, 16.27.1 NMAC, filed 06/15/2001, and replaced it with a new rule entitled General Provisions, 16.27.1 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Application Procedures, Initial Licenses, and License Period, 16.27.3 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Application Procedures, Initial Licenses, and License Period, 16.27.3 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Requirements for Licensure as a Professional Clinical Mental Health Counselor (LPCC), 16.27.4 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Requirements for Licensure as a Professional Clinical Mental Health Counselor (LPCC), 16.27.4 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Requirements for Licensure as a Professional Art Therapist (LPAT), 16.27.7 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Requirements for Licensure as a Professional Art Therapist (LPAT), 16.27.7 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Requirements for Licensure with Examination as an Alcohol and Drug Abuse Counselor (LADAC) Effective July 1, 2005, 16.27.11 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Requirements for Licensure with Examination as an Alcohol and Drug Abuse Counselor (LADAC), 16.27.11 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Continuing Education, 16.27.16 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Continuing Education, 16.27.16 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Code of Ethics, 16.27.18 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Code of Ethics, 16.27.18 NMAC, adopted 10/15/2021 and effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Approved Supervisors, 16.27.19 NMAC, filed 06/15/2001, and replaced it with a new rule entitled Approved Supervisors, 16.27.19 NMAC, adopted 10/15/2021 and effective 11/30/2021.

The New Mexico Counseling and Therapy Practice Board approved, at its 10/15/2021 hearing, to repeal its rule 16.27.23 NMAC, Licensure as an Alcohol and Drug Abuse Counselor (LADAC) for Current Credential Alcohol and Drug Abuse Counselor (CADAC), filed 11/19/2007, effective 11/30/2021.

At its 10/15/2021 hearing, the Counseling and Therapy Practice Board repealed its rule Licensure for Military Service Members, Spouses and Veterans, 16.27.24 NMAC, filed 10/15/2014, and replaced it with

a new rule entitled Licensure for Military Service Members, Spouses and Veterans, 16.27.24 NMAC, adopted 10/15/2021 and effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT  
COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 27 COUNSELORS AND THERAPISTS  
PART 1 GENERAL PROVISIONS**

**16.27.1.1 ISSUING**

**AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.  
[16.27.1.1 NMAC - Rp, 16.27.1.1 NMAC, 11/30/2021]

**16.27.1.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, and licensed mental health counselors, licensed associate marriage and family therapists, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse associates.  
[16.27.1.2 NMAC – Rp, 16.27.1.2 NMAC, 11/30/2021]

**16.27.1.3 STATUTORY**

**AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-1 through 61-9A-30 NMSA 1978.  
[16.27.1.3 NMAC - Rp, 16.27.1.3 NMAC, 11/30/2021]

**16.27.1.4 DURATION:**

Permanent.  
[16.27.1.4 NMAC - Rp, 16.27.1.4 NMAC, 11/30/2021]

**16.27.1.5 EFFECTIVE**

**DATE:** November 30, 2021, unless a later date is cited at the end of a

section.  
[16.27.1.5 NMAC - Rp, 16.27.1.5 NMAC, 11/30/2021]

**16.27.1.6 OBJECTIVE:** The objective of Part 1 is to define terms relevant to applications, licensing, administrations and enforcement of the Counseling and Therapy Practice Act.  
[16.27.1.6 NMAC - Rp, 16.27.1.6 NMAC, 11/30/2021]

**16.27.1.7 DEFINITIONS:**

**A.** AATA means the American art therapy association.

**B.** AAMFT means the American association for marriage and family therapy.

**C.** Accredited institution means a university or college accredited by a regional accrediting agency of institutions of higher education such as those listed in Subsection D of this section.

**D.** Accredited means a college or university that was accredited at the time of the applicant’s graduation by one of the following:

- (1) the New England association of schools and colleges;
- (2) the middle states association of colleges and schools;
- (3) the north central association of colleges and schools;
- (4) the northwest association of schools and colleges;
- (5) the southern association of schools and colleges; or
- (6) the western association of schools and colleges.

**E.** Counseling related field means a course of study equivalent to no less than 48 semester graduate hours or 72 quarter graduate hours of course work required to meet in the mental health clinical core curriculum and 9 semester hours or 12 quarter hours of practicum, and additional hours required for the professional clinical mental health counselor (LPCC) license.

**F.** Education and training for substance abuse counselors means formal classroom education, workshops, seminars, institutes, in-service training programs, professional continuing education and coursework from accredited and non-accredited institutions. Practicum as it relates to the substance abuse counselor includes 300 hours in the twelve core functions listed below.

- (1) screening
- (2) intake
- (3) orientation
- (4) assessment
- (5) treatment planning
- (6) counseling case management
- (7) crisis intervention
- (8) client education
- (9) referral
- (10) reports and record keeping
- (11) consultation with professionals

**G.** Clinical client contact hours means the time spent with a client to appraise, diagnose and treat psychopathology as determined by the scope of practice.

**H.** Contact hour for professional training or client contact means sixty minutes equals an hour of training or contact.

**I.** DSM means current diagnostic and statistical manual of mental disorders.

**J.** Appropriate supervision, including electronic supervision, means either group or individual supervision where the supervisor is in the same physical location as the supervisee, or virtually supervising in the same location as the supervisee. The supervisor is responsible for the direction and oversight of the development of counseling skills. Supervised contact hours shall become invalid after two years following the expiration of the limited license for new applicants.

**K.** Group supervision means face-to-face or electronic supervision, which includes no more than six individuals in the group.

**L.** Guidance counseling means a degree in guidance counseling, guidance and counseling, or counseling.

**M.** Human and family studies means a degree in human services or family studies.

**N.** ICD means international classification of diseases.

**O.** Individual supervision means face-to-face or electronic case consultation between the supervisor with no more than two supervisees in the group.

**P.** Mental health-community counseling means a degree in mental health, community counseling, or rehabilitation counseling.

**Q.** Postgraduate means training or coursework received after all master's or doctorate requirements for the qualifying degree have been completed.

**R.** Practice of licensed alcohol and drug abuse counselors shall demonstrate specialized knowledge and skills as pertains to substance use disorders according to current DSM or ICD. The LADAC shall demonstrate skill and interventions directly related to individuals, couples, families, and groups. The LADAC shall employ practice theory and research findings in all aspects of the licensee's practice. The LADAC may supervise alcohol or drug counselors if approved under 16.27.13.8 NMAC.

**S.** Practice of alcohol abuse or drug abuse counseling is practicing under appropriate supervision with demonstrated specialized knowledge and skills as it pertains to alcohol use disorders according to current DSM or ICD. The counselor shall demonstrate skill and knowledge of interventions directly related to individuals, couples, families, and groups. The counselor shall employ practice theory and research findings in all aspects of the licensee's practice. The services may include

screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting and record keeping as pertains specifically to alcohol abuse or drug abuse counseling.

**T.** Psychopathology means mental disorders that meet the diagnostic criteria contained in the current DSM of the American psychiatric association or the world health organization's international classification of diseases and the problems in living associated with these conditions that are created over time or etiology and life effects.

**U.** Registered independent mental health counselor means an individual who is certified to practice without supervision.

**V.** Supervision means face-to-face contact between the individual and the appropriate supervisor during which the supervisor monitors, guides and evaluates the ability to interact, diagnose and treat each client.

**W.** Co-occurring disorders: Concurrent substance-related and mental disorder; having co-existing mental health and substance use disorders; Co-occurring disorders may include any combination of two or more substance abuse disorders and mental disorders identified in the diagnostic and statistical manual of mental disorders - IV (DSM-IV).

**X.** Cultural competency: counselors and therapists shall recognize that culture has an effect on the way in which clients' problems are defined and experienced. A client's cultural background and experiences shall be respected, recognized, acknowledged and considered by counselors and therapists when diagnosing and treating clients from diverse backgrounds.

**Y.** "disqualifying criminal conviction" has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

**Z.** Telecommunication means distance, electronic, or virtual

[16.27.1.7 NMAC - Rp, 16.27.1.7 NMAC, 11/30/2021]

#### **16.27.1.8 LICENSE**

**DISPLAY:** A valid license must be displayed and must be visible to the public in the primary place of employment or business of the counselor or therapist. The license number and license designation shall appear with the contact information on the counselor's or therapist's web page if a web page is maintained. A licensee must practice counseling or therapy under the name inscribed on the license.

[16.27.1.8 NMAC - Rp, 16.27.1.9 NMAC, 11/30/2021]

#### **16.27.1.9 BOARD**

**ELECTIONS:** The board shall annually elect, by majority vote of the members present, the following officers: Chairperson and vice chairperson. Officers will serve a one-year term of office. A vacancy that occurs in any office shall be filled by a majority vote of the board members present, at the first board meeting following the vacancy.

[16.27.1.9 NMAC - Rp, 16.27.1.9 NMAC, 11/30/2021]

**16.27.1.10 QUORUM:** A quorum of the board is four members. A quorum is necessary to conduct official business.

[16.27.1.10 NMAC - Rp, 16.27.1.10 NMAC, 11/30/2021]

#### **16.27.1.11 VIRTUAL**

**CONFERCING:** If it is difficult or impossible for a member of the board to attend a meeting in person, the member may participate virtually (e.g. via telephone, computer link or other electronic devices). Each member participating in this manner shall be identified before speaking, all participants must be able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board who speaks during the meeting.

[16.27.1.11 NMAC - Rp, 16.27.1.11 NMAC, 11/30/2021]

**16.27.1.12 BOARD**

**MEETINGS:** The board shall meet at least once a year and as often as necessary. Meetings may be convened at the call of the chair, or upon written request of three board members.

[16.27.1.12 NMAC - Rp, 16.27.1.12 NMAC, 11/30/2021]

**16.27.1.13 STANDARDS**

**COMMITTEES:** The board chair may appoint at least one and no more than five additional members to the following standards committees: Clinical mental health counselors, professional mental health counselors, marriage and family therapy, art therapy, and substance abuse. The board member representing the licensed profession shall chair the committee and a public board member shall serve on each committee. Committee members who do not serve on the board shall be licensed in the same professional category as the committee or be an educator in that profession, and shall have practiced in New Mexico for at least one year. Committee members serve at the pleasure of the board. Individuals may only serve on one standards committee.

[16.27.1.13 NMAC - Rp, 16.27.1.13 NMAC, 11/30/2021]

**16.27.1.14 PUBLIC**

**RECORDS:** Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions and motions are matters of public record as of the time of filing with the board.

[16.27.1.14 NMAC - Rp, 16.27.1.14 NMAC, 11/30/2021]

**16.27.1.15 INSPECTION OF PUBLIC RECORDS:**

The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-12, NMSA 1978. The board administrator is the custodian of the board's records. Individuals may make oral or written request to inspect the public records of the board. A request must include the name, address and telephone number

of the individual seeking inspection. Requests will be processed in a timely manner. If the inspection is not permitted within three business days, the custodian will notify the requestor in writing when the records will be made available. The board may request payment of a reasonable copying fee. No person shall remove original board documents from the board office. The board maintains files for all applicants and records in an applicant's file are subject to inspection except as provided by the Inspection of public records act.

[16.27.1.15 NMAC - Rp, 16.27.1.15 NMAC, 11/30/2021]

**16.27.1.16 NON-PUBLIC**

**RECORDS:** All written and oral communication provided to the board or data and information acquired by the board, relating to actual or potential discipline shall be confidential and shall not be disclosed except:

- A. as necessary to carry out the board's functions;
- B. as needed for judicial review of the board's actions; or
- C. pursuant to a court order issued by a court of competent jurisdiction.

However, at the conclusion of any actual disciplinary action taken by the board against a person subject to the provisions of the Counseling and Therapy Practice Act, all data, communication and information acquired by the board shall be public.

[16.27.1.16 NMAC - Rp, 16.27.1.16 NMAC, 11/30/2021]

**16.27.1.17 LICENSEE**

**CHANGE INFORMATION:** All name changes and address changes must be submitted to the board in writing or by e-mail.

[16.27.1.17 NMAC - Rp, 16.27.1.17 NMAC, 11/30/2021]

**16.27.1.18 CRIMINAL CONVICTIONS:**

A. Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions

that may disqualify an applicant from receiving or retaining a license issued by the board:

- (1) physical harm to another;
- (2) sexual harm to another;
- (3) alcohol or drug related offenses;
- (4) white collar crimes;
- (5) financial crimes;
- (6) property crimes; or
- (7) any

conviction that could qualify as a violation under the New Mexico counseling and therapy Practice board's code of ethics outlined within 16.27.18 NMAC.

**B.** Having one of the above listed convictions may result in your application or license going before the board for review. The board may require a hearing before determining if the application or license should be denied, suspended, revoked, approved, or renewed.

**C.** The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this section.

**D.** The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this section.

**E.** Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Counseling and Therapy Practice Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this section.

**F.** In connection with an application for licensure,

the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this section. [16.27.1.18 NMAC - N, 11/30/2021]

**HISTORY OF 16.27.1 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives Under: Rule 1, General Provisions, 3/24/1994.

Rule 2, Definitions, 3/24/1994  
Rule2, Definitions, 3/20/1995

**History of Repealed Material:**  
16 NMAC 27.1, General Provisions - Repealed 6/15/2001

**Other History:**  
16.27.1 NMAC – General Provisions filed 6/15/2001 was repealed and replaced by 16.27.1 NMAC- General Provisions, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT  
COUNSELING AND THERAPY  
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 27 COUNSELORS  
AND THERAPISTS  
PART 3 APPLICATION  
PROCEDURES, INITIAL  
LICENSES, AND LICENSE  
PERIOD**

**16.27.3.1 ISSUING**  
**AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.

[16.27.3.1 NMAC – Rp, 16.27.3.1 NMAC, 11/30/2021]

**16.27.3.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, licensed associate marriage and family therapist, licensed mental health counselors, alcohol and drug abuse counselors, and substance abuse associate.

[16.27.3.2 NMAC - Rp, 16.27.3.2 NMAC, 11/30/2021]

**16.27.3.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9, 61-9A-11, 61-9A-15, and 61-9A-24, NMSA 1978.

[16.27.3.3 NMAC - Rp, 16.27.3.3 NMAC, 11/30/2021]

**16.27.3.4 DURATION:** Permanent.

[16.27.3.4 NMAC - Rp, 16.27.3.4 NMAC, 11/30/2021]

**16.27.3.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.

[16.27.3.5 NMAC - Rp, 16.27.3.5 NMAC, 11/30/2021]

**16.27.3.6 OBJECTIVE:** The objective of Part 3 is to outline what constitutes a complete application for the initial licensing process and initial licensing period.

[16.27.3.6 NMAC - Rp, 16.27.3.6 NMAC, 11/30/2021]

**16.27.3.7 DEFINITIONS:** [RESERVED]

**16.27.3.8 APPLICATIONS FOR LICENSURE:**

**A.** All applicants must submit the following documentation to the board:

- (1) a completed application, signed by the applicant;

- (2) a 2” x 2” photograph of the applicant taken

within the preceding six months;

- (3) an application fee of \$75;

(4) an official transcript in their original and sealed envelope or electronically sent directly to the board’s e-mail address from each institution where the applicant completed an appropriate degree for the license type sought;

(5) if required, a statement from each supervisor on a form provided by the board verifying the applicant’s supervised experience and setting forth the nature and extent of each supervision; the forms must be submitted in a sealed envelope to the board office;

(6) other documentation required in 16.27.4 through 8 NMAC, and 16.27.18 through 23 NMAC, to document supervision, any additional training or coursework, work experience and client contact hours.

**B.** Applications will be valid for a period not to exceed 12 months from the date it is received at the board’s office. An applicant wishing to re-apply after 12 months must submit a new application, including the application fee and all documentation.

**C.** Applicants who are deemed ineligible because of experience or educational deficiencies may request licensure at a lower level. This request from the applicant shall be in writing and include a \$25 application re-review fee as provided for in 16.27.17 NMAC.

[16.27.3.8 NMAC - Rp, 16.27.3.8 NMAC, 11/30/2021]

**16.27.3.9 INITIAL LICENSE:** The board shall inform an applicant who has been approved for licensure of the required fees. If the applicant fails to pay all required fees within 60 days of notification of approval, the application shall be deemed null and void. The applicant shall then be required to submit a new application to include all supplemental documentation and fees. [16.27.3.9 NMAC - Rp, 16.27.3.9 NMAC, 11/30/2021]



**16.27.3.10 INITIAL LICENSE PERIOD:** The initial license will be issued for a period not to exceed 24 months. The issue date of the license will be the date the initial license fee and all other requirements are received at the board office and shall expire on September 30 of the appropriate year to establish the license in a renewal cycle.  
[16.27.3.10 NMAC - Rp, 16.27.3.10 NMAC, 11/30/2021]

**16.27.3.11 RETIREMENT STATUS:**

**A.** A licensee may place their license into retirement status by notifying the board in writing before the expiration of their current New Mexico license.

**B.** A retired license may be restored to active status within five years of being placed into retirement status by notifying the board in writing.

**C.** Reinstatement of a retired license will be granted upon receipt of the reinstatement application with the renewal and reinstatement fees, and proof of the required continuing education courses  
[16.27.3.11 NMAC - Rp, 16.27.3.11 NMAC, 11/30/2021]

**16.27.3.12 INACTIVE STATUS:** A licensee may request inactive status by notifying the board in writing before the expiration of the retirement status of the license. To be restored to active status, the licensee shall complete the renewal application and comply with current continuing education requirements pursuant to 16.27.16.8 NMAC.  
[16.27.3.12 NMAC - Rp, 16.27.3.12 NMAC, 11/30/2021]

**16.27.3.13 RENEWAL REQUIREMENTS:**

**A.** All licenses must be renewed biennially by September 30 by completing the following requirements:

(1) A completed renewal application provided by the Board Office;

(2) Submission of the renewal license fee;

(3) Completion of the mandatory University of New Mexico health professions survey;

(4) Completion of 40 CEUs with 12 of those hours being in ethics related to counseling and therapy obtained between October 1 and September 30 of the current licensing period; and

(5) Completion of nine CEUs specific to counseling and therapy supervision if providing supervision to licensees obtained between October 1 and September 30 of the current licensing period.

**B.** A grace period of 30 days, ending October 31 of the renewal year will be available for late renewal and will require completion of all requirements outlined in Subsection A of 16.27.3.13 NMAC and the submission of an additional \$100 late penalty fee as required under 16.27.17.14 NMAC.

**C.** Failure to renew a license by the end of the grace period will result in the license expiring and will require submission of the following documentation in order to obtain licensure again, pursuant to Subsection D of Section 61-9A-23 NMSA 1978:

(1) Submission of a new and complete application packet, to include all required supplemental documentation;

(2) Meeting the current requirements for licensure at the time of completion of the new application packet; and

(3) Submission of the application fee and initial license fees as outlined under 16.27.17 NMAC.  
[16.27.3.13 NMAC - N, 11/30/2021]

**HISTORY OF 16.27.3 NMAC:**  
**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 3, Application Procedures, Initial Licenses, License Period, 3/24/1994  
Rule 3, Application Procedures, Initial Licenses, License Period, 3/20/1995

**History of Repealed Material:**  
16 NMAC 27.3, Application Procedures, Initial Licenses, License Period - Repealed 6/15/2001.

**Other History:** 16.27.3 NMAC - Application Procedures, Initial Licenses, and License Period, filed 6/15/2021 was repealed and replaced by 16.27.3 NMAC - Application Procedures, Initial Licenses, and License Period, effective 11/30/2021

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 27 COUNSELORS AND THERAPISTS  
PART 4 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR (LPCC)**

**16.27.4.1 ISSUING AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.  
[16.27.4.1 NMAC - Rp, 16.27.4.1 NMAC, 11/30/2021]

**16.27.4.2 SCOPE:** All individuals applying for licensure as professional clinical mental health counselors.  
[16.27.4.2 NMAC - Rp, 16.27.4.2 NMAC, 11/30/2021]

**16.27.4.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-1, 3, 5, 11 and 15 NMSA 1978.  
[16.27.4.3 NMAC - Rp, 16.27.4.3 NMAC, 11/30/2021]

**16.27.4.4 DURATION:** Permanent.  
[16.27.4.4 NMAC - Rp, 16.27.4.4 NMAC, 11/30/2021]

**16.27.4.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.  
[16.27.4.5 NMAC - Rp, 16.27.4.5 NMAC, 11/30/2021]

**16.27.4.6 OBJECTIVE:**  
The objective of Part 4 is to state the minimum requirements for licensure as a professional clinical mental health counselor and to list the documentation required for application.  
[16.27.4.6 NMAC - Rp, 16.27.4.6 NMAC, 11/30/2021]

**16.27.4.7 DEFINITIONS:**  
[RESERVED]

**16.27.4.8 SUPERVISION:**  
No supervision is required to practice with a LPCC independent license. The board strongly recommends that all independently licensed counselors and therapists have an ongoing consultation or peer review process in place.  
[16.27.4.8 NMAC - Rp, 16.27.4.8 NMAC, 11/30/2021]

**16.27.4.9 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL CLINICAL MENTAL HEALTH COUNSELOR (LPCC) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION:**

- A.** Age requirement. Be at least 21 years of age.
- B.** Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.
- C.** Education requirement. Hold a master's or doctoral degree in counseling or a counseling-related field from an accredited institution. Applicants who hold a degree in a related-field must complete attachment E. The board may request syllabi as needed to clarify course content.

**D.** Applicants must have a masters or doctoral degree in counseling or a counseling-related field and a total of no less than 48 graduate semester hours or 72 quarter graduate hours in the mental health clinical core curriculum as defined in 16.27.2 NMAC. The hours must be acquired as a part of a master's or doctoral degree, or acquired as additional graduate education to complete the required clinical core curriculum hours.

**E. Experience requirements.**  
**(1)** A minimum of two years' postgraduate professional clinical counseling experience.

**(2)** Evidence of having participated in a total of 3,000 hours of postgraduate clinical client contact and 100 hours of appropriate face to face postgraduate supervision. Up to 1,000 clinical client contact hours may be from the applicant's internship or practicum. Credit is automatically awarded by board staff based on the number of semester or quarter hours in practicum and internship listed on official transcripts. This credit should not be included on the attachment B form used for verifying postgraduate experience.

**F.** Application fee of \$75.00 as provided for in Part 17.  
[16.27.4.9 NMAC - Rp, 16.27.4.9 NMAC, 11/30/2021]

**16.27.4.10 EXAMINATION:**  
Applicants must demonstrate professional competency by passing the national counselor examination (NCE) and the national clinical mental health counseling examination (NCMHCE).  
[16.27.4.10 NMAC - Rp, 16.27.4.10 NMAC, 11/30/2021]

**16.27.4.11 DOCUMENTATION REQUIRED FOR LICENSURE:**

- A.** A completed application as specified in 16.27.3.8 NMAC.
- B.** Proof of education and experience requirements:

**(1)** The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree, a total of no less than 48 graduate semester hours or 72 quarter graduate hours which includes the required clinical core curriculum. Applicants who have just graduated with an appropriate degree field, and whose degrees have not yet been conferred by their university, may submit the following documentation in while awaiting official transcripts to become available:

- (a)** A verification letter from a university official verifying their degree program;
- (i)** that all courses have been completed and they have earned passing grades;
- (ii)** their degrees will be conferred by the university; and
- (b)** A receipt verifying that they have ordered their transcripts to be sent to the board office once their degree is conferred.

**(2)** A statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application. The statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice. If a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

**(3)** Documentation of 3,000 hours of postgraduate direct clinical client contact and 100 hours of appropriate face to face postgraduate supervision.

(4)

Attachment E, listing only specific graduate coursework. The board may request syllabi as needed to clarify course content.

(5) If

submitting hours obtained in another jurisdiction, documentation of the applicant's licensure, registration or certification status must be submitted on attachment form A which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.4.11 NMAC - Rp, 16.27.4.11 NMAC, 11/30/2021]

**16.27.4.12 LICENSURE BY CREDENTIALS:**

**A.** A completed application as specified in 16.27.3.8 NMAC.

**B.** Verification (attachment A) that the applicant holds and has held a current independent license for two years issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

**C.** Verification that the applicant is in good standing with no disciplinary action pending or brought against the applicant within the past two years.

**D.** Holds masters or doctoral degree in counseling or a counseling-related field from an accredited institution.

**E.** Application fee of \$75.00 as provided for in Part 17.

**F.** Applicants who do not meet the licensure by reciprocity requirements must meet the current standard licensure requirements. [16.27.4.12 NMAC - Rp, 16.27.4.12 NMAC, 11/30/2021]

**HISTORY OF 16.27.4 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 4, Requirements for Licensure as a Professional Clinical Mental Health Counselor, 3/24/1994  
Rule 4, Requirements for Licensure as

a Professional Clinical Mental Health Counselor, 3/20/1995

**History of Repealed Material:**

16 NMAC 27.4, Requirements for Licensure as a Professional Clinical Mental Health Counselor - Repealed 6/15/2001.

**Other History:**

16.27.4 NMAC - Requirements for Licensure as a Professional Clinical Mental Health Counselor (LPCC), filed 6/15/2001, was repealed and replaced by 16.27.4 NMAC - Requirements for Licensure as a Professional Clinical Mental Health Counselor (LPCC), effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 27 COUNSELORS AND THERAPISTS PART 7 REQUIREMENTS FOR LICENSURE AS A PROFESSIONAL ART THERAPIST (LPAT)**

**16.27.7.1 ISSUING AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.

[16.27.7.1 NMAC - Rp, 16.27.7.1 NMAC, 11/30/2021]

**16.27.7.2 SCOPE:** All individuals applying for licensure as professional art therapists.

[16.27.7.2 NMAC - Rp, 16.27.7.2 NMAC, 11/30/2021]

**16.27.7.3 STATUTORY AUTHORITY:**

These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9, 61-9A-13, 61-9A-15, 61-9A-22, 61-9A-23, and 61-9A-24 NMSA 1978.

[16.27.7.3 NMAC - Rp, 16.27.7.3 NMAC, 11/30/2021]

**16.27.7.4 DURATION:**

Permanent.

[16.27.7.4 NMAC - Rp, 16.27.7.4 NMAC, 11/30/2021]

**16.27.7.5 EFFECTIVE DATE:** November 28, 2021, unless a later date is cited at the end of a section.

[16.27.7.5 NMAC - Rp, 16.27.7.5 NMAC, 11/30/2021]

**16.27.7.6 OBJECTIVE:** The objective of Part 7 is to state the minimum requirements for licensure as a professional art therapist and to list the documentation required for application.

[16.27.7.6 NMAC - Rp, 16.27.7.6 NMAC, 11/30/2021]

**16.27.7.7 DEFINITIONS:** [RESERVED]

**16.27.7.8 SUPERVISION:** No supervision is required to practice with a LPAT independent license. The board strongly recommends that all independently licensed counselors and therapists have an ongoing consultation or peer review process in place.

[16.27.7.9 NMAC - Rp, 16.27.7.9 NMAC, 11/30/2021]

**16.27.7.9 [RESERVED]**

**16.27.7.10 APPLICANTS FOR LICENSURE: AS A PROFESSIONAL ART THERAPIST (LPAT) MUST POSSESS THE FOLLOWING QUALIFICATIONS AND PROVIDE THE REQUIRED DOCUMENTATION WITH THE APPLICATION:** A licensed professional art therapist (LPAT) must possess the following qualifications and provide the required documentation with the application:

**A.** Age requirement.

Be at least 21 years of age.

**B.** Applicant must

sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

**C. Education** requirements. Professional entry into art therapy requires a masters or doctoral degree in art therapy, counseling or counseling related field. Individuals holding a master’s degree in a related field may enter the art therapy profession by completing 48 graduate semester hours or 72 quarter hours in the art therapy core curriculum.

**D. Experience** requirements:  
**(1)** a minimum of two years postgraduate professional art therapy experience;  
**(2)** evidence of having participated in a total of 3000 hours of postgraduate clinical client contact and 100 hours of appropriate face-to-face postgraduate supervision; 700 clinical client contact hours may be from the applicant’s internship or practicum.

**E. Application fee** of \$75.00 as provided for in Part 17 of 16.27 NMAC.

**F. Is of good moral character** with conduct consistent with the code of ethics. [16.27.7.10 NMAC - Rp, 16.27.7.10 NMAC, 11/30/2021]

**16.27.7.11 ART THERAPY CORE CURRICULUM:**

**A. History and theory of art therapy:** To include art therapy history and theory, events, practitioners and the development of art therapy as a distinct therapeutic practice. Overview of psychotherapy theories relevant to art therapy, theories of creativity, and theoretical foundations of art therapy.

**B. Techniques of practice in art therapy:** Direct experience of the therapeutic utility and psychological influence of art processes and materials. Identifying the therapeutic effect of art making leading to establishment of therapeutic goals and intervention strategies. Development of a framework for understanding symbolic language.

**C. Application of art therapy with people in different treatment settings:** Art therapy

interventions for the treatment of children, adolescents, adults, couples and families in inpatient, outpatient, partial treatment programs, and aftercare. Critical thinking with regard to similarities and differences between art therapy intervention and counseling intervention. Exploration of several behavioral and artistic communication, assessment, treatment planning, treatment approaches, relationship dynamics, and the role of the art therapist on the treatment team.

**D. Group work:** Theoretical and experiential understanding of group dynamics, therapeutic factors, member roles and behaviors, leadership styles and approaches, selection criteria, and short and long term group process.

**E. Art therapy assessment:** Fundamentals of art therapy assessment, statistical concepts including reliability and validity, selection of the assessment tool, and familiarity with a variety of specific art therapy instruments and procedures used in appraisal and evaluation. Ability to recognize indicators of functional and organic disorders in the artwork of clients. Understanding of development levels, cultural factors, symbolism and metaphor, psychopathology, psychological health manifested in artwork and art making.

Administration and documentation of art therapy assessment, formulation of treatment goals, objectives and strategies related to assessment and evaluation.

**F. Ethical and legal issues of art therapy practice:** Professional identity, professional ethics, and the ethical practice of art therapy. Familiarity with the ethical standards of the American art therapy association and ATCB, as well as ACA and other related fields. The proper application of ethical and legal principles of art therapy practice.

**G. Standards of practice in art therapy:** Professional role as an art therapist with regard to function and relationships with other mental health providers. Knowledge of professional organization, credentialing and licensure, public

policy, advocating for the profession, and client advocacy.

**H. Cultural and social diversity:** Foundation of knowledge in cultural diversity theory and competency models applied to an understanding of diversity of artistic language, symbolism and meaning in artwork and art making across culture and within a diverse society. Investigation of the role of the art therapist in social justice, advocacy, and conflict resolution.

**I. Thesis or culminating project:** The integration of knowledge with regard to the profession of art therapy, including the literature in the field through a culminating project. This may include, but is not limited to, thesis or extensive and in-depth; projects, use of structured methods and formats such as quantitative and qualitative research, formal case studies, and art-based research.

[16.27.7.11 NMAC - Rp, 16.27.7.11 NMAC, 11/30/2021]

**16.27.7.12 EXAMINATION:** Applicants must demonstrate professional competency by passing the art therapy credentials board certification examination (ATCBE). [16.27.7.12 NMAC - Rp, 16.27.7.12 NMAC, 11/30/2021]

**16.27.7.13 DOCUMENTATION REQUIRED FOR LICENSURE:**

**A.** A completed application as specified in 16.27.3.8 NMAC.

**B.** Proof of education and experience:

**(1)** The applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant’s master or doctoral degree a total of no less than 48 semester hours or 72 quarter hours which includes the required clinical core curriculum. Applicants who have just graduated with an appropriate degree field, and whose degrees have not yet been conferred by their university, may submit the following documentation in while

awaiting official transcripts to become available:

(a)

A verification letter from a university official verifying  
 (1) their degree program;  
 (2) that all courses have been completed and they have earned passing grades;  
 (3) their degrees will be conferred by the university; and

(b)

A receipt verifying that they have ordered their transcripts to be sent to the board office once their degree is conferred.

(2) A

statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision.

(3)

Documentation of 3000 client contact hours and 100 hours of appropriate face-to-face supervision.

(4)

Attachment F, listing only specific graduate coursework. The board may request syllabi as needed to clarify course content.

(5)

Documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.

(6)

Application fee of \$75.00 as provided for in 16.27.17 NMAC.

[16.27.7.13 NMAC - Rp, 16.27.7.13 NMAC, 11/30/2021]

**16.27.7.14 LICENSURE BY CREDENTIALS:**

**A.** A completed application as specified in 16.27.3.8 NMAC.

**B.** Verification (attachment A) that the applicant holds and has held a current independent license for two years issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

**C.** Verification that the applicant is in good standing with no disciplinary action pending or brought against the applicant within the past two years.

**D.** Holds masters or doctoral degree in counseling or a counseling-related field from an accredited institution.

**E.** Application fee of \$75.00 as provided for in 16.27.17 NMAC.

**F.** Applicants who do not meet the licensure by reciprocity must meet the current licensure requirements.

[16.27.7.14 NMAC - Rp, 16.27.7.14 NMAC, 11/30/2021]

**HISTORY OF 16.27.7 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 6, Requirements for Licensure as a Professional Art Therapist, 3/24/1994

Rule 6, Requirements for Licensure as a Professional Art Therapist, 3/20/1995

**History of Repealed Material:**

16 NMAC 27.6, Requirements for Licensure as a Professional Art Therapist - Repealed 6/15/2001

16 NMAC 27.9, Licensure by Credentials - Repealed 6/15/2001

**Other History:** 16.27.7 NMAC - Requirements for Licensure as a Professional Art Therapist (LPAT),

filed 6/15/2001, was repealed and replaced by 16.27.7 NMAC - Requirements for Licensure as a Professional Art Therapist (LPAT), effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 CHAPTER 27 COUNSELORS AND THERAPISTS  
 PART 11 REQUIREMENTS FOR LICENSURE WITH EXAMINATION AS AN ALCOHOL AND DRUG ABUSE COUNSELOR (LADAC)**

**16.27.11.1 ISSUING**

**AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.

[16.27.11.1 NMAC - Rp, 16.27.11.1 NMAC, 11/30/2021]

**16.27.11.2 SCOPE:** All

individuals applying for licensure by examination as an alcohol and drug abuse counselor.

[16.27.11.2 NMAC - Rp, 16.27.11.2 NMAC, 11/30/2021]

**16.27.11.3 STATUTORY**

**AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9, 61-9A-14.2, 61-9A-15, 61-9A-23, and 61-9A-24 NMSA 1978 and the Uniform Licensing Act, Section 61-1-34 NMSA 1978.

[16.27.11.3 NMAC - Rp, 16.27.11.3 NMAC, 11/30/2021]

**16.27.11.4 DURATION:**

Permanent.

[16.27.11.4 NMAC - Rp, 16.27.11.4 NMAC, 11/30/2021]

**16.27.11.5 EFFECTIVE**

**DATE:** November 30, 2021, unless a later date is cited at the end of a

section.  
[16.27.11.5 NMAC - Rp, 16.27.11.5 NMAC, 11/30/2021]

**16.27.11.6 OBJECTIVE:**  
The objective of Part 11 is to state the minimum requirements for licensure with examination as an alcohol and drug abuse counselor and list the documentation required for application effective July 1, 2003.  
[16.27.11.6 NMAC - Rp, 16.27.11.6 NMAC, 11/30/2021]

**16.27.11.7 DEFINITIONS:**  
[RESERVED]

**16.27.11.8 SUPERVISION:**  
**A.** No supervision is required to practice with a LADAC independent license. The board strongly recommends that all independently licensed counselors and therapists have an ongoing consultation or peer review process in place. Effective July 1, 2007, the independent alcohol and drug counselor may provide therapeutic services that may include treatment of clients with co-occurring disorders or dual diagnosis in an integrated behavioral health setting in which a multidisciplinary team has developed a multidisciplinary treatment plan that is co-authorized by an independently licensed counselor or therapist. The treatment of a mental health disorder must be supervised by an independently licensed counselor or therapist.

**B.** It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

**C.** Client contact and supervision hours acquired prior to being licensed will not be acceptable for licensure.  
[16.27.11.8 NMAC - Rp, 16.27.11.8 NMAC, 11/30/2021]

**16.27.11.9 APPLICANTS FOR LICENSURE:** An alcohol and drug abuse counselor (LADAC) must possess the following qualifications and provide the required documentation with the application.  
**A.** Age requirement: Be at least 21 years of age.  
**B.** Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

**C.** Applicant must demonstrate professional competency by passing the national certification examination for addiction counselors (NCAC level 1).

**D.** Education requirements  
**(1)** Holds an associate degree in counseling, counseling related field or a substance abuse related field from an accredited institution. The board may approve, on a case-by-case basis, applicants whose education is not in a counseling or substance abuse related field. One semester credit hour is equal to 15 clock hours of education. Qualifying education shall include 276 clock hours in the following areas:

- (a)** 90 hours in the field of alcohol abuse
- (b)** 90 hours in the field of drug abuse
- (c)** 90 hours in the field of counseling
- (d)** six hours that pertain specifically to alcohol and drug counseling ethics training.

**(2)** Holds a baccalaureate degree in counseling, a counseling related field or a substance abuse related field from an accredited institution. The board may approve, on a case-by-case basis, applicants whose education is not in a counseling or substance abuse related field. One semester credit hour is equal to 15 clock hours of education. Qualifying education shall include 276 clock hours in the following areas:

- (a)** 90 hours in the field of alcohol abuse
- (b)** 90 hours in the field of drug abuse

**(c)** 90 hours in the field of counseling  
**(d)**

six hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application).

**(3)** Holds a masters or doctoral degree in counseling, a counseling related field or a substance abuse related field from an accredited institution. The board may approve, on a case-by-case basis, applicants whose education is not in a counseling or substance abuse related field. One semester credit hour is equal to 15 clock hours of education. Qualifying education shall include 276 clock hours in the following areas:

- (a)** 90 hours in the field of alcohol abuse
- (b)** 90 hours in the field of drug abuse
- (c)** 90 hours in the field of counseling
- (d)**

six hours that pertain specifically to alcohol and drug counseling ethics training, (must be acquired two years prior to submission of an application).

**E.** Experience requirements.

**(1)** associate degree requires a minimum of three years and 3,000 client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and 200 hours of appropriate supervision; or

**(2)** a baccalaureate degree requires a minimum of two years and 2,000 client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and 100 hours of appropriate supervision; or

**(3)** a masters or doctoral degree requires a minimum of one year and 1,000 client contact hours under appropriate supervision of experience in the practice of alcohol and drug abuse counseling and 50 hours of appropriate supervision.

**F.** Documentation required for licensure:

(1) a completed application as specified in 16.27.3.8 NMAC, and

(2) proof of completed education and experience requirements:

(a) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's associate, baccalaureate, or masters degree; the official transcript must be submitted with the application; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board, and

(b) documentation of required drug, alcohol, counseling and ethics training (attachment D) shall include:

(i) transcripts from the college or university, and

(ii) the date, course title, course description, number of hours attended and certificate of attendance, and

(c) a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling standards of alcohol and drug practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of supervision, and

(3) applicant must sign a statement provided in the

application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics, and

(4) verification of the applicant's licensure, registration, or certification status must be submitted on attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified or registered.

[16.27.11.9 NMAC - Rp, 16.27.11.9 NMAC, 11/30/2021]

**16.27.11.10 LICENSURE BY RECIPROCITY:**

- A. A completed application as specified in 16.27.3.8 NMAC.
  - B. Verification (attachment A) that the applicant holds a license or certification that is current and in good standing, issued by another jurisdiction, including a branch of the armed forces of the United States, that meets the minimal licensing requirements and is substantially equivalent to the licensing requirements for the LADAC license.
  - C. Verification directly from the national certification examination board (NCAC) that the applicant has taken and passed the national certification examination for addiction counselors (NCAC level 1) or the international certification and reciprocity consortium (ICRC).
- [16.27.11.10 NMAC - Rp, 16.27.11.10 NMAC, 11/30/2021]

**16.27.11.11 [RESERVED]**  
[16.27.11.11 NMAC – Repealed, 11/30/2021]

**HISTORY OF 16.27.11 NMAC:**  
**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 2, Definitions, 3/24/1994  
Rule2, Definitions, 3/20/1995  
Rule 9, Licensure without Examination, 3/24/1994  
Rule 9, Licensure by Credentials, 3/20/1995

**History of Repealed Material:**  
16 NMAC 27.26, Requirements for Licensure with Examination as an Alcohol and Drug Abuse Counselor Effective July 1, 2003 - Repealed 6/15/2001  
16 NMAC 27.9, Licensure by Credentials - Repealed 6/15/2001

**Other History:** 16.27.11 NMAC - Requirements for Licensure with Examination as an Alcohol and Drug Abuse Counselor (LADAC) Effective July 1, 2005, filed 6/15/2021 was repealed and replaced by 16.27.11 NMAC - Requirements for Licensure with Examination as an Alcohol and Drug Abuse Counselor (LADAC) Effective July 1, 2005, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 27 COUNSELORS AND THERAPISTS  
PART 16 CONTINUING EDUCATION**

**16.27.16.1 ISSUING AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.  
[16.27.16.1 NMAC – Rp, 16.27.16.1 NMAC, 11/30/2021]

**16.27.16.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent counselors, licensed mental health counselors, licensed associate marriage and family therapists, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse associates.  
[16.27.16.2 NMAC - Rp, 16.27.16.2 NMAC, 11/30/2021]

**16.27.16.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-9 and 61-9A-24 NMSA 1978.  
[16.27.16.3 NMAC - Rp, 16.27.16.3 NMAC, 11/30/2021]

**16.27.16.4 DURATION:** Permanent.  
[16.27.16.4 NMAC - Rp, 16.27.16.4 NMAC, 11/30/2021]

**16.27.16.5 EFFECTIVE DATE:** November 28, 2021, unless a later date is cited at the end of a section.  
[16.27.16.5 NMAC - Rp, 16.27.16.5 NMAC, 11/30/2021]

**16.27.16.6 OBJECTIVE:** The objective of Part 16 is to inform licensees of continuing education hours required for license renewal. Additionally, Part 16 established acceptable continuing education.  
[16.27.16.6 NMAC - Rp, 16.27.16.6 NMAC, 11/30/2021]

**16.27.16.7 DEFINITIONS:** [RESERVED]

**16.27.16.8 CONTINUING EDUCATION REQUIREMENT:** Continuing education credit. Effective for the renewal period beginning October 1, 1997, 40 contact hours of continuing education approved by the New Mexico counseling and therapy practice board will be required to be documented during each two-year renewal period.

**A.** Continuing education must be obtained during the expiring licensing period.

**B.** One contact hour of continuing education is 60 minutes.

**C.** Specific continuing education which must be obtained and verified:

**(1)** 12 hours of ethics related to counseling/mental health for all licensees;

**(2)** nine hours in supervision related to counseling/mental health for all licensees who are supervisors.

**D.** Semester hour for the purpose of calculating continuing education units means that one semester credit hour of graduate coursework is equal to 15 continuing education units and one quarter hour of coursework is equal to 11.25 continuing education units.  
[16.27.16.8 NMAC - Rp, 16.27.16.8 NMAC, 11/30/2021]

**16.27.16.9 ACCEPTABLE CONTINUING EDUCATION COURSES:**

**A.** approved by local, state, national, or international mental health related professional associations such as the national board for certified counselors, the American marriage and family therapy regulatory board, American art therapy association, art therapy credentials board, international certification reciprocity consortium, or the national association of alcohol and drug abuse council;

**B.** approved by other state regulatory boards of related mental health or substance abuse fields, including psychiatry, psychology and social work;

**C.** sponsored by international, national, regional or state mental health professional associations including psychiatry, psychology and social work, or state and federal divisions of substance abuse;

**D.** approved by the New Mexico counseling and therapy practice board;

**E.** college coursework will be accepted for continuing education as follows:

**(1)** Semester hour for the purpose of calculating continuing education units means that one semester credit hour of graduate coursework is equal to 15 continuing education units and one quarter hour of coursework is equal to 11.25 continuing education units;

**(2)** License types requiring a master's degree or higher may utilize only graduate or postgraduate-level coursework beyond their initial master's degree that is related to counseling and

therapy. Undergraduate coursework is not acceptable toward continuing education requirements;

**(3)** License types requiring an associate's degree or higher can utilize undergraduate coursework taken as part of a bachelor's degree program that is related to counseling and therapy or substance use disorders. If the licensee possesses a bachelor's degree, the licensee can only utilize graduate and postgraduate-level coursework toward continuing education requirements for license renewal.

**F.** Pro bono work shall be accepted for up to twenty continuing education credits during each renewal cycle. Such work shall be non-remunerated clinical in nature and performed only by independently licensed clinicians. To qualify for continuing education hours, work must be performed for a non-profit organization or government entity by which the clinician is not currently employed, or otherwise associated. Service sites shall be engaged in provision of substantial service to their community and the people of New Mexico. Continuing education hours shall be awarded on the basis of one continuing education credit hour per four clock hours of service. Clinicians will be supervised by site-based administrative staff and documented on service hour continuing education work sheet and documentation form available from the New Mexico counseling and therapy practice board.  
[16.27.16.9 NMAC - Rp, 16.27.16.9 NMAC, 11/30/2021]

**16.27.16.10 DOCUMENTATION OF PARTICIPATION:** The licensee shall be responsible for submitting proof of attendance of all continuing education hours at the time of license renewal. All continuing education hours must be documented at the time the license is renewed. The board reserves the right to require additional documentation of participation. The board will notify the licensee of approval or disapproval of continuing



education hours within 30 days after receiving documentation. The board shall notify licensees within 60 days after submission of the application for renewal if any continuing education units are not approved by the board. The licensee shall have 30 days from the board's notice of disapproval to obtain additional continuing education units in compliance with board standards.

[16.27.16.10 NMAC - Rp,  
16.27.16.10 NMAC, 11/30/2021]

**16.27.16.11 FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS:**

The board will refuse to renew the licensee's license in accordance with the Uniform Licensing Act, Sections 61-1-1 through 61-1-31 NMSA 1978. If continuing education units requirements are not completed within the licensing period and by the expiration date, the licensee or registrant will be considered expired and will refrain from practicing. Individuals unable to meet continuing education requirements due to circumstances beyond their control must submit a written request for a waiver 60 days prior to their renewal date. Extenuating circumstances include illness, death in immediate family, military service, or other severe circumstances, which do not allow an applicant to meet continuing education requirements. The applicant may request a one-time extension approved by the board and shall pay an additional non-refundable \$300.00 fee. The board will review each request on a case-by-case basis.

[16.27.16.11 NMAC - Rp,  
16.27.16.11 NMAC, 11/30/2021]

**16.17.16.12 REGISTRATION AS A CONTINUING EDUCATION PROVIDER:**

A pre-approved continuing education provider shall possess the qualifications below:

**A.** age requirement of the presenter shall be a least 21 years of age.

**B.** Hold an active independent license to practice in New Mexico as a licensed alcohol and drug

abuse counselor (LADAC), licensed professional art therapist (LPAT), licensed professional clinical mental health counselor (LPCC), licensed clinical social worker (LCSW), licensed marriage and family therapist (LMFT), or licensed psychologist, or if holding an out of state license, meet criteria for licensure for New Mexico by credential or reciprocity.

**C.** Education requirements:

**(1)** With the exception of licensed alcohol and drug abuse counselors, hold a masters or doctoral degree in counseling or a counseling related field from an accredited institution; or

**(2)** A licensed alcohol and drug abuse counselor (LADAC) shall have three years of experience in the field of alcohol and drug abuse counseling.

**D.** An application for Pre-Approved CEU Provider must include:

**(1)** Application fee of \$100.00

**(2)** a signed statement provided in the application indicating the presenter has read the code of ethics and agrees to be bound and governed by the code of ethics.

**(3)** At least one complete course description with objectives

**(4)** A copy of the presenter's current license. Presenters must hold a current license in one of the following licensed disciplines:

**(a)** professional clinical mental health counselor;

**(b)** marriage and family therapist;

**(c)** professional art therapist;

**(d)** psychologist;

**(e)** independent or clinical social worker; or

**(f)** alcohol and drug abuse counselor;

**(5)** A copy of the presenter's resume or curriculum vitae

**(6)** A mock CEU certificate for each course description presented with the application

**E.** Once an approved CEU Provider, additional courses do not need to be submitted for approval. All future coursework must promote growth and learning within the fields of counseling and therapy, and must abide by the code of ethics and the Counseling and Therapy Practice Act.

**F.** CEU Providers are responsible for maintaining course and attendance records for a period of no less than three years, and make copies of attendance certificates available to attendees upon request.

**G.** Failure to comply with the rules for CEU providers and the code of ethics may result in termination of the approval as a CEU provider or denial of renewal as a CEU provider and shall subject the provider to a \$25.00 administrative fee for each CEU credit awarded without proper registration with the board pursuant to 16.27.17 NMAC.

[16.27.16.12 NMAC - N, 11/30/2021]

**HISTORY OF 16.27.16 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 11, Continuing Education, 3/20/1995

**History of Repealed Material:**

16 NMAC 27.11, Continuing Education - Repealed 6/15/2001

**Other History:**

16.27.11 NMAC – Continuing Education, filed 6/15/2001 was repealed and replaced by 16.27.11 NMAC – Continuing Education, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**

**CHAPTER 27 COUNSELORS AND THERAPISTS**  
**PART 18 CODE OF ETHICS**

**16.27.18.1 ISSUING**

**AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.  
 [16.27.18.1 NMAC- Rp, 16.27.18.1 NMAC, 11/30/2021]

**16.27.18.2 SCOPE:** All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, registered mental health counselors, licensed mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse trainees.  
 [16.27.18.2 NMAC- Rp 16.27.18.2 NMAC, 11/30/2021]

**16.27.18.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Section 61-9A-1 through 61-9A-30 NMSA 1978.  
 [16.27.18.3 NMAC- Rp 16.27.18.3 NMAC, 11/30/2021]

**16.27.18.4 DURATION:** Permanent.  
 [16.27.18.4 NMAC- Rp 16.27.18.4 NMAC, 11/30/2021]

**16.27.18.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.  
 [16.27.18.5 NMAC- Rp 16.27.18.5 NMAC, 11/30/2021]

**16.27.18.6 OBJECTIVE:** The objective of Part 18 is to outline the code of ethics all applicants and licensed professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, registered independent mental health counselors, registered mental health counselors, licensed

mental health counselors, alcohol and drug abuse counselors, alcohol abuse counselors, drug abuse counselors, and substance abuse trainees shall adhere to as licensed professionals. Failure to adhere to the code of ethics may result in disciplinary action by the board.  
 [16.27.18.6 NMAC- Rp 16.27.18.6 NMAC, 11/30/2021]

**16.27.18.7 DEFINITIONS:**  
**[RESERVED]**

**16.27.18.8 WHO MUST ADHERE TO THE CODE OF ETHICS:** The counseling & therapy practice board code of ethics is intended for the professional mental health counselor, professional clinical mental health counselor, marriage and family therapist, professional art therapist, registered mental health counselor, registered independent mental health counselor, licensed mental health counselor, alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor, and substance abuse associate trainee. Licensure and registration is binding to all individuals holding a license or registration to practice professional mental health counseling, professional clinical mental health counseling, marriage and family therapy, professional art therapy, registered and licensed mental health counseling, registered independent mental health counseling, alcohol and drug abuse counseling, alcohol abuse counseling, drug abuse counseling, and substance abuse associate in the state of New Mexico, and approved supervisors.  
 [16.27.18.8 NMAC- Rp 16.27.18.8 NMAC, 11/30/2021]

**16.27.18.9 SCOPE:** This code of ethics regulates the ethical and professional conduct of:  
**A.** all licensed and registered individuals;  
**B.** all applicants for licensure or registration;  
**C.** registered and licensed mental health counselors, substance abuse trainees and supervisors during their education,

practicum and post-graduate training; and  
**D.** expert witnesses: it applies to all licensed or registered individuals, in direct contact with clients, as well as during education, training, testifying as an expert witness and research endeavors.  
 [16.27.18.9 NMAC- Rp 16.27.18.9 NMAC, 11/30/2021]

**16.27.18.10 PURPOSE:** The purpose of this code of ethics is to provide clear guidelines for the New Mexico counseling and therapy practice board to assess the professional conduct of licensed or registered individuals. Standardization eliminates confusion and misinterpretation of ethical behavior within the profession and by the public.  
 [16.27.18.10 NMAC- Rp 16.27.18.10 NMAC, 11/30/2021]

**16.27.18.11 VIOLATIONS:**  
**A.** A violation of a code of ethics is referred to as “unprofessional” or “unethical” conduct. It constitutes sufficient grounds for disciplinary action by the board.

**B.** Costs of disciplinary proceedings: Licensees, registrants or applicants shall bear all costs of disciplinary proceedings unless they are excused by the board from paying all or part of the fees, or if the licensee, registrant or applicant prevails at the hearing conducted pursuant to Section 61-1-3 NMSA 1978 of the Uniform Licensing Act (“ULA”), or after investigation, the board does not pursue a ULA action against the licensee, registrant or applicant.  
 [16.27.18.11 NMAC- Rp 16.27.18.11 NMAC, 11/30/2021]

**16.27.18.12 INTEGRITY:** A licensed or registered individual is expected to behave according to the standards of professional integrity and competence as defined by rule or law. A licensed or registered individual must not condone, associate with, or participate in dishonest, fraudulent, or deceitful behavior and shall treat

all clients, supervisees, students and research participants with respect and dignity at all times. A licensed or registered individual shall not misrepresent themselves, their training, or their services. It is the responsibility of licensees and registered mental health counselors to be completely informed about this code of ethics by which they are governed.

[16.27.18.12 NMAC- Rp 16.27.18.12 NMAC, 11/30/2021]

**16.27.18.13 INTERPRETATION:**

When construing the Code of ethics and standards for providers, the interpretation of the code shall be guided by rules promulgated by the American mental health counselors association (AMHCA), the American counseling association (ACA), the American association for marriage and family therapy (AAMFT), the American art therapy association (AATA), national association of alcoholism and drug abuse counselors (NAADAC) and other relevant professional groups to reconcile ambiguities which may arise in the interpretation of this code of ethics, except that this code of ethics shall supersede any conflict existing between this code and any professional association standard.

[16.27.18.13 NMAC- Rp 16.27.18.13 NMAC, 11/30/2021]

**16.27.18.14 CLIENT:** Means;

**A.** a recipient of counseling or therapy services.

**B.** a corporate entity or other organization can be a client when the professional contract is to provide services that primarily benefit the organization rather than individuals;

**C.** a legal guardians shall be the client for decision-making purposes for individuals receiving services who are under age of consent or legally incompetent adults except underage individuals and legally incompetent adults shall be the client when making decisions:

(1) directly affecting the physical or emotional safety of the individual, such a sexual

or other exploitive dual relationships, and

(2) specifically reserved to the individual, and agreed to by the guardian prior to the rendering of services, such as confidential communication in a therapy relationship.

[16.27.18.14 NMAC- Rp 16.27.18.14 NMAC, 11/30/2021]

**16.27.18.15 CONFIDENTIAL INFORMATION:**

Means information revealed by a client(s) or otherwise obtained by a counselor or therapist, within the therapeutic context. The information shall not be disclosed by the counselor or therapist without the informed written consent of the client(s). Confidential information may be disclosed without written consent when the client is considered a harm to self or others, when there is evidence of physical or emotional abuse of minors or frail elderly or by court order, see Subsection B of 16.27.18.17 NMAC.

When the client is a corporation or organization, the confidential relationship is between the counselor or therapist and the corporation or organization and not between the counselor or therapist and the employee or individual. Information obtained from the employee by the counselor or therapist shall be available to the organization unless such information was obtained in a separate therapeutic context which is subject to confidentiality requirements.

[16.27.18.15 NMAC- Rp 16.27.18.15 NMAC, 11/30/2021]

**16.27.18.16 PROFESSIONAL COMPETENCE, CONDUCT & INTEGRITY:**

**A.** Licensees or registrants shall not misrepresent his credentials, degrees, or competencies either through spoken word, written, or electronically transmitted material.

**B.** Licensees or registrants who has provided professional services to a client or former client within the previous 60 months shall not:

(1) engage in sexual intercourse, contact or other physical intimacies with the client;

(2) enter into a financial or other potentially exploitive relationship with the client; or

(3) seek to obtain client access to counselor or therapist personal information in social networking sites.

**C.** The prohibitions set out in Paragraphs (1), (2) and (3) of Subsection B of this section shall not be limited to the 60 month period but shall extend indefinitely if the client is proven to be clearly vulnerable, by reason of emotional or cognitive disorder, to exploitive influence by the counselor or therapist. The counselor or therapist who engages in such activity after the 60 month period following cessation or termination of treatment bears the burden of providing proof that there has been no exploitation, in light of all relevant factors, including:

(1) the amount of time that has passed since therapy terminated;

(2) the nature and duration of the therapy;

(3) the circumstances of termination;

(4) the patient's or client's personal history;

(5) the patient's or client's mental status;

(6) the likelihood of adverse impact on the patient or client and others; and

(7) any statements or actions made by the counselor or therapist during the course of therapy suggesting or inviting the possibility of a post termination relationship with the patient or client.

**D.** Licensees or registrants shall not undertake or continue a professional relationship with a client when the counselor or therapist is impaired due to mental, emotional, physiological, or substance abuse conditions.

**E.** Licensees or registrants violate the code and are subject to loss of licensure or other disciplinary action if:

(1) convicted of a felony or misdemeanor related to their qualifications or functions;

(2) disciplined by other state licensing boards for acts which would be a violation under this code of ethics, statutes or regulations;

(3) no longer competent to practice, or;

(4) they fail to cooperate with an investigation or disciplinary action taken by the state .

**F.** Licensees or registrants shall only perform counseling or therapy services within the scope of practice for their license. Licensees or registrants shall only perform testing and assessment services for which they are authorized under the act.

**G.** Licensees or registrants shall not use advertising, which is misleading, deceptive or false. All and any announcements of services shall include state designation and license number.

**H.** Licensees or registrants individual shall inform the client of the innovative nature and the known risks associated with the services, so that the client can exercise freedom of choice concerning the services when developing competency in a service or technique that is either new to the counselor or therapist, or new to the profession, shall engage in ongoing consultation with other relevant professionals and shall seek appropriate education and training in the new area.

**I.** Licensees or registrants shall make every effort to offer the client or former client the names of at least three referral sources, or refer the client to an organization that can provide referrals, upon request by a client or former client (e.g. physician, attorney, therapist, financial planner, etc.),.

**J.** Licensees or registrants shall not offer or accept kickbacks, rebates, bonuses or other remuneration of referrals; fee-for-service arrangements are not prohibited.

**K.** Bartering for professional services may be conducted only if:

(1) the supervisee or client requests it;

(2) the relationship is not exploitive; or

(3) the professional relationship is not distorted; and

(4) a clear written contract is agreed upon and signed by both parties.

[16.27.18.16 NMAC- Rp 16.27.18.16 NMAC, 11/30/2021]

**16.27.18.17  
CONFIDENTIALITY AND DATA  
PRIVACY:**

**A.** The counselor or therapist shall safeguard confidential information obtained in the course of practice, teaching, research or other professional services. This includes a counselor or therapist’s employees and professional associates as defined by law. The counselor or therapist shall disclose confidential information to others only with the informed written consent of the client or as outlined in Subsection B of this section.

**B.** Licensees or registrants shall inform a client of limitations of confidentiality. These limitations include, but are not limited to:

(1) Limitations mandated by the law.

(2) Disclosure when necessary to protect against a clear and substantial risk of imminent serious harm being inflicted by the client on the client or another person(s).

(3) Court orders in civil, criminal, or disciplinary actions arising from the therapy.

(4) Written waiver. Disclosure is limited to the terms of the waiver. If there is more than one party involved in the therapy, the waiver must be signed by all members legally competent to execute such a waiver (e.g. couples, marital couples, family, or group). When release of information pertaining to a client under the age of consent is requested, it must be signed by a parent or legal guardian. The

counselor or therapist, to the extent the client can understand, shall inform the minor client of the limit the law imposes on his right of confidentiality.

(6) Reporting abuse of children and vulnerable adults, the counselor or therapist shall be familiar with any relevant law..

(7) Restrictions mandated by employing agencies.

**C.** Licensees or registrants shall ensure that all reasonable security measures are taken to ensure records and written data are protected from access by unauthorized persons.

**D.** Licensees or registrants shall ensure that the content and disposition of all records is in compliance with relevant state laws.

**E.** Licensees or registrants shall treat client information as confidential after the professional relationship between the counselor or therapist and the client has ceased.

**F.** Licensees or registrants shall exercise reasonable care to ensure that confidential information is appropriately disguised to prevent client identification when used as a case study, basis of supervision, teaching, research or other published reports.

**G.** Licensees or registrants shall explain to the client the limitations and foreseeable uses of confidential information.

**H.** Record retention

(1) Licensees or registrants rendering professional services to a client or billed to a third party, shall maintain professional records that include:

(a) the presenting problem(s) or purpose or diagnosis;

(b) the fee arrangement;

(c) the date and substance of each billed service;

(d) any test results or other evaluative results obtained and any basis test data from which they were derived;

(e) notation and results of formal consultations with other providers; and

(f) a copy of all tests or other evaluative reports prepared as part of the professional relationship.

(2) Licensees, registrants or agencies that employ licensed or registered counselors or therapists shall assure that all client records are maintained and secured for a period of not less than six years after the last date that professional services was rendered.

(3) Licensees or registrants shall store and dispose of written or electronic data and other recorded information in such a manner as to ensure client confidentiality.

(4) Licensees or registrants shall not withhold records under their control that are requested for a client's treatment solely because payment has not been received or otherwise provided by law.

(5) Subsequent to the licensee or registrant moving from the area, closing the practice, or upon the death of the counselor or therapist, a licensee or registrant shall arrange for the storage, transfer, or disposal of client records that ensure confidentiality and safeguards the welfare of clients.

(6) In the event of the death of a licensee or registrant, the counselor or therapist's personal representative shall assure that the deceased's clinical records are maintained and secured for a period of not less than six years after the last date that professional services were rendered. The decedent's personal representative shall store and eventually dispose of written or electronic data and other recorded information in such a manner as to ensure confidentiality and safeguards the welfare of the clients.

(7) Licensees or registrants shall provide clients with that client's summary of their clinical record upon receipt of a written request.

[16.27.18.17 NMAC- Rp 16.27.18.17 NMAC, 11/30/2021]

**16.27.18.18**

**RESPONSIBILITY TO CLIENTS:**

Licensees or registrants shall:

A. inform clients before or at the time of the initial counseling session with the licensee of the following:

- (1) professional education, training and experience of the licensee;
- (2) fees and arrangements for payment;
- (3) counseling purposes, goals, and techniques;
- (4) any restrictions placed on the license by the board;
- (5) the limits on confidentiality;
- (6) any intent of the licensee to use another individual to provide counseling services to the client;
- (7) supervision of the licensee by another licensed health care professional, including the name and qualifications of the supervisor; and

(8) a licensee or registrant shall inform the client of any changes to the items above prior to initiating the change;

B. shall not discriminate against or refuse professional services to anyone on the basis of race, color, gender, religion, national origin, ancestry, disability, socioeconomic status, sexual orientation, or any basis proscribed by law;

C. shall not impose on the client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, sexual orientation, or diagnosis which would interfere with the objective provision of counseling or therapy services;

D. shall not enter into a sexual or other dual relationship with a client, as specified in Subsection D of 16.27.18.16 NMAC of this code of ethics;

E. shall continue therapeutic relationships only so

long as it is reasonably clear that a therapeutic context exists;

F. shall give a truthful, understandable, and appropriate account of the nature of the client's condition to the client or to those responsible for the care of the client;

G. shall not mislead or withhold information about the cost of his professional services;

H. shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided;

I. shall make an appropriate referral of the client to another professional when requested to do so by the client or in the best interest of the client;

J. shall not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment; counselors or therapists shall assist persons in obtaining other therapeutic services if the counselor or therapist is unable or unwilling, for appropriate reasons, to provide professional help;

K. shall not induce clients to solicit business on behalf of the counselor or therapist;

L. when consulting with colleagues:

(1) refrain from sharing confidential information that reasonably could lead to the identification of a patient, client, research participant, or other person or organization with whom they have a confidential relationship unless they have obtained the prior consent of the person or organization or the disclosure cannot be avoided; and

(2) share information only to the extent necessary to achieve the purposes of the consultation;

M. shall obtain written informed consent from clients before videotaping, audio recording, or permitting third party observation;

N. shall disclose to clients the area of education when using the designation of "doctor" in their title.

**O.** shall not knowingly offer or provide counseling or therapy to an individual concurrently receiving counseling from another mental health services provider except with that provider’s knowledge; if a licensee or registrant learns of such concurrent therapy, the licensee or registrant shall take immediate and reasonable action to resolve the situation;

**P.** shall not enter into a professional counseling or therapeutic relationship with immediate family members, personal friends, or business associates;

**Q.** shall bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual agreement. The agreement shall include that:

(1) the actual provider of services be reflected on billing documents;

(2) upon written request of a client, or a client’s legal guardian, a licensee or registrant shall provide, in plain language, a written explanation of the charges for counseling services previously made on a bill or statement for the client; this requirement applies even if the charges are to be paid by a third party;

(3) the licensee or registrant may not overcharge a client;

(4) the licensee or registrant may not submit to a client or third payer a bill for counseling or therapy that the licensee or registrant knows were not provided or knows were improper, unreasonable, or medically or clinically unnecessary;

**R.** refrain from giving to or receiving from clients:

(1) gifts of substantial value; or

(2) gifts that impair the integrity or efficacy of the counseling or therapeutic relationship; and

**S.** be permitted to treat minors or adults involved in custody or visitation actions but may not concurrently perform forensic

evaluations of custody, residence, or visitation of the minor; the licensee or registrant who treats the minor may provide the court or mental health professional performing the evaluation with information about the minor from the licensee or registrant’s perspective as a treating licensed or registered professional, so long as the licensee or registrant does not violate confidentiality.

[16.27.18.18 NMAC- Rp 16.27.18.18 NMAC, 11/30/2021]

**16.27.18.19 RESPONSIBILITY TO SUPERVISEES:** Licensees or registrants shall:

**A.** be cognizant of their influence upon students and supervisees and shall avoid exploiting the trust and dependency of such persons; therefore, licensees or registrants shall try to avoid conditions and dual relationships that may impair professional objectivity or increase the risk of exploitation; when the risk of impairment or exploitation exists due to conditions or dual roles, individuals shall take appropriate precautions (TO DO WHAT?);

**B.** refrain from providing therapy to current students or supervisees.

**C.** refrain from engaging in sexual intimacy with students or supervisees during the evaluation or training relationship between the licensee or registrant and student/supervisee.

**D.** prohibit students or supervisees from performing or holding themselves out as competent to perform professional services beyond their training, level of experience, and competence.

**E.** shall take reasonable precautions to ensure that services provided by trainees are professional.

**F.** shall not disclose supervisee confidences except by written authorization or waiver, or when mandated or permitted by law; in educational or training settings where there are multiple supervisors, disclosures are permitted only to other professional colleagues or administrators.

**G.** shall be required to sign for supervision and client contact hours provided to their supervisees on the appropriate Attachment B form prior to the termination of the supervisory relationship. If, in the supervisor’s professional opinion, believes the supervisee is not yet ready for independent licensure, or has other concerns about the supervisee’s professionalism, they may include an explanatory letter with the Attachment B form.

[16.27.18.19 NMAC- Rp 16.27.18.19 NMAC, 11/30/2021]

**16.27.18.20 RESPONSIBILITY TO COLLEAGUES:** Licensees or registrants should:

**A.** treat colleagues with respect and should accurately represent the qualifications, views, and obligations of colleagues;

**B.** avoid unwarranted negative criticism of colleagues in communications with clients or with other professionals;

**C.** cooperate with colleagues and with colleagues of other professions when their cooperation serves the wellbeing of clients;

**D.** respect confidential information shared by colleagues in the course of their professional relationships and transactions; licensees or registrants should ensure that their colleagues understand licensees or registrants’ obligations to respect confidentiality and any exceptions related to it;

**E.** participate in and contribute to decisions that affect the wellbeing of clients by drawing on the perspectives, values, and experiences of the individual’s profession with members of an interdisciplinary team; professional and ethical obligations of the interdisciplinary team as a whole and of its individual members should be clearly established;

**F.** attempt to resolve disagreements through appropriate channels for whom a team decision raises ethical concerns for the licensee or registrant; if the disagreement cannot be resolved, pursue other avenues to address license or

registrant’s concerns consistent with client wellbeing;

**G.** should not take advantage of a dispute between a colleague and an employer to obtain a position or otherwise advance the licensed or registered individual’s own interests; and

**H.** should not exploit clients in disputes with colleagues or engage clients in any inappropriate discussion with colleagues.

[16.27.18.20 NMAC- Rp 16.27.18.20 NMAC, 11/30/2021]

**16.27.18.21**

**RESPONSIBILITY TO THE PROFESSION:** Licensees or registrants shall:

**A.** refraining from aiding or abetting another person in misrepresenting his/her professional credentials or illegally engaging in the practice of counseling or therapy;

**B.** refrain from delegating professional responsibilities to a person not appropriately qualified to provide such services;

**C.** exercise appropriate supervision over supervisees, as set forth in the Parts and regulations of the board;

**D.** inform the board in writing when the licensee or registrant has substantial reason to believe that there has been a violation of the statutes or parts of the rule which presents eminent danger to the licensee, registrant or client; or if this information is obtained in a professional relationship with a client, obtain prior written permission from the client before reporting it; counselors or therapists shall not file or encourage the filing of ethical complaints that are frivolous or are intended to harm the licensee rather than protect the public;

**E.** be familiar with this code of ethics, and its application to counselors or therapists’ work. Lack of awareness or misunderstanding of the conduct standards is not a defense to a charge of unethical conduct;

**F.** consult with the board’s ethics committee when uncertain whether a particular

situation or course of action would violate this code of ethics; and

**G.** cooperate in ethics investigations, proceedings, and resulting requirements of this code. Release of confidential information in an investigation by the board does not constitute a violation of confidentiality. Failure to cooperate in an investigation is an ethics violation.

[16.27.18.21 NMAC- N, 11/30/2021]

**16.27.18.22**

**INVESTIGATIONS:** If a licensee or registrant voluntarily surrenders their license or registration in anticipation of or during the course of an investigation, the complaint committee will proceed with its investigation and take any appropriate action. Any publication of action taken by the committee and the counseling and therapy practice board will include the fact that the licensee or registrant voluntarily surrendered their license or registration during the investigation.

[16.27.18.20 NMAC- N, 11/30/2021]

**16.27.18.23 ELECTRONIC THERAPY:**

**A.** Any licensee or registrant offering services online, or by any other electronic virtual means, shall adhere to the entire code of ethics as it appears in this Part. In addition, the licensee or registrant providing services shall inform the client, in the process of securing informed consent for services that:

(1) professional services are considered to be rendered in the state of New Mexico;

(2) complaints about professional services and should be directed to the New Mexico counseling and therapy practice board; and

(3) encryption and other technologies shall be used to insure confidentiality of the therapy session.

**B.** Licensees or registrants who provide professional services via electronic media (such as computer, telephone, radio, and

television) should inform clients of the limitations and risks associated with such services.

**C.** Electronic and telephonic supervision, counseling and psychotherapy services provided under supervision are considered contact hours and subject to face-to-face supervision requirements.

[16.27.18.23 NMAC – N, 11/30/2021]

**HISTORY OF 16.27.18 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 14, Code of Ethics, 3/20/1995

**History of Repealed Material:**

16 NMAC 27.14, Code of Ethics - Repealed 6/15/2001.

**Other History:**

16.27.18 NMAC – Code of Ethics, filed 6/15/2001, was repealed and replaced by 16.27.18 NMAC – Code of Ethics, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 27 COUNSELORS AND THERAPISTS  
PART 19 APPROVED SUPERVISORS**

**16.27.19.1 ISSUING**

**AGENCY:** Regulation and Licensing Department Counseling and Therapy Practice Board.

[16.27.19.1 NMAC- Rp, 16.27.19.1 NMAC, 11/30/2021]

**16.27.19.2 SCOPE:**

All professional clinical mental health counselors, marriage and family therapists, professional art therapists, professional mental health counselors, alcohol and drug abuse counselors, who are acting as supervisors.

[16.27.19.2 NMAC- Rp, 16.27.19.2 NMAC, 11/30/2021]

**16.27.19.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, Sections 61-9A-1, 61-9A-3, 61-9A-5 and 61-9A-9 through 61-9A-30 NMSA 1978.  
[16.27.19.3 NMAC- Rp, 16.27.19.3 NMAC, 11/30/2021]

**16.27.19.4 DURATION:** Permanent.  
[16.27.19.4 NMAC- Rp, 16.27.19.4 NMAC, 11/30/2021]

**16.27.19.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.  
[16.27.19.5 NMAC- Rp, 16.27.19.5 NMAC, 11/30/2021]

**16.27.19.6 OBJECTIVE:** The objective of Part 19 is to provide guidelines for a supervisor.  
[16.27.19.6 NMAC- Rp, 16.27.19.6 NMAC, 11/30/2021]

**16.27.19.7 DEFINITIONS:** Approved supervisor definitions.

**A. “Administrative supervision”** means those supervisory activities, which increase the efficiency and management of the delivery of counseling services.

**B. “Clinical supervision”** means the supportive and educative activities of the supervisor designed to improve the application of counseling theory and technique directly to clients. Clinical supervision is the only supervision acceptable for licensure.

**C. “Applied counseling settings”** means public, state/federal agencies, or private organizations of counselors and therapists such as community mental health counselors, hospitals, schools, and group or individual private practice settings.

**D. “Supervisees”** means licensed mental health counselors, associate marriage and family therapist or substance abuse associates, or licensees who are working with clients in an applied counseling settings.

**E. “Supervisors”** means independently licensed alcohol and drug abuse counselors (LADAC), professional art therapists (LPAT), licensed professional clinical mental health counselors (LPCC), licensed clinical social workers (LCSW), licensed marriage and family therapists (LMFT), and licensed psychologists having completed the requisite nine continuing education units in supervision and having registered as supervisors with the New Mexico counseling and therapy practice board.

**F. “Electronic and telephonic supervision”** means supervision of counseling and psychotherapy services provided by supervisors either electronically or telephonically. Virtually supervised contact hours are subject to the supervision requirements required for services supervised in-person.  
[16.27.19.7 NMAC- Rp, 16.27.19.7 NMAC, 11/30/2021]

**16.27.19.8 SUPERVISEE’S WELFARE AND RIGHTS:**

**A.** Supervisors shall instruct supervisees to notify clients that they are being supervised and that observation or recordings of the session may be reviewed by the supervisor.

**B.** Supervisors who are licensed counselors and therapists and are conducting supervision to aid a supervisee to become licensed shall instruct the supervisee not to communicate or in anyway convey to the supervisee’s clients or to other parties that the supervisee is licensed as independent practitioners.

**C.** Supervisors shall instruct supervisees of clients’ rights, including protecting clients’ right to privacy and confidentiality in the counseling and therapy relationship and the information resulting from it, and to notify clients that their right to privacy and confidentiality will not be violated by the supervisory relationship.

**D.** Records of the counseling and therapy relationship, including interview notes, test data, correspondence, the electronic storage

of these documents, and audio and videotape recordings are considered to be confidential professional information. Supervisors shall assure that these materials are used in counseling/therapy, research, and training and supervision of counselors and therapists with the full knowledge of the client and that permission to use these materials is granted by the applied counseling setting offering service to the client. This professional information is to be used for the full protection of the client.

**E.** Written consent from the client (or legal guardian, if a minor) shall be secured prior to the use of such information for instructional, supervisory, or research purposes. Policies of the applied counseling setting regarding client records also shall be followed.

**F.** Supervisors shall adhere to current professional and legal guidelines when conducting research with human participants.

**G.** Supervisors are responsible for making every effort to monitor both the professional actions, and failures to take action, of their supervisees.

**H.** Supervised clinical client contact hours shall not exceed 40 hours per week.

[16.27.19.8 NMAC- Rp, 16.27.19.8 NMAC, 11/30/2021]

**16.27.19.9 SUPERVISORY ROLE.**

**A.** The primary obligation of supervisors is to train counselors and therapists so that they respect the integrity and promote the welfare of the client. Inherent and integral to the role of supervisor are responsibilities for:

(1) monitoring client welfare;

(2) encouraging compliance with relevant legal, ethical, and professional standards for clinical practice;

(3) monitoring clinical performance, qualifications and professional development of supervisees;

(4) evaluating and certifying current performance



and potential of supervisees for academic, screening, selection, placement, employment, and credentialing purposes ;

(5) tracking supervisee’s professionalism and ethical conduct; and

(6) documentation to include a supervisory agreement and a supervision log to include notes

**B.** Supervisors shall obtain and maintain the supervisor designation issued by the board prior to initiating their role as supervisors.

**C.** Supervisors shall inform their supervisees of professional and ethical standards and legal responsibilities of the counseling and therapy profession.

**D.** Supervisors of postgraduate counselors and therapists who are seeking state licensure should encourage these counselors and therapists to adhere to the standards for practice established by the state licensure board of the state in which they practice.

**E.** Procedures for contacting the supervisor, or an alternative supervisor, to assist in handling crisis situations shall be established and communicated to supervisees.

**F.** Actual work samples via session process notes, audio or video tape or live observation in addition to case notes shall be reviewed by the supervisor as a regular part of the ongoing supervisory process.

**G.** Supervisors shall meet regularly in face-to-face or virtual sessions with their supervisees.

**H.** Supervisors shall provide supervisees with ongoing feedback on their performance. This feedback should take a variety of forms, both formal and informal, and should include verbal and written evaluations. It should be formative during the supervisory experience and summative at the conclusion of the experience.

**I.** Supervisors who have multiple roles (e.g., teacher, clinical supervisor, administrative supervisor, etc.) with supervisees

shall minimize potential conflicts. Where possible, the roles should be divided among several and it should be conveyed to the supervisee as to the expectations and responsibilities associated with each supervisory role.

**J.** Supervisors shall not participate in any form of sexual contact with supervisees. Dual relationships with supervisees that might impair the supervisor’s objectivity and professional judgment should be avoided and the supervisory relationship terminated.

**K.** Supervisors shall not establish a psychotherapeutic relationship as a substitute for supervision. Personal issues should be addressed in supervision only in terms of the impact of these issues on clients and on professional functioning.

**L.** Supervisors, through ongoing supervisee assessment and evaluation, should be aware of any personal or professional limitations of supervisees which are likely to impede future professional performance. Supervisors have the responsibility of recommending remedial assistance to the supervisee and of screening from the training program, applied counseling setting, or state licensure those supervisees who are unable to provide competent professional services. These recommendations should be clearly and professionally explained in writing to the supervisees who are so evaluated.

**M.** Supervisors shall not endorse a supervisee for certification, licensure, completion of an academic training program, or continued employment if the supervisor believes the supervisee is impaired in any way that would interfere with the performance of counseling and therapy duties. The presence of any such impairment should begin a process of feedback and remediation wherever possible so that the supervisee understands the nature of the impairment and has the opportunity to remedy the problem and continue with their professional development.

**N.** Supervisors shall supervise clinical work only in areas where they are fully competent, and experienced.

**O.** Supervisors shall inform supervisees of the goals, policies, theoretical orientations toward counseling/therapy, training, and supervision model or approach on which the supervision is based.

**P.** Supervisors shall use the following prioritized sequence in resolving conflicts among the needs of the client, the needs of the supervisee, and the needs of the program or agency. Insofar as the client must be protected, it shall be understood that client welfare is usually subsumed in federal and state laws such that these statutes should be the first point of reference. Where laws and ethical standards are not present or are unclear, the good judgment of the supervisor shall be guided by the following list:

- (1) relevant legal and ethical standards (e.g. duty to warn, state child abuse laws, etc.);
- (2) client welfare;
- (3) supervisee welfare;
- (4) supervisor welfare; and
- (5) program or agency service and administrative needs.

**Q.** Supervised contact hours shall not exceed 40 hours per week. [16.27.19.9 NMAC- Rp, 16.27.19.9 NMAC, 11/30/2021]

**16.27.19.10 APPLICATION FOR SUPERVISOR DESIGNATION REQUIREMENTS:**

**A.** All applicants must submit the following documentation to the board:

- (1) a completed application, signed by the applicant
- (2) a 2” x 2” photograph of the applicant taken within the preceding six months, affixed to the application;
- (3) an application fee of \$75 as provided in Part 17;

(4) submit evidence of completing the following:

(a) three continuing education unit hours in counseling or therapy supervision, and

(b) six continuing education unit hours pertaining to ethics in supervision in addition to the ethics continuing education unit hours required for license renewal; or

(c) evidence of holding a current supervision credential through the applicable national professional association;

(5) a copy of a current New Mexico license as one of the following credentials:

(a) licensed professional clinical counselor;

(b) licensed marriage and family therapist;

(c) licensed professional art therapist;

(d) licensed alcohol and drug abuse counselor;

(e) licensed clinical social worker;

(f) licensed independent social worker;

(g) licensed psychiatrist; or

(h) licensed psychologist

C. Supervisor certification will be valid for a period not to exceed 24 months. All certifications shall expire on September 30 of the renewal year. CEUs submitted for initial supervisor designation certification will qualify toward the renewal requirements for the applicant’s individual professional license. Initial certifications may be issued for a period of less than 24 months in order to establish the certification in a renewal cycle.

B. Renewal of supervision certification must be completed by September 30 of the renewal year by submitting the following documentation to the board office:

(1) a complete renewal application available for download on the board’s website or by completing the renewal online; and

(2) evidence of completing at least three continuing education unit hours specific to counseling and therapy supervision and six continuing education unit hours specific to ethics in supervision in addition to the ethics continuing education unit hours required for license renewal obtained during the current licensing period.  
[16.27.19.9 NMAC - N, 11/30/2021]

**HISTORY OF 16.27.19 NMAC:**  
**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center and Archives under: Rule 16, Approved Supervisors, 3/20/1995

**History of Repealed Material:**  
 16 NMAC 27.16, Approved Supervisors - Repealed 6/15/2001

**Other History:**  
 16.27.16 NMAC – Approved Supervisors, filed 6/15/2001, was repealed and replaced by 16.27.16 NMAC – Approved Supervisors, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT  
 COUNSELING AND THERAPY PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 CHAPTER 27 COUNSELORS AND THERAPISTS  
 PART 24 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS**

**16.27.24.1 ISSUING AGENCY:** Regulation and Licensing Department - Counseling and Therapy Practice Board.  
 [16.27.24.1 NMAC – Rp, 16.27.24.1 NMAC, 11/30/2021]

**16.27.24.2 SCOPE:** This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.  
 [16.27.24.2 NMAC - Rp, 16.27.24.2 NMAC, 11/30/2021]

**16.27.24.3 STATUTORY AUTHORITY:** Part 24 of Chapter 16 is promulgated pursuant to and in accordance with the Counseling and Therapy Practice Act, Sections 61-9A-1 and 30 NMSA 1978 (specific authority to promulgate rules is Section 61-9A-9 and Uniform Licensing Act, Section 61-1-34 NMSA 1978.  
 [16.27.24.3 NMAC - Rp, 16.27.24.3 NMAC, 11/30/2021]

**16.27.24.4 DURATION:** Permanent.  
 [16.27.24.4 NMAC - Rp, 16.27.24.4 NMAC, 11/30/2021]

**16.27.24.5 EFFECTIVE DATE:** November 30, 2021, unless a later date is cited at the end of a section.  
 [16.27.24.5 NMAC - Rp, 16.27.24.5 NMAC, 11/30/2021]

**16.27.24.6 OBJECTIVE:** The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to Section 61-1-34 NMSA 1978.  
 [16.27.24.6 NMAC - Rp, 16.27.24.6 NMAC, 11/30/2021]

**16.27.24.7 DEFINITIONS:**  
**A. “License”** has the same meaning as defined in Paragraph (1) of Subsection F of Section 61-1-34 NMSA 1978.

**B. “Licensing fee”** has the same meaning as defined in Paragraph (2) of Subsection F of Section 61-1-34 NMSA 1978.

**C. “Military service member”** has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

**D. “Substantially equivalent”** means the determination by the board that the education,

examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Counseling and Therapy Practice Act.

**E. “Veteran”** has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978. [16.27.24.7 NMAC - Rp, 16.27.24.7 NMAC, 11/30/2021]

**16.27.24.8 APPLICATION REQUIREMENTS:**

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

**B.** The applicant shall provide a complete application that includes the following information:

- (1) applicant’s full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) date of birth;
- (5) attestation to the highest level of education held by the applicant, the degree major, the name of the issuing institution, and the date the degree was awarded;

(6) verification of a license in good standing in another jurisdiction or territory; and  
 (7) proof as described in Subsection C below.

**C.** The applicant shall provide the following satisfactory evidence as follows:

- (1) applicant is currently licensed with a non-temporary license and in good standing in another jurisdiction, including a branch of the United States armed forces;
- (2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the licensing requirements for New Mexico; and
- (3) the following documentation:

(a) for military service member: copy of military orders;

(b) for spouse of military service members: copy of spouse’s military orders, and copy of marriage license;

(c) for spouses of deceased military service members: copy of spouse’s DD 214 and copy of marriage license;

(d) for dependent children of military service members: copy of military orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member’s federal tax return or other governmental or judicial documentation establishing dependency;

(e) for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

**D.** The license or registration shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background check if required for a license, and any required fees.

**E.** Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

**F.** A license issued pursuant to this section shall be valid for the time period that is specified in the Counseling and Therapy Practice Act.

[16.27.24.8 NMAC - Rp, 16.27.24.8 NMAC, 11/30/2021]

**16.27.24.9 RENEWAL REQUIREMENTS:**

**A.** A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.27.3.13 NMAC pursuant to Chapter 61, Article 9A NMSA 1978.

**B.** As a courtesy,

the board will send, via e-mail, license renewal notifications to licensees or registrants before the license expiration date to the last known email address on file with the board. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date. [16.27.24.9 NMAC - Rp, 16.27.24.9 NMAC, 11/30/2021]

**History of 16.27.24 NMAC:** 16.27.24 NMAC - Licensure for Military Service Members, Spouses and Veterans, filed 10/15/2014, was repealed and replaced by 16.27.24 NMAC - Licensure for Military Service Members, Spouses and Veterans, effective 11/30/2021.

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.2 NMAC, Sections 3, 7, and 8, effective 11/30/2021.**

**16.27.2.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the counselor and Therapist Practice Act, [~~Section 61-9A-1, 3, 5, 11 and 15, NMSA-1978~~] Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9, 61-9A-11, and 61-9A-15, NMSA 1978.

[16.27.2.3 NMAC - N, 6/15/2001; A, 11/30/2021]

**16.27.2.7 DEFINITIONS:** Mental health clinical core curriculum as used in [~~Part 4, Part 8, and Part 9~~] Parts 4, 8, and 9 means a curriculum for training counselors that includes graduate-level coursework within 10 core curriculum areas. Course work that makes up the 48 semester hours or 72 quarter hours needed to meet the statutory requirement includes – [33] 45 clinical semester hours including nine semester hours of practicum, or 72 quarter hours including 12 quarter hours of practicum. The remaining course work needed to complete

the 48 graduate semester hours or 72 graduate quarter hours is to be distributed as electives among the 10 core curriculum areas derived from program approved courses. [16.27.2.7 NMAC - N, 6/15/2001; A, 7/1/2004; A, 11/30/2021]

**16.27.2.8 MENTAL HEALTH CLINICAL CORE CURRICULUM:**

The core curriculum must be met using only [transcribed] transcript courses dedicated to the required course area. [thesis] Thesis or dissertation will not be accepted [partitioning] [divisioning]. Partitioning, dividing, or sectioning of courses into various core course areas will not be accepted. The [H] 10 core curriculum graduate areas of study apply to applicants who hold a related-field degree and include the following: [~~Applies to applicants who hold a related-field degree.~~]

**A.** Human growth and development: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of the nature and needs of individuals at all developmental levels. Essential components include, the following:

- (1) theories of individual development and transitions across the life-span;
- (2) theories of learning and personality development;
- (3) human behavior including an understanding of developmental crises, disability, addictive behavior, psychopathology, and environmental factors as they affect both normal and abnormal behavior;
- (4) strategies for facilitating development over the life span.

**B.** Social and cultural foundations: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of issues and trends with multicultural and diverse populations. Essential components include, the following.

- (1) theories of multicultural counseling;

(2) prejudicial attitudes and behavior based on such factors as age, race, religious preference, physical disability, sexual orientation, ethnicity and culture, family patterns, gender, socioeconomic status, and intellectual ability;

(3) individual, family, and group strategies with diverse populations.

**C.** Helping relationships: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of counseling and consultation processes. Essential components include, the following:

(1) counseling and consultation theories including both individual and systems perspectives;

(2) counselor or consultant characteristics and behaviors that influence helping processes, including age, gender and ethnic differences, and personal characteristics;

(3) client or consultee characteristics and behaviors that influence helping processes, including [ate] age, gender and ethnic differences, verbal and nonverbal behaviors and personal characteristics, traits, capabilities, and live circumstances.

**D.** Group work: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of group development, dynamics, counseling theories, group counseling methods and skills, and other group work approaches. Essential components include, the following:

(1) theories of group dynamics including group process, developmental stages, and group members roles and behaviors;

(2) group leadership styles and approaches including the various types of groups;

(3) staged appropriate group counseling techniques and methods of evaluating effectiveness.

**E.** Career and lifestyle development: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of career development and related life factors. Essential components include, the following:

(1) career development theories and decision-making models;

(2) labor market information resources, and including accessing computer-based career information systems;

(3) career development program planning, organization, implementation, administration, and evaluation;

(4) interrelationships among work, family, and other life roles and factors, including multicultural and gender issues as they relate to career development;

(5) assessment instruments and techniques relevant to career planning and decision-making.

**F.** Appraisal: A minimum of three semester hours or four quarter hours of graduate coursework in studies that provide an understanding of individual and group approaches to assessment and evaluation. Essential components include, the following:

(1) theoretical and historical bases for assessment;

(2) selection, administration and interpretation of psychological tests considering examinee characteristics such as age, gender and cultural background;

(3) validity and reliability of appraisal instruments;

(4) psychometric statistics, including types of assessment scores, measures of central tendency, indices of variability, standard errors, and correlation's;

(5) age, gender, ethnicity, language, disability, and culture factors related to the assessment and evaluation of individuals and groups;

(6) strategies for selecting, administering, interpreting and using assessment and evaluation instruments and techniques in counseling.

**G. Research methods:** A minimum of three semester hours or four quarter hours of graduate coursework and studies that provide an understanding of types of research methods, basic statistics, and ethical and legal considerations in research. Essential components include, the following:

(1) basic types of research methods to include qualitative and quantitative research designs;

(2) uses of statistics software programs.

**H. Professional orientation:** A minimum of three semester hours four quarter hours of graduate coursework in studies that provide an understanding of all aspects of professional functioning including history, roles, organizational structures, ethics, standards, and credentialing. Essential components include the following:

(1) history of the helping professions;

(2) professional roles scope of practice, including similarities and differences with other types of professionals;

(3) professional organizations, primarily the American counseling association, its divisions, branches, and affiliates, including membership benefits, activities, services to members, and current emphases;

(4) ethical standards of the American counseling association and related entities, ethical and legal issues, and their applications to various professional activities;

(5) professional credentialing including certification, licensure and accreditation practices and standards.

**I. Specialized clinical studies:** A minimum of 12 semester hours or 18 quarter hours of graduate coursework in studies that provide an understanding of all aspects of diagnosis and treatment of mental

disorders. Studies in this area to include but are not limited to, the following:

(1) clinical case study

(2) psychodynamics and psychotherapy

(3) treatment planning

(4) clinical supervision

(5) psychopharmacology

(6) advanced testing

(7) addictions

(8) psychopathology

(9) clinical theory and practice

**J. Supervised practicum:** A minimum of nine semester or 12 quarter hours of graduate coursework in practicum [and/or] or internship is required. The practicum [and/or] or internship training shall focus on [the provision of] counseling services within a professional setting under the direction of a faculty member [and/or] or on-site supervisor designated by the college or university.

[16.27.2.8 NMAC - Rp 16 NMAC 27.1.7.24, 6/15/2001; A, 7/1/2004; A, 11/19/2007; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.6 NMAC, Sections 3, 8, 9, 11, and 12, effective 11/30/2021.**

**16.27.6.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [Section 61-9A-3, 5, 12 and 15] Sections 61-9A-5, 61-9A-9, 61-9A-12, 61-9A-15, 61-9A-22, 61-9A-23, and 61-9A-24 NMSA 1978.

[16.27.6.3 NMAC - Rp 16 NMAC 27.5.3, 6/15/2001; A, 11/30/2021]

**16.27.6.8 SUPERVISION:**

**A.** [~~Appropriate supervision.] Supervision.~~ ~~(4)~~

Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, licensed independent social worker (LISW). ~~Appropriate supervisors must have education and experience in marriage and family therapy.]~~ No supervision is required to practice with a LMFT independent license. The board strongly recommends that all independently licensed counselors and therapists have an ongoing consultation or peer review process in place.

~~(2)~~ It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

~~(3)~~ Client contact and supervision hours prior to being licensed will not be acceptable for licensure.]

**B.** Marriage and family therapy core curriculum, means a curriculum for training marriage and family therapists that includes 45 semester hours or 67.5 quarter hours of graduate level coursework that embraces a family systems perspective and consists of the following areas of graduate study:

(1) Marriage and family studies- a minimum of nine semester hours or 12 quarter-hours of graduate coursework. Course content in this area may include the study of the family life cycle, family development, family subsystems, family theories, blended families, gender issues and families, cultural issues and families, contemporary families, family and interpersonal relationships and family

crisis. All courses in this area must come from a systems perspective where systems theory is a major focus of the course.

(2) Marriage and family therapy - a minimum of nine semester hours or 12 quarter hours of graduate coursework in family therapy assessment, treatment and intervention methods. Major theoretical approaches that may be studied include: strategic, structural, object relations family therapy, behavioral family therapy, communication family therapy, intergenerational family therapy and systemic sex therapy. Courses should have a major focus on family systems theory and systemic interventions.

(3) Human development - a minimum of nine semester hours or 12 quarter hours of graduate coursework. Courses in human development across the life span including special issues (e.g., culture, gender, human sexuality) would be appropriate. Topic areas may include human development, infant/child/adolescent development, psychopathology, personality theory, and human sexuality. Courses should have a systemic focus. Testing and measurement courses are NOT acceptable in this area.

(4) Multicultural studies - a minimum of three semester hours or four quarter hours of graduate coursework, includes a systemic orientation relevant to diverse racial ethnic populations.

(5) Professional studies- a minimum of three semester hours or four quarter hours of graduate coursework. Areas of study include legal issues and responsibilities, professional liabilities, and ethics related to the practice of marriage and family therapy. Religious ethics and moral theology courses are NOT acceptable in this area.

(6) Research a minimum of three semester hours or four quarter hours of graduate coursework. Courses in this area should assist the student in understanding and performing

research. Topical areas may include: research design and methodology, quantitative methods and statistics. Personality and test and measurement courses are NOT accepted in this area.

(7) Supervised practicum - a minimum of six semester hours or eight quarter hours of graduate coursework. As part of the six semester hours or eight quarter hours of coursework, there must be a minimum of 300 hours of supervised direct client contact, for a period of at least 12 months. Practicum students may only count hours in which they work directly with individuals, couples, and families for the purpose of assessment, diagnosis and treatment in marriage and family related issues.

(8) Electives from any area listed above satisfy the 45 semester-hour or 67.5 quarter hour requirement. Remaining course work would be distributed as electives ~~[among the above areas]~~ related to the areas listed above.

[16.27.6.8 NMAC - Rp 16 NMAC 27.1.7.5, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.6.9 APPLICANTS FOR LICENSURE:** As a marriage and family therapist (LMFT) must possess the following qualifications and provide the required documentation with the application:

- A. Age requirement. Be at least 21 years of age.
- B. Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.
- C. Hold a master's or doctoral degree from [a] an accredited institution in marriage and family therapy, meets the requirements of the core curriculum in marriage and family therapy.
- D. Experience requirements.

(1) A minimum of two years' postgraduate marriage and family therapy experience.

(2) Evidence of having participated in a total of at least 1,000 hours of postgraduate marriage and family clinical client contact.

(3) 200 hours of appropriate postgraduate marriage and family supervision, including at least 100 hours of individual supervision. The appropriate supervision must be received from an individual who has education, clinical experience and supervisory experience in the field of marriage and family therapy.

E. Application fee of \$75.00. [16.27.6.9 NMAC - Rp 16 NMAC 27.5.8, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.6.11 DOCUMENTATION REQUIRED FOR LICENSURE:**

A. A completed application as specified in 16.27.3.8 NMAC.

B. Proof of education and experience requirements:

(1) the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application; applicants educated in foreign institutions who are unable to submit certified official transcripts shall submit a statement explaining why such transcripts are not available and shall submit certified copies of the degree certificates granted, information on the curricula offered, and any other documentation requested by the board ~~[and]~~. Applicants who have just graduated with an appropriate degree field, and whose degrees have not yet been conferred by their university, may submit the following documentation in while awaiting official transcripts to become available:

(a) A verification letter from a university official verifying their degree program;

(ii) that all courses have been completed and they have earned passing grades:  
(iii) their degrees will be conferred by the university; and

(b) A receipt verifying that they have ordered their transcripts to be sent to the board office once their degree is conferred:

**(2)** a statement from each supervisor in a sealed envelope on a form provided by the board (attachment B) verifying the applicant's supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; the statement shall verify that the applicant's performance was in accordance with adequate counseling and therapy standards of practice; if a supervisor's statement is not available, the applicant may submit documentation explaining why the supervisor's statement is not available and sworn affidavits from other individuals verifying that supervision took place and describing the nature and the extent of the supervision;

**(3)** documentation of 1,000 hours of postgraduate direct client contact hours in marriage and family therapy and 200 hours of appropriate postgraduate supervision in marriage and family therapy;

**(4)** [attachment D, listing only specific-graduate coursework] if an applicant has been previously licensed, registered or certified in another state, territory or foreign nation, documentation of the applicant's licensure, registration or certification status shall be submitted on form A of the application;

**(5)** ~~documentation of the applicant's licensure, registration or certification status must be submitted on application attachment form A, which must be sent directly to the board by the jurisdiction in which the applicant is licensed, certified, or registered.~~  
 [16.27.6.11 NMAC - Rp 16 NMAC 27.5.10, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.6.12 LICENSURE BY [RECIPROCFY] CREDENTIALS:**

**A.** A completed application as specified in 16.27.3.8 NMAC.

**B.** Verification (attachment A) that the applicant holds and has held a current independent license for [five] two years issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

**C.** Verification that the applicant is in good standing with no disciplinary action pending or brought against the applicant within the past [five] two years.

**D.** Holds masters or doctoral degree in marriage and family therapy, counseling or a counseling-related field from an accredited institution.

**E.** Application fee of \$75.00 as provided for in Part 17.

**F.** Applicants who do not meet the licensure by reciprocity must meet the current licensure requirements.

[16.27.6.12 NMAC - Rp 16 NMAC 27.9.8&9, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 1/15/2007; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.9 NMAC, Part name and Sections 3, 8, 9, and adding new Section 12, effective 11/30/2021.**

**PART 9 REQUIREMENTS FOR LICENSURE AS A MENTAL HEALTH COUNSELOR (LMHC) [(Practice under Supervision)]**

**16.27.9.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [Section 61-9A-3, 5, and 14] Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9,

61-9A-14, 61-9A-15, 61-9A-22, 61-9A-23, and 61-9A-24, NMSA 1978. [16.27.9.3 NMAC - Rp 16 NMAC 27.8.3, 6/15/2001; A, 11/30/2021]

**16.27.9.8 SUPERVISION:**

**A.** Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, licensed clinical social worker (LCSW), or licensed independent social worker (LISW) who holds a supervision designation issued by the counseling and therapy practice board. The licensed mental health counselor (LMHC) or the licensed professional mental health counselor (LPC) must practice under supervision [at all times]. Once the licensed mental health counselor or the licensed professional mental health counselor [acquired] acquires the official LPCC [LMFT] or LPAT license then the licensee may practice independently without supervision.

**B.** It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure that will be requested at the completion of the required supervision. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

**C.** Client contact and supervision hours prior to being licensed will not be acceptable for licensure.

**D.** Supervised contact hours will become invalid if obtained more than five years prior to submission for independent LPCC licensure. This requirement does not apply to license holders who have continuously maintained a license in good standing.

[16.27.9.8 NMAC - N, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/19/2007; A, 11/30/2021]

**16.27.9.9 LICENSED MENTAL HEALTH COUNSELOR (MENTAL HEALTH SPECIALTY OR ART THERAPY SPECIALTY):**

**A.** LMHC is intended as a transition between the required degree and the completion of supervised training required for licensure as a ~~[professional mental health counselor,]~~ a professional clinical mental health counselor or a professional art therapist. All work must be performed under appropriate clinical supervision. Applicants must assure that their education and experience are appropriate for the level of licensure they will seek upon completion of supervised training. There is no maximum time limit as a licensed mental health counselor, but all work at this level must be done under clinical supervision.

**B.** Qualifications for entry level licensure. An applicant for licensure as an entry-level mental health counselor (LMHC) must possess the following qualifications:

(1) be at least 21 years of age; ~~[and]~~

(2) applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics;

(3) holds a masters or doctoral degree in a counseling or counseling related field with no less than 48 graduate hours or 72 quarter hours in the core curriculum and nine practicum hours; and

(4) have arranged for appropriate clinical supervision, ~~[including a postgraduate experience plan, which includes one hour of face-to-face supervision for every ten hours of client contact]~~ as required by their licensure track.  
[16.27.9.9 NMAC - Rp 16 NMAC 27.8.8, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.9.12 LICENSURE BY CREDENTIALS: [~~RESERVED~~]**

**A.** Submit a completed application per of 16.27.3.8 NMAC.

**B.** Verification (attachment A) that the applicant holds and has held a current license for five years issued by the appropriate examining board under the law of any other state or territory of the United States, the District of Columbia or any foreign nation.

**C.** Verification that the applicant is in good standing with no disciplinary action pending or brought against the applicant within the past five years.

**D.** Holds masters or doctoral degree in counseling or a counseling-related field from an accredited institution.

**E.** Application fee of \$75.00 as provided for in 16.27.17 NMAC.

**F.** Applicants who do not meet the licensure by reciprocity must meet the current licensure requirements.  
[16.27.9.12 NMAC - N, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.13 NMAC, Sections 3, 8, and 9, effective 11/30/2021.**

**16.27.13.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [Section 61-9A-3 through 61-9A-7 NMSA 1978] Sections 61-9A-1, 61-9A-3, 61-9A-5, 61-9A-9, 61-9A-14.1, 61-9A-15, 61-9A-23, and 61-9A-24 NMSA 1978 and the Uniform Licensing Act, Section 61-1-34 NMSA 1978.

[16.27.13.3 NMAC - Rp 16 NMAC 27.27.3, 6/15/2001; A, 11/30/2021]

**16.27.13.8 SUPERVISION:**

**A.** Supervision received for substance abuse associate must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LFMT),

licensed professional art therapist (LPAT), [~~icensed~~] psychologist, [~~icensed-clinical~~] psychiatrist, licensed alcohol and drug abuse counselor (LADAC) with three years of alcohol and drug abuse experience acquired after licensure, clinical nurse specialist in psychiatry or licensed independent or clinical social worker (LISW or LCSW). Supervisors must have experience in alcohol and drug abuse counseling. A licensed substance abuse associate must practice under supervision at all times. If the associate has completed the requirements for LADAC the associate must continue practicing under supervision until the associate has acquired the official LADAC license.

**B.** It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure.

[16.27.13.8 NMAC - Rp 16 NMAC 27.1.7.5.3&4, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/19/2007; A, 11/30/2021]

**16.27.13.9 APPLICANTS FOR LICENSURE:** A substance abuse associate (LSAA) must possess the following qualifications and provide the required documentation with the application.

**A.** Age requirement: Be at least 21 years of age.

**B.** Applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics.

**C.** Supervisory requirements: Applicant must have arranged for appropriate supervision, including an experience plan.

**D.** Holds at minimum an associate degree in counseling, counseling related field, or a substance abuse related field from an accredited institution and has a total of 90 clock hours of education and training in the areas of [~~alcohol, drug, and counseling~~] substance abuse counseling. The board may approve, on a case-by-case basis, applicants



whose education is not in counseling, a counseling related field, or a substance abuse related field.

~~E.~~ Documentation required for licensure:

~~(1) a completed application as specified in 16.27.3.8 NMAC, and~~

~~(2) proof of completed education requirements: the applicant is required to submit an official transcript in a sealed envelope from each institution—associate, baccalaureate, masters or doctoral degree; the transcript must be submitted with the application; and~~

~~(3) verification of associates degree in counseling, a counseling-related field, or substance abuse related field and 90 clock hours of education and training in the fields of alcohol [and/or] and drug abuse, and~~

~~(4) verification on attachment C that an appropriate supervisor has been obtained and an experience plan has been established and a signed statement is provided by the supervisor indicating the associate shall only participate in alcohol and drug abuse counseling sessions.]~~

E. Documentation required for licensure:

(1) a completed application as specified in 16.27.3.8 NMAC, and

(2) proof of completed education requirements: the applicant is required to submit an official transcript in a sealed envelope from each institution contributing to their associate, baccalaureate, masters or doctoral degree; the transcript must be sent directly to the board office from the institution and may be submitted electronically; and

(3) verification on attachment D of 90 clock hours of education and training in substance abuse, and

(4) verification on attachment C that an appropriate supervisor has been obtained and an experience plan has been established and a signed statement is provided by the supervisor indicating the associate shall only participate in alcohol and drug abuse counseling sessions.

[16.27.13.9 NMAC - Rp 16 NMAC 27.27.8, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/19/2007; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.14 NMAC, Sections 3 and 8, effective 11/30/2021.**

**16.27.14.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [Section 61-9A-1 through 61-9A-30] Sections 61-9A-1, 61-9A-3, 61-9A-9, and 61-9A-16 through 61-9A-30 NMSA 1978.

[16.27.14.3 NMAC – Rp, 16 NMAC 27.15.3, 6/15/2001; A, 11/30/2021]

**16.27.14.8 TEMPORARY LICENSES:** Temporary mental health counselor licenses (LMHC) and associate marriage and family therapist licenses (LAMFT) shall be granted as follows:

**A.** Will be granted to individuals meeting all educational requirements [except the prescribed examination] for the license sought. The temporary license is intended to permit the licensee time to meet examination requirements for the license. The temporary license [with] shall not be valid [no] for more than 60 days after the results of the next examination become available and cannot be renewed. [The temporary license of an individual shall automatically expire upon failure to take or to pass the required examination and cannot be reissued.] (The temporary license must be returned to the board office). Individuals practicing under a temporary license shall not provide supervision.

**B.** A temporary license will be granted for a period not to exceed six months or for a period of time necessary for the board to ensure

that the applicant has met licensure requirements as set out in that act.

**C.** Effective July 1, 2006, the board will grant a temporary [licensure once] the applicant has met the [licensure requirements] educational requirements for licensure in the given field being sought. If the applicant fails the [first (1st)] required exam, the board [with] shall [reschedule] schedule the applicant to re-take the examination and [with] shall re-issue a second temporary license. If the applicant fails the [exam a second (2 nd) time] second exam, the board may re-issue a third temporary license. [The applicant must provide proof of registration on a tutorial class.] The board [with] shall not issue more than three temporary licenses. Should the applicant fail the required examination three times, the board shall not issue another temporary license for that application for licensing. Upon passing the requisite examination, the applicant holding the temporary LMHC or LAMFT shall be issued the LMHC or LAMFT license so that the applicant may continue to practice under supervision and acquire the requisite clinical hours and supervision for the independent license (LPCC, LMFT, LPAT, or LADAC).

**D.** The time and hours acquired under a temporary license shall not expire or become null and void upon a gap in licensure as long as the hours were obtained within the five years preceding the issuance of the LMHC or LAMFT license.

**E.** Upon the expiration of a temporary license, the individual must refrain from practicing until another temporary license or the full license is issued to them.

[16.27.14.8 NMAC – Rp, 16 NMAC 27.15.8, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 1/15/2007; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.15 NMAC, Sections 3, 8, 13, and 14, effective 11/30/2021.**

**16.27.15.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [~~Section 61-9A-10, 11, 12, 13, and 15~~] Sections 61-9A-9, 61-9A-10, 61-9A-11, 61-9A-12, 61-9A-13, 61-9A-14, 61-9A-14.2, and 61-9A-15 NMSA 1978. [16.27.15.3 NMAC - Rp 16 NMAC 27.12.3, 6/15/2001; A, 11/30/2021]

**16.27.15.8 EXAMINATION CANDIDATES:** Each applicant who has completed the educational and supervision requirements for licensure as a professional clinical mental health counselor, professional marriage and family therapist, professional art therapist, professional mental health counselor, mental health counselor, and alcohol and drug abuse counselor, shall be required to pass the board approved examination(s) as part of the requirements for licensure in the given discipline. [16.27.15.8 NMAC - Rp 16 NMAC 27.12.8, 6/15/2001; A, 7/1/2004; A, 11/30/2021]

**16.27.15.13 EXAMINATION SPECIFICS:** Individuals will be informed of examination specifics, such as location and time of the examination, upon registration.  
**A.** Individuals who arrive late will be admitted. However, additional time will not be granted.  
**B.** Individuals who have previously [~~taken~~] passed the approved examinations for licensure will not be required to [~~test~~] re-test as long as the applicant currently holds a valid license from another state, territory, or foreign nation. [16.27.15.13 NMAC - Rp 16 NMAC 27.12.13, 6/15/2001; A, 7/1/2004; A, 11/30/2021]

**16.27.15.14 REPEATED EXAMINATIONS:**  
**A.** Qualified applicants who fail to obtain the minimum required passing score for an exam must surrender their temporary license immediately. An applicant may reapply for a temporary license and is eligible to sit for the next exam without incurring further application fees; however, applicant is responsible for all new exam related fees. Applicants must pay the examination fee for each scheduled examination.  
**B.** Applicants who cannot sit for the examinations due to circumstances beyond their control [~~must~~] shall submit a written request to the board at least 30 days prior to the scheduled examination explaining the extenuating circumstances. Extenuating circumstances include illness, death in immediate family, military service, or other severe circumstances which do not allow an applicant to attend the scheduled examination. Applicant must provide documentation of extenuating circumstances.  
**C.** Applicants who fail [~~the examinations or fails~~] to sit for scheduled examinations without prior notification or fail to register for the exam during their approval period must submit a new application, including the application fee, and all documentation. [16.27.15.14 NMAC - Rp 16 NMAC 27.12.14, 6/15/2001; A, 7/1/2004; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.17 NMAC, Sections 3, 8, 9, 10, 13, 14, and 16, effective 11/30/2021.**

**16.27.17.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [~~Section 61-9A-24 NMSA 1978~~] Sections 61-9A-9 and 61-9A-24 NMSA 1978.

[16.27.17.3 NMAC- Rp 16 NMAC 27.10.3, 6/15/2001; A, 11/30/2021]

**16.27.17.8 APPLICATION FEE:** Applicants for licensure or certification shall pay a \$75.00 application fee for each level of licensure, which is due at the time of initial application and is non-refundable. There is an additional re-review fee of \$25.00 for review of applications which have been denied at the initial level requested and as defined in [~~Part 3, section 16.27.3-8-D~~] Subsection D of 16.27.3.8 NMAC. [16.27.17.8 NMAC - Rp 16 NMAC 27.10.8, 6/15/2001; A, 11/30/2021]

**16.27.17.9 INITIAL LICENSE FEE:** Individuals accepted for licensure shall pay an initial licensure fee. This fee is based on the biennial cost of the license and must be paid in full before a license can be issued and is non-refundable.  
**A.** Fee for initial licensure as a mental health counselor and associate marriage and family therapist is \$75. This fee must be paid in full before a license can be issued and is non-refundable.  
**B.** Fee for initial licensure as a professional mental health counselor is \$150. This fee must be paid in full before a license can be issued and is non-refundable.  
**C.** Fee for initial licensure as a clinical mental health counselor, a marriage and family therapist or an art therapist is \$220. This fee must be paid in full before a license can be issued and is non-refundable.  
**D.** Fee for initial licensure as an alcohol and drug abuse counselor, alcohol abuse counselor, drug abuse counselor is \$150. This fee must be paid in full before a license can be issued and is non-refundable.  
**E.** Fee for initial licensure as a substance abuse associate is \$75. This fee must be paid in full before a license can be issued and is non-refundable.  
**F.** Fee for initial licensure as a CEU Provider is \$100.

This fee must be paid in full before a license can be issued and is non-refundable.

[16.27.17.9 NMAC - Rp 16 NMAC 27.10.9, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.17.10 RENEWAL FEES:**

The fees are as listed below and are non-refundable:

- A. Licensed mental health counselor, \$75.00.
- B. Registered independent mental health counselor, \$150.00.
- C. Professional mental health counselor, \$150.00.
- D. Clinical mental health counselor, \$220.00.
- E. Marriage and family therapist, \$220.00.
- F. Professional art therapist, \$220.00.
- G. Alcohol and drug abuse counselor, \$150.00.
- H. Alcohol abuse counselor, \$150.00.
- I. Drug abuse counselor, \$150.00.
- J. Substance abuse associate, \$75.00.
- K. Licensed associate marriage and family therapist, \$75.00.
- L. ~~[renew extension-penalty]~~ Late continuing education unit (CEU) extension request fee, \$300.00.
- M. CEU provider, \$100.

[16.27.17.10 NMAC- Rp 16 NMAC 27.10.10, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**16.27.17.13 DUPLICATE OR REPLACEMENT LICENSE OR CERTIFICATE FEE:**

A duplicate or replacement fee of \$25.00 must be paid at the time of request and must include ~~[a notarized]~~ an affidavit of need and is non-refundable.

[16.27.17.13 NMAC - Rp 16 NMAC 27.10.13, 6/15/2001; A, 11/30/2021]

**16.27.17.14 LATE FEE:**

Any renewal application, with the exception of CEU providers, including fee, not postmarked by the license expiration date is considered

expired. Renewal after the expiration date, but during the 30-day period, is subject to a late fee of \$100.00 which is non-refundable. CEU provider renewals received after the expiration date, but during the 30-day period, is subject to a late fee of \$150.00 which is non-refundable.

[16.27.17.14 NMAC - Rp 16 NMAC 27.10.14, 6/15/2001; A, 2/10/2006; A, 11/30/2021]

**16.27.17.16**

**ADMINISTRATIVE FEES:** The board will charge the following administrative fees, which are non-refundable:

- A. \$10.00 for file copies.
- B. \$10.00 for written license verification.
- ~~[C. \$250.00 for address-labels of New Mexico licensed-counselors and therapists:]~~
- ~~D. \$150.00 for an address list of New Mexico licensed-counselors and therapists:]~~
- ~~[E.]~~ C. \$300.00 for electronic list of New Mexico licensed counselors and therapists.
- ~~[F.]~~ D. \$25.00 charge for returned checks.
- ~~[G.]~~ E. \$100.00 for pre-approved continuing education provider number.
- ~~[H.]~~ ~~\$20.00-~~ administrative NCAC examination-fees:]
- ~~[I.]~~ E. \$25.00

administrative NCE, NCMHCE, marriage and family therapist, art therapist, and NCAC examinations fees.

G. \$25.00 (twenty-five dollars) per CEU credit hour fee for CEU credit hours incorrectly issued by the CEU provider.

[16.27.17.16 NMAC - Rp 16 NMAC 27.10.16, 6/15/2001; A, 7/1/2004; A, 2/10/2006; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.20 NMAC, Sections 8 through 15, effective 11/30/2021.**

**16.27.20.8 PARENTAL RESPONSIBILITY ACT; DELEGATION OF AUTHORITY;**

The authority of the New Mexico counseling and therapy practice board to issue a notice of contemplated action, to refer cases in which a notice of contemplated action has been issued for administrative prosecution, to hold hearings and issue decision and orders to any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in Section 40-5A-1 NMSA 1978 et seq., may be delegated to the New Mexico regulation and licensing department. This section shall not be construed to deprive the board of its authority to issue a notice of contemplated action for any violation of the Parental Responsibility Act, to refer a case for administrative prosecution, hold a hearing or issue a decision and order for any violation of the Parental Responsibility Act.

[16.27.20.8 NMAC - N, 11/30/2021]

**~~[16.27.20.8]~~ 16.27.20.9**

**DISCIPLINARY ACTION:** If an applicant or licensee is not in compliance with a judgment and order for support, the board:

- A. shall deny an application for a license;
- B. shall deny the renewal of a license; and
- C. has grounds for suspension or revocation of the license.

[16.27.20.9 NMAC - Rn 16.27.17.8 NMAC, 11/30/2021]

**~~[16.27.20.9]~~ 16.27.20.10**

**CERTIFIED LIST:** Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the board shall match the

certified list against the current list of board licensees and applicants. Upon the later receipt of an application for license or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.

[16.27.20.10 NMAC - Rn 16.27.17.9, 11/30/2021]

~~[16.27.20.10]~~ **16.27.20.11 INITIAL ACTION:** Upon determination that an applicant or licensee appears on the certified list, the board shall:

**A.** commence a formal proceeding ~~[under Part 20]~~ pursuant to 16.27.20.12 NMAC to take the appropriate action ~~[under Part 20]~~; or

**B.** For current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed ~~[(30 days, 60 days)]~~ 30 or 60 days. If the licensee fails to provide this statement, the board shall commence a formal proceeding ~~[under Part 20]~~ pursuant to Section 12 of 16.27.20 NMAC.

[16.27.20.11 NMAC - Rn & A, 16.27.17.10, 11/30/2021]

~~[16.27.20.11]~~ **16.27.20.12 NOTICE OF CONTEMPLATED ACTION:** Prior to taking any action specified in Part 20, the board shall serve upon the applicant or licensee a written notice stating that:

**A.** The board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:

(1) mails a letter (certified mail return receipt requested) within 20 days after service of the notice requesting a hearing; or

(2) provides the board, within 30 days of the date of the notice, with a statement of compliance from HSD;

**B.** If the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

[16.27.20.12 NMAC - Rn 16.27.17.11, 11/30/2021]

~~[16.27.20.12]~~ **16.27.20.13**

**EVIDENCE AND PROOF:** In any hearing under this Part 20, relevant evidence is limited to the following:

**A.** A statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under ~~[Part 20 of this section]~~ 16.27.20 NMAC, unless:

**B.** The applicant or licensee provides the board with a subsequent statement of compliance, which shall preclude the board from taking any action ~~[under this Part 20]~~ based solely on the prior statement of non-compliance.

[16.27.20.13 NMAC - Rn & A, 16.27.17.12, 11/30/2021]

~~[16.27.20.13]~~ **16.27.20.14 ORDER:**

When a disciplinary action is taken under this Part 20 solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance.

The board may also include any other conditions necessary to comply with board requirements for re-applications or reinstatement of lapsed licensees.

[16.27.20.14 NMAC - Rn 16.27.17.13, 11/30/2021]

~~[16.27.20.14]~~ **16.27.20.15**

**PROCEDURES:** Proceedings under Part 20 shall be governed by the Uniform Licensing Act, Section 61-1-1, et seq. NMSA 1978.

[16.27.20.15 NMAC - Rn 16.27.17.14, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT  
COUNSELING AND THERAPY  
PRACTICE BOARD**

**This is an amendment to 16.27.21 NMAC, Sections 3 and 8, effective 11/28/2021.**

**16.27.21.3 STATUTORY**

**AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, ~~[Section 61-9A-3 through 61-9A-7 NMSA 1978]~~ Sections 61-9A-1, 61-9A-3, and 61-9A-7 through 61-9A-9 NMSA 1978 and the Uniform Licensing Act, Section 61-1-30 NMSA 1978.

[16.27.21.3 NMAC - N, 2/10/2006; A, 11/28/2021]

**16.27.21.8 PROVISIONS FOR EMERGENCY LICENSURE:**

**A.** An applicant affected in a federal disaster currently licensed as a counselor or therapist in another jurisdiction and is in good standing and otherwise meets the requirements for New Mexico licensure may be licensed in New Mexico during the four months following the declared federal disaster at no cost upon satisfying the following requirements:

(1) be at least 21 years of age; and

(2) applicant must sign a statement provided in the application indicating the applicant has read the code of ethics and agrees to be bound and governed by the code of ethics;

(3) a completed application ~~[signed, dated, and notarized]~~;

(4) proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;

(5) sworn affidavit statement that because of circumstance arising out of a declared area the applicant is unable to obtain proof documentation otherwise required by rules by the board;

(6) refer to 16.27.4 NMAC, requirements for licensure as a professional clinical mental health counselor (LPCC);

(7) refer to 16.27.6 NMAC, requirements for licensure as a marriage and family therapist (LMFT);

(8) refer to 16.27.7 NMAC, requirements for licensure as a professional art therapist (LPAT);

(9) refer to 16.27.8 NMAC, requirements for licensure as a professional mental health counselor (LPC);

(10) refer to 16.27.10 NMAC, requirements for licensure as an alcohol and drug abuse counselor (LADAC); and

(11) verification of current licensure or certification (no access to national database, board staff will verify).

**B.** The board may waive submission of the specific forms only if the applicant is unable to obtain the required document from an affected federally declared disaster area:

(1) verification of supervised hours (attachment B);

(2) official university transcripts;

(3) attachment E (mental health clinical core curriculum), attachment D (marriage and family core curriculum), attachment F (art therapy core curriculum), attachment D (alcohol and drug education and training hours), and letters of reference for alcohol and drug abuse counselors.

**C.** Nothing in this section shall constitute a waiver of the requirements for licensure contained in 16.27.4 NMAC, 16.27.6 NMAC, 16.27.7 NMAC, 16.27.8 NMAC, and 16.27.10 NMAC.

**D.** Emergency licensure shall expire on September 30, unless renewed by the board. Application for renewal shall consist of the following:

(1) completed application [signed by the applicant and notarized];

(2) a 2"x 2" photograph of the applicant;

(3) an application fee of \$75.00;

(4) other documentation required in all parts of these rules, also to include but not limited to, documents regarding supervision, any additional training or coursework, work experience, and client contact hours;

(5) official transcripts in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript must be submitted with the application;

(6) a statement from each supervisor in a sealed envelope on form attachment B, verifying the applicant's supervised experience and setting forth the nature and extend of such supervision must be submitted with the application;

(7) completion of a core curriculum worksheet;

(8) completion of training and education hours for alcohol and drug abuse counselors; and

(9) letters of reference.

**E.** Examination: an applicant who has completed the educational and supervision requirements for licensure as a professional clinical mental health counselor (LPCC), professional marriage and family therapist (LMFT), professional art therapist (LPAT), professional mental health counselor (LPC), and alcohol and drug abuse counselor (LADAC), shall be required to pass the board approved examination(s). [16.27.21.8 NMAC - N, 2/10/2006; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT COUNSELING AND THERAPY PRACTICE BOARD**

**This is an amendment to 16.27.22 NMAC, Sections 3, 8, 10, and 11, effective 11/30/2021.**

**16.27.22.3 STATUTORY AUTHORITY:** These parts are promulgated pursuant to the Counselor and Therapist Practice Act, [Section 61-9A-3 through 61-9A-7 NMSA 1978] Sections 61-9A-1, 61-9A-3, 61-9A-5 through 61-9A-7, 61-9A-9, 61-9A-12, 61-9A-23, and 61-9A-24 NMSA 1978. [16.27.22.3 NMAC - N, 2/10/2006; A, 11/30/2021]

**16.27.22.8 SUPERVISION:**

**A.** Supervision must be provided by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, licensed clinical social worker (LCSW), or licensed independent social worker (LISW) who holds a supervision designation issued by the counseling and therapy practice board.

**B.** It is the responsibility of the individual seeking supervision to assure the supervision is acceptable for the level of licensure. The relationship between the supervisor and the applicant must promote the development of skill and responsibility in the delivery of counseling or therapy services.

**C.** Client contact and supervision hours prior to being licensed will not be accepted for licensure.

**D.** Supervised contact hours will become invalid if obtained more than five years prior to submission for independent LPCC licensure. This requirement does not apply to license holders who have continuously maintained a license in good standing. [16.27.22.8 NMAC - N, 2/10/2006; A, 11/30/2021]

**16.27.22.10 DOCUMENTATION REQUIRED:**

**A.** a completed application as specified in 16.27.3.8 NMAC; and

**B.** the applicant is required to submit an official

transcript in a sealed envelope from each institution contributing to the applicant's master or doctoral degree; the transcript [must be submitted with the application] may be submitted electronically directly by the issuing institution to the board's e-mail address, in their original and sealed envelope with the application, or mailed directly to the board office by the issuing institution. Applicants who have just graduated with an appropriate degree field, and whose degrees have not yet been conferred by their university, may submit the following documentation in while awaiting official transcripts to become available:

(a) A verification letter from a university official verifying

(i) their degree program;

(ii) that all courses have been completed and they have earned passing grades;

(iii) their degrees will be conferred by the university; and

(b) a receipt verifying that they have ordered their transcripts to be sent to the board office once their degree is conferred; and

C. a statement from each supervisor in a sealed envelope on a form provided by the board (attachment C) verifying the applicant has arranged for appropriate clinical supervision, supervised experience and setting forth the nature and extent of such supervision must be submitted with the application; and

D. applicant must complete and meet the marriage and family core curriculum (form D); and

E. application fee of \$75.00 as provided for in Part 17. [16.27.22.10 NMAC - N, 2/10/2006; A, 11/30/2021]

**16.27.22.11 EXAMINATION:** Applicants must demonstrate professional competency by passing [national marriage and family therapy professional examination (PES)] the American marital and family therapy regulatory board (AMFTRB)

examination. Should the applicant fail the required examination three times, the board shall not issue another temporary license for that application for license. No prior clinical supervision or clinical hours shall be applied toward the reapplication for license. Upon passing the requisite examination, the applicant holding the temporary LAMFT shall be issued the LAMFT license so that the applicant may continue to practice under supervision and acquire the requisite clinical hours and supervision for the independent LMFT license.

[16.27.22.11 NMAC - N, 2/10/2006; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT DENTAL, BOARD OF**

The New Mexico Board of Dental Health Care reviewed at its 10/22/2021 hearing, to repeal its rule 16.5.59 NMAC, Dentistry (Dentists, Dental Hygienists. Etc., - Licensure for Military Service Members, Spouses and Veterans (filed 12/5/2013) and replace it with 16.5.59 NMAC, Dentistry (Dentists, Dental Hygienists. Etc.), - Licensure for Military Service Members, Spouses, Dependent Children and Veterans, adopted 10/22/2021 and effective 12/5/2021.

**REGULATION AND LICENSING DEPARTMENT DENTAL, BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.) PART 59 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, DEPENDENT CHILDREN AND VETERANS**

**16.5.59.1 ISSUING AGENCY:** New Mexico Board of Dental Health Care.

[16.5.59.1 NMAC - Rp, 16.5.59.1 NMAC, 12/5/2021]

**16.5.59.2 SCOPE:** This part sets forth application procedures to expedite licensure for military service members, spouses, dependent children, and veterans.

[16.5.59.2 NMAC - Rp, 16.5.59.2 NMAC, 12/5/2021]

**16.5.59.3 STATUTORY AUTHORITY:** These rules are promulgated pursuant to Section 61-1-34 of the Uniform Licensing Act, NMSA 1978, Section 61-1-1 to -34 (1957, as amended through 2013) and the Dental Health Care Act Sections 61-5A-1 through 61-5A -30 NMSA 1978.

[16.5.59.3 NMAC - Rp, 16.5.59.3 NMAC, 12/5/2021]

**16.5.59.4 DURATION:** Permanent.

[16.5.59.4 NMAC - Rp, 16.5.59.4 NMAC, 12/5/2021]

**16.5.59.5 EFFECTIVE DATE:** December 5, 2021, unless a later date is cited at the end of a section.

[16.5.59.5 NMAC - Rp, 16.5.59.5 NMAC, 12/5/2021]

**16.5.59.6 OBJECTIVE:** The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to Section 61-1-34 NMSA 1978.

[16.5.59.6 NMAC - Rp, 16.5.59.6 NMAC, 12/5/2021]

**16.5.59.7 DEFINITIONS:**

**A. "License"** means a license, registration, certificate of registration, certificate, permit or certification.

**B. "Licensing Fee"** means a fee charged at the time an application for a professional or occupational license is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include

a fee for an annual inspection or examination of a licensee or a fee charged for copies of documents, replacement license or other expenses related to a professional or occupational license.

**C. “Military service member”** means a person who is:

(1) serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member’s death was serving on active duty; or

(2) the spouse of 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, or a surviving spouse of a member who at the time of the member’s death was serving on active duty; or

(3) the child of a person who is serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes.

**D. “Substantially equivalent”** means the determination by the board that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Dental Health Care Act.

**E. “Veteran”** means a person who has received an honorable discharge or separation from military service.

[16.5.59.7 NMAC - Rp, 16.5.59.7 NMAC, 12/5/2021]

**16.5.59.8 APPLICATION REQUIREMENTS:**

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

**B.** The applicant shall

provide a complete application that includes the following information:

(1) applicant’s full name;

(2) current mailing address;

(3) current electronic mail address, if any;

(4) date of birth;

(5) background status report from a board designated professional background service; and

(6) proof as described in Subsection C of 16.5.59.8 NMAC.

**C.** The applicant shall provide the following satisfactory evidence as follows:

(1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;

(2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to licensing requirements for New Mexico; and

(3) the following documentation:

(a) for military service member: a copy of military orders;

(b) for spouse of military service members: copy of military service member’s military orders, and a copy of marriage license;

(c) for spouses of deceased military service members: copy of decedent’s DD 214 and copy of marriage license;

(d) for dependent children of military service members; copy of military service member’s orders listing dependent child, or a copy of military orders and one of the following: copy of birth certificate, military service member’s federal tax return or other governmental or judicial documentation establishing dependency;

(e)

for veterans (retired or separated): copy of DD 214 showing proof of honorable discharge.

**D.** The license or registration shall be issued by the board as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a complete application and provides a background report if required for a license, and any required fees.

**E.** Military service members and veterans shall not pay and the board shall not charge a licensing fee for the first three years for a license issued pursuant to this rule.

**F.** A license issued pursuant to this section shall be valid for the time period that is specified in the Dental Health Care Act.

**G.** Electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.

[16.5.59.8 NMAC - Rp, 16.5.59.8 NMAC, 12/5/2021]

**16.5.59.9 [RESERVED]**

[16.5.59.9 NMAC - Rp, 16.5.59.9 NMAC, 12/5/2021]

**16.5.59.10 RENEWAL REQUIREMENTS:**

**A.** A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for renewal set forth in 16.5.11 NMAC, 16.5.24 NMAC, 16.5.35 NMAC, 16.5.43 NMAC, 16.5.51 NMAC, 16.5.63 NMAC pursuant to Chapter 61, Articles 5A NMSA 1978.

**B.** As a courtesy, the board, will send via electronic mail license renewal notifications to licensees or registrants before the license expiration date to the last known email address on file with the board/commission. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or before the expiration date.

[16.5.59.10 NMAC - Rp, 16.5.59.10 NMAC, 12/5/2021]

**HISTORY OF 16.5.59 NMAC:  
[RESERVED]**

**History of Repealed Material:**

16.5.9 NMAC, Dentistry (Dentists, Dental Hygienists, Etc.) - Licensure for Military Service Members, Spouses and Veterans filed xx/xx/20xx, Repealed effective 12/5/2021.

**Other History:**

16.5.9 NMAC, Dentistry (Dentists, Dental Hygienists, Etc.) - Licensure for Military Service Members, Spouses and Veterans filed 12/5/2013, was replaced by 16.5.9 NMAC, Dentistry (Dentists, Dental Hygienists, Etc.) - Licensure for Military Service Members, Spouses and Veterans effective 12/5/2021.

**REGULATION AND  
LICENSING DEPARTMENT  
DENTAL, BOARD OF**

**This is an amendment to 16.5.1 NMAC, Section 7, and adding 30, effective 12/5/2021.**

**16.5.1.7 DEFINITIONS:**

**A. “Act”** means the Dental Health Care Act, Sections 61-5A-1 through 61-5A-29, NMSA 1978.

**B. “Assessment”** means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment.

**C. “Authorization”** means written or verbal permission from a dentist to a dental hygienist, dental assistant, dental therapist, community dental health coordinator, expanded function dental auxiliary, or dental student to provide specific tests, treatments or regimes of care.

**D. “CITA”** means the council of interstate testing agencies, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the

applicant’s competence to practice in New Mexico.

**E. “Close personal supervision”** means a New Mexico licensed dentist directly observes, instructs and certifies in writing the training and expertise of New Mexico licensed or certified employees or staff.

**F. “Consulting dentists”** means a dentist who has entered into an approved agreement to provide consultation and create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee.

**G. “CRDTS”** means the central regional dental testing service, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.

**H. “Current patients of record”** means the New Mexico licensed dentist has seen the patient in the practice in the last 12 months.

**I. “Dental hygiene-focused assessment”** means the documentation of existing oral and relevant systemic conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment.

**J. “Dental record”** means electronic, photographic, radiographic or manually written records.

**K. “Diagnosis”** means the identification or determination of the nature or cause of disease or condition.

**L. “Direct supervision”** means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

**(1)** is physically present throughout the performance of the act;

**(2)** orders, controls and accepts full professional responsibility for the act performed;

**(3)** evaluates and approves the procedure performed before the patient departs the care setting; and

**(4)** is capable of responding immediately if any emergency should arise.

**M. “Disqualifying criminal conviction”** means a conviction for a crime that is job-related for the position in question and consistent with business necessity.

**[M] N. “Electronic signature”** means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

**[N] O. “Extenuating circumstances”** are defined as a serious, physician-verified illness or death in immediate family, or military service. The extenuating circumstances must be presented for the board’s consideration on a case-by-case basis.

**[O] P. “General supervision”** means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant, expanded function dental auxiliary, dental student, dental therapist, or community dental health coordinator and the execution of the procedures in accordance with a dentist’s diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by the rules of the board.

**[P] Q. “Impaired Act”** means the Impaired Dentists and Dental Hygienists Act, Sections 61-5B-1 through 61-5B-11 NMSA 1978.

**[Q] R. “Indirect supervision”** means that a dentist, or in certain settings a dental hygienist or dental assistant certified in expanded functions, is present in the treatment facility while authorized treatments are being performed by a dental hygienist, dental assistant, dental therapist, or dental student as defined in 61-5A-3 NMSA 1978.

**[R] S. “Jurisprudence exam”** means the examination given regarding the laws, rules and regulations, which relate to the practice of dentistry, dental hygiene,



dental therapy and dental assisting in the state of New Mexico.

[S] T. “**Licensee**” means an individual who holds a valid license to practice dentistry, dental therapy or dental hygiene in New Mexico. This also includes non-dentist owners who are licensed in New Mexico.

[F] U. “**NERB/CDCA**” means the former north east regional board of dental examiners, now called the commission of dental competency assessments, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.

[E] V. “**Mobile dental facility**” means a facility in which dentistry is practiced and that is routinely towed, moved or transported from one location to another.

[Y] W. “**Non-dentist owner**” means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services and that does not meet an exemption status as detailed in Subsection G of 61-5A-5 NMSA 1978.

[W] X. “**Palliative procedures**” means nonsurgical, reversible procedures that are meant to alleviate pain and stabilize acute or emergent problems.

[X] Y. “**Portable dental unit**” means a non-facility in which dental equipment used in the practice of dentistry is transported to and used on a temporary basis at an out-of-office location.

[Y] Z. “**Professional background service**” means a board designated professional background service, which compiles background information regarding an applicant from multiple sources.

[Z] AA. “**Protective patient stabilization**” means any manual method, physical or mechanical

device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely.

[AA] BB. “**Provider**” means a provider of dental health care services, including but not limited to dentists, dental hygienists, dental therapists, community dental health coordinators and dental assistants, including expanded function dental auxiliaries.

[BB] CC. “**Specialist**” means a specialty is an area of dentistry that has been formally recognized by the board and the American dental association as meeting the specified requirements for recognition of dental specialists.

[EE] DD. “**SRTA**” means the southern regional testing agency, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.

[DD] EE. “**Supervising dentist**” means a dentist that maintains the records of a patient, is responsible for their care, has reviewed their current medical history and for purposes of authorization, has examined that patient within the previous 11 months or will examine that patient within 30 days of giving authorization.

[EE] FF. “**Supervision**” means the dentist shall adequately monitor the performance of all personnel, licensed or unlicensed, that he or she supervises. The dentist is ultimately responsible for quality patient care and may be held accountable for all services provided by administrative and clinical individuals that the dentist supervises.

[FF] GG. “**Teledentistry**” means a dentist’s use of health information technology in real time to provide limited diagnostic treatment planning services in cooperation with another dentist, a dental hygienist, a community health coordinator, dental therapist or a

student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist or dentist.

[GG] HH. “**Third Party payer**” means an organization other than the patient (1<sup>st</sup> party) or the health care provider (2<sup>nd</sup> party) involved in the financing of personal health services.

[HH] II. “**WREB**” means the western regional examining board, which acts as the representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.

[H] JJ. “**Written authorization**” means a signed and dated prescription from a supervising dentist to provide specific tests, treatments or regimes of care in a specified location for 30 days following the date of signature. [16.5.1.7 NMAC - Rp, 16.5.1.7 NMAC, 12/14/2019; A, 5/30/2021; A, 12/5/2021]

**16.5.1.30 CRIMINAL OFFENDERS EMPLOYMENT**

ACT: Convictions for any of the following offense, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify and applicant from receiving or retaining a license or certificate by the board.

**A.** Physical harm to others:

(1) murder;

(2) manslaughter;

(3) assault;

(4) battery;

(5) abandonment of a child resulting in death or great bodily harm;

(6) abuse of a child;

(7) kidnapping;

(8) false imprisonment;

(9) sexual assault.

**B.** Property damage:

(1) shooting at property;

(2) criminal damage to property;  
 (3) dangerous use of explosives;  
 (4) graffiti;  
 (5) arson.  
**C. Fraud:**  
 (1) misrepresentation fraudulent statements or alterations of documents;  
 (2) improper sale, disposal, removal or concealing of encumbered property;  
 (3) tax fraud;  
 (4) conspiracy;  
 (5) medicaid, medicare or insurance fraud;  
 (6) money laundering.  
**D. Theft:**  
 (1) breaking and entering;  
 (2) larceny;  
 (3) robbery;  
 (4) burglary;  
 (5) shoplifting;  
 (6) I.D. theft;  
 (7) credit card or other financial information;  
 (8) receiving or transferring stolen property.  
**E. Financial crimes:**  
 (1) embezzlement;  
 (2) extortion;  
 (3) receiving stolen property;  
 (4) forgery;  
 (5) receiving illegal kickbacks;  
 (6) racketeering;  
 (7) falsification of documents;  
 (8) white collar crimes.  
**F. Drug offenses:**  
 (1) drug trafficking;  
 (2) possession;  
 (3) contributing to the delinquency of a minor.  
**G. Sex crimes:**  
 (1) distribution of pornography;

(2) human trafficking;  
 (3) criminal sexual penetration or contact;  
 (4) failure to register with the sex offender and notification act.  
**H. Any crimes identified under Section 61-5A-21, NMSA 1978.**  
**I. Miscellaneous:**  
 (1) felon in possession of a firearm;  
 (2) bribery of an official;  
 (3) accepting a bribe;  
 (4) gambling and gaming crimes;  
 (5) stalking;  
 (6) terrify, intimidate, threaten, harass, annoy or offend another;  
 (7) escape from incarceration;  
 (8) driving while intoxicated (DWI)  
 (9) practicing a profession without a license or on a revoked or suspended license;  
 (10) violation of the subdivision act, mortgage foreclosure act, mortgage loan company act or uniform money services act;  
 (11) violation of the controlled substance act.  
**J. The board shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Section 16.5.1.30 NMAC.**  
**K. The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in 16.5.1.30 NMAC.**  
**L. Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Dental Health Care Act, regardless of whether the individual**

was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in 16.5.1.30 NMAC.  
**M. In connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:**  
 (1) an arrest not followed by a valid conviction;  
 (2) a conviction that has been sealed, dismissed, expunged or pardoned;  
 (3) a juvenile adjudication; or  
 (4) a conviction for any crime other than the disqualifying criminal convictions listed in 16.5.1.30 NMAC.  
 [16.5.1.30 NMAC - N, 12/5/2021]

**REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF**

**This is an amendment to 16.19.4 NMAC, Sections 3, 8 and 11, effective 11/30/2021.**

**Explanatory Paragraph: This is an amendment to 16.19.4 NMAC, Sections 3, 8 and 11, effective 11/30/2021. Subsection A, B, C, E and F of Section 11 were not published as there were no changes.**

**16.19.4.3 STATUTORY AUTHORITY:** Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act, Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978. Those provisions include the authority to:

**A. deny or take disciplinary action with respect to any certificate of registration or license held or applied for under the Pharmacy Act, Section 61-11-20 NMSA 1978;**

**B.** require and establish criteria for continuing education as a condition of renewal of a pharmacist license, Paragraph (4) of Subsection A of Section 61-11-6 NMSA 1978;

**C.** issue permits or licenses, as defined and limited by board regulation, to nursing homes, industrial and public health clinics and home care services, Paragraph (6) of Subsection A of Section 61-11-6 and 61-11-14 NMSA 1978;

**D.** provide for the issuance and renewal of licenses for pharmacists, Paragraph (3) of Subsection A of Section 61-11-6, and 61-11-13 NMSA 1978;

**E.** provide for the registration of pharmacist interns, their certification, annual renewal of certification, training, supervision, and discipline, Paragraph (5) of Subsection A of Section 61-11-6 NMSA 1978; and

**F.** adopt rules and regulations that establish patient counseling requirements, Paragraph (18) of Subsection A of 61-11-6 NMSA 1978. Under the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 to 61-11B-3 NMSA 1978, the board is required to establish regulations governing certification as a pharmacist clinician. The Impaired Pharmacists Act, Sections 61-11A-1 to 61-11A-8 NMSA 1978, requires the establishment by the board of a plan for treatment and rehabilitation of impaired pharmacists. Subsection B of Section 61-1-36 NMSA 1978 authorizes the board of pharmacy to promulgate rules relating to listing specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction. Subsection B of Section 28-2-3 NMSA 1978 prohibits the board of pharmacy from considering certain criminal records to be used, distributed or disseminated in connection with an application for a license. Section 28-2-4 NMSA 1978 authorizes the board of pharmacy the power to refuse to grant or renew, or suspend or revoke a license where the applicant or licensee has

been convicted of a felony and the criminal conviction directly relates to the particular profession and other convictions specified. [3/14/1998; 16.19.4.3 NMAC - Rn, 16 NMAC 19.4.3, 3/30/2002; A, 9/14/2021; A, 11/30/2021]

**16.19.4.8 DEFINING**

**GROSS IMMORALITY:** Gross immorality shall constitute a felony conviction of a crime involving ~~[moral turpitude including, but not limited to, rape, murder, fraud, theft, embezzlement or bribery.]~~ a disqualifying criminal conviction. “Conviction” means either a plea of guilty or nolo contendere, or any other full adjudication on the merits by a court of competent jurisdiction, including but not limited to a trial. A copy of the record of conviction certified by the clerk of the court entering the conviction is conclusive evidence.

**A.** Convictions for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may result in license suspension, or disqualify a licensee or applicant from receiving or retaining a license issued by the board:

- (1) Section 30-2-1 NMSA 1978 “Murder”;
- (2) Sections 30-9-1 and 30-9-11 to 30-9-13 NMSA 1978, Criminal sexual offenses, including of a minor and enticement of a child;
- (3) Sections 30-37-2 to 30-37-3.3 NMSA 1978, Sexually oriented material harmful to minors, including child solicitation by electronic communication device and criminal sexual communication with a child;
- (4) Sections 30-6A-3 to 30-6A-4 NMSA 1978, Sexual exploitation of children, including prostitution;
- (5) Section 30-16-2 NMSA 1978 “Robbery”;
- (6) Section 30-16-6 NMSA 1978 “Fraud”;
- (7) Section 30-16-8 NMSA 1978 “Embezzlement”;
- (8) Section 30-

- 16-9 NMSA 1978 “Extortion”;
- (9) Section 30-
- 16-10 NMSA 1978 “Forgery”;
- (10) Section 30-
- 16-11 NMSA 1978 “Receiving stolen property”;
- (11) Section
- 30-16-24.1 NMSA 1978 “Theft of identity; obtaining identity by electronic fraud”;
- (12) Section 30-
- 16-30 NMSA 1978 “Dealing in credit cards of another”;
- (13) Section
- 30-16-31 NMSA 1978 “Forgery of a credit card”;
- (14) Section 30-
- 16-33 NMSA 1978 “Fraudulent use of a credit card”;
- (15) Section
- 30-28-3 NMSA 1978 “Criminal solicitation”;
- (16) Section
- 30-42-4 NMSA 1978 “Engaging in a pattern of racketeering activity”;
- (17) Sections
- 30-44-4 to 30-44-7 NMSA 1978, Offenses related to Medicaid Fraud;
- (18) Sections
- 30-47-4 to 30-47-6 NMSA 1978, Abuse or neglect of a care facility resident, exploitation of a care facility resident’s property;
- (19) Section
- 30-51-4 NMSA 1978 “Money laundering”;
- (20) Section
- 30-52-1 NMSA 1978 “Human trafficking”;
- (21) Section
- 24-26-12 NMSA 1978 “Intentionally hampering, obstructing, tampering with or destroying a monitoring device or a recording made by a monitoring device installed in a facility pursuant to the Patient Care Monitoring Act” (Sections 24-26-1 to 24-26-12 NMSA 1978);
- (22) Section
- 27-5-12 NMSA 1978 Making false statement in claim for payment under Indigent Hospital and County Health Care Act (Chapter 27, Article 5 NMSA 1978);
- (23) Section
- 66-8-102 NMSA 1978 “Fourth or subsequent conviction for driving under the influence of intoxicating liquor or drugs”;

**B.** Unless otherwise specified by law, the board shall not consider a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Subsection A of this Section 16.19.4.8 NMAC. Any decision by the board to take action against an applicant or licensee on the basis of a disqualifying criminal conviction shall occur in conformance with the Uniform Licensing Act.

**C.** Nothing in this section prevents the board from denying an application or disciplining a licensee on the basis of the licensee or applicant's conduct to the extent that such conduct violated the Pharmacy Act (Chapter 61, Article 11 NMSA 1978), the Drug Device and Cosmetic Act (Chapter 26, Article 1 NMSA 1978), the Controlled Substances Act (Chapter 30, Article 31 NMSA 1978), the Imitation Controlled Substances Act (Chapter 30, Article 31A NMSA 1978), or the Drug Precursor Act (Chapter 30, Article 31B NMSA 1978), or similar act of another state or of the United States, or pursuant to the Impaired Health Care Provider Act (Chapter 61, Article 7 NMSA 1978), or the Impaired Pharmacists Act (Chapter 61, Article 11 NMSA 1978), regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule. Proceedings shall occur in conformance with the Uniform Licensing Act (Chapter 61, Article 1 NMSA 1978).

**D.** Notwithstanding Subsection C of this section, in connection with an application for licensure, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed,

dismissed, expunged or pardoned;  
(3) a juvenile adjudication; or

(4) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this section. [3/1/1993; 16.19.4.8 NMAC - Rn, 16 NMAC 19.4.8, 3/30/2002; A, 11/30/2021]

**16.19.4.11 CONSULTANT PHARMACIST:**

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**D. Consultant pharmacists serving custodial care facilities:**

(1) Custodial care facility as used in this regulation includes: Any facility which provides care and services on a continuing basis, for two or more in-house residents, not related to the operator, and which maintains custody of the residents' drugs.

(2) Any facility which meets the requirements outlined in Paragraph (1) of Subsection D of 16.19.4.11 NMAC shall be licensed by the board of pharmacy, engage a consultant pharmacist, whose duties and responsibilities are indicated in [Paragraph (3) of Subsection D of] 16.19.4 and [16.19.8.11] 16.19.11 NMAC.

(3) Procurement of drugs or medications for residents will be on the prescription order of a licensed physician - written or by oral communication, which order shall be reduced to writing by the pharmacist as required by law. Refills shall be as authorized by the physician. When refill authorization is indicated on the original prescription, a refill for a resident may be requested by the administrator of the licensed facility or his designee by telephone to the consultant pharmacist, or the providing pharmacy.

(4) The administrator or a designated employee of the facility will sign a receipt for prescription drugs upon delivery.

(5) All prescription drugs will be stored in a locked cabinet or room and the key will be assigned to a designated employee or the administrator as indicated in the procedures manual.

(6) Proper storage as stipulated in the official compendium USP/NF will be the responsibility of the licensed facility.

(7) Records - the consultant pharmacist shall be responsible for the following records:

- (a) incoming medications - including refills;
- (b) record of administration;
- (c) waste or loss; This accountability record shall be maintained on a patient log, on forms provided to the consultant pharmacist by the board of pharmacy.

(8) All prescription containers shall be properly labeled as required in 16.19.11 NMAC. No bulk containers of legend drugs will be kept on the premises, except in a facility with a 24-hour per day and 365 day per year on-site licensed nurse. Only the following stock dangerous drugs may be kept:

- (a) tuberculin testing solution; and
- (b) vaccines as recommended by the centers for disease control (CDC) and prevention's advisory committee on immunization practices and appropriate for the facility population served; and

(c) naloxone for opioid overdose.

(9) Consultant pharmacist shall include in the procedures manual the name of individual(s) responsible for the assistance with the medication.

(10) It shall be the responsibility of the pharmacist to give proper training/instruction to the person(s) at the facility who have day-to-day responsibility for receipt and administration of medications to resident when adverse reactions, special diet, or any other information

relative to the administration of a drug is needed by the staff.

(11) The consultant pharmacist shall be required to maintain a patient profile on each individual, if applicable to the facility and individual.

(12) The consultant pharmacist shall visit the facility no less than once a quarter or more often, commensurate with patient drug regimen and shall be available in emergencies, when needed. A log shall be maintained indicating all visits to the facility and noting any activities or irregularities to be recorded or reported. This log shall be available for state drug inspectors' review upon request.

(13) The consultant shall be responsible for the preparation of a procedures manual outlining procedures for the receipt, storage, record keeping, maintenance of patient profiles, administration and accountability of all legend drugs and procedures for the removal and destruction of unwanted, unused, outdated or recalled drugs - controlled substances shall be handled pursuant to state and federal regulations.

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[8/27/1990; 16.19.4.11 NMAC - Rn, 16 NMAC 19.4.11, 3/30/2002; A, 6/30/2006; A, 10/24/2014; A, 12/13/2015; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT  
PHARMACY, BOARD OF**

**This is an amendment to 16.19.12 NMAC, Section 3, 9, and 12, effective 11/30/2021.**

**16.19.12.3 STATUTORY AUTHORITY:** Section 30-31-11 NMSA 1978 authorizes the board of pharmacy ("board") to charge reasonable fees relating to the registration and control of the manufacture, distribution and dispensing of controlled substances. Section 30-31B-6 NMSA 1978 authorizes the board to charge reasonable fees for the registration and control of the manufacture,

possession, transfer and transportation of drug precursors. Sections 61-11-12, 61-11-13, and 61-11-14 NMSA 1978 authorize the board to charge, and limit the maximum charges for:

**A.** applications for registration and renewal of registration as a pharmacist, pharmacist intern, or pharmacy technician; and

**B.** applications for the registration of retail pharmacies, wholesale drug distributors, nonresident pharmacies, drug manufacturers, hospital pharmacies, drug rooms, nursing homes, industrial or public health clinics, the department of health clinics and health facilities, home care services, wholesalers, retailers and distributors of legend-bearing veterinary drugs, outsourcing facilities, repackagers, and third party logistics providers.

Section 61-1-34 NMSA 1978 authorizes the board to waive license fees for the first three years for military service members, spouses, dependents, and veterans where the license is issued by reciprocity. [2/15/1996; 16.19.12.3 NMAC - Rn, 16 NMAC 19.12.3, 3/30/2002; A, 8/2/2019; A, 11/30/2021]

**16.19.12.9 REGISTRATION FEES:**

- A.** Registration by examination \$200.00
- B.** Registration by reciprocity \$200.00
- C.** Registration as an intern \$25.00
- D.** Registration as a pharmacy technician \$25.00
- E.** Waiver of registration fees: The board of pharmacy waives the registration fee set forth in regulation 16.19.12.9 for individuals who are currently serving in the United States military, and for those service member spouses, for change of duty location to New Mexico.

**F.** Registration fees are waived for United States military

service members, spouses (includes surviving spouse of a member who at the time of member's death was serving on active duty), dependent children, and veterans who are applying for pharmacist licensure by reciprocity.

[3/7/1980...8/27/1990; A, 7/15/1997; A, 7/31/1998; 16.19.12.9 NMAC - Rn, 16 NMAC 19.12.6, 3/30/2002; A, 12/15/2002; A, 9/30/2003; A, 3/22/2015; A, 8/2/2019; A, 11/30/2021]

**16.19.12.12 LICENSE/REGISTRATION RENEWAL:**

- A.** Pharmacist license renewal for active \$200.00 bi-ennially
- B.** Pharmacist license renewal for in-active \$70.00 bi-ennially
- C.** Intern renewal \$25.00 per year
- D.** Duplicate license for interns and pharmacists \$10.00

**E.** Controlled substance registration \$180.00 tri-ennially  
A locum tenens practitioner may apply for an initial registration which expires no more than one year after date of issuance, and this registration fee shall be \$60.00. The board may issue a registration for a time period determined by the board and shorter than three years if it is consistent with the public health and safety.

- F.** Duplicate license for controlled substance \$10.00
- G.** Pharmacy technician renewal \$30.00 bi-ennially
- H.** Pharmacist clinician \$70.00 bi-ennially
- I.** Pharmacist license renewal for active pharmacists with 50 or more years of service \$70.00 bi-ennially

**J.** Note: Waiver of license renewal fees: The board of pharmacy waives the renewal fee set forth in regulation 16.19.12.12 for individuals who are currently serving in the United States military in an active war zone or who serve in direct

support of operation in active war zones.

K. Initial renewal fees are waived for United States military service members, spouses (includes surviving spouse of a member who at the time of member’s death was serving on active duty), dependent children, and veterans, who obtained pharmacist licensure by reciprocity. [3/7/1980...8/27/1990; A, 7/31/1998; A, 11-14-98; 16.19.12.12 NMAC - Rn, 16 NMAC 19.12.12, 3/30/2002; A, 12/15/2002; A, 9/30/2003; A, 7/15/2004; A, 12/15/2005; A, 1/31/2007; A, 3/22/2015; A, 6/26/2018, A, 12/15/2020; A, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF**

**This is an amendment to 16.19.22 NMAC, Section 1, 3 and 16, effective 11/30/2021.**

**16.19.22.1 ISSUING AGENCY:** [Regulation and Licensing Department-] Board of Pharmacy [,-(505)-222-9835]. [16.19.22.1 NMAC - Rp, 16 NMAC 19.22.1, 6/27/2001; A, 11/15/2010; A, 11/30/2021]

**16.19.22.3 STATUTORY AUTHORITY:** Subsection A of Section 61-11-6 [-(A)] NMSA 1978 authorizes the Board of pharmacy to register and regulate qualifications, training and permissible activities of pharmacy technicians. [16.19.22.3 NMAC - Rp, 16 NMAC 19.22.3, 6/27/2001; A, 11/30/2021]

**16.19.22.16 PHARMACY TECHNICIAN ADMINISTRATION OF VACCINES:** A certified pharmacy technician may administer vaccines prescribed by and under the direct supervision of a New Mexico licensed pharmacist with current immunization prescriptive authority “qualified pharmacist,” if all requirements of this section are met.

A. Training and education:  
(1) The pharmacy technician must successfully complete an accreditation council for pharmacy education (ACPE) accredited immunization certification course for pharmacy technicians. This training must include study materials, hands-on injection technique, and the recognition and treatment of emergency reactions to vaccines. Pharmacy technicians who successfully completed said training prior to the enactment date of this section will be grandfathered.

(2) The pharmacy technician must complete and maintain current basic life support/cardiopulmonary resuscitation (BLS/CPR) certification.

(3) Continuing Education: Any pharmacy technician engaging in administration of vaccines shall complete a minimum of 0.2 CEU of ACPE accredited vaccine related continuing education during each registration period.

B. Competency assurance:

(1) The pharmacist-in-charge is responsible for ensuring that the technician has completed the required training; and possesses the knowledge, skills and abilities to appropriately engage in vaccine administration.

(2) The pharmacist-in-charge is responsible for developing, implementing and maintaining proper policies and procedures, which must include training and competency oversight to ensure compliance with the requirements of this section. Such procedures shall include an initial observation by a qualified pharmacist to ensure proper administration technique.

(3) The pharmacist-in-charge and technician are responsible for maintaining training and education documentation.

C. Oversight and activities:

(1) While the pharmacy technician may draw up the

vaccine into a syringe, the supervising qualified pharmacist is responsible for final verification.

(2) The qualified pharmacist must provide patient counseling, as appropriate.

(3) The identity of the pharmacy technician who administered each dose of vaccine will be documented. The qualified pharmacist is responsible for ensuring proper documentation.

(4) Supervision: A qualified pharmacist may not supervise more than two pharmacy technicians administering vaccines in a pharmacy setting. A pharmacist whose duties are dedicated to vaccination (e.g. vaccination clinic) may not supervise more than six qualified pharmacy technicians administering vaccines at one time. It is the responsibility of the pharmacist in charge to ensure adequate staffing levels for duties performed.

D. All records required under this section shall be readily available for inspection and produced to the board or the board’s agent upon request.

[16.19.22.16 NMAC – N, 11/30/2021]

**REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF**

**This is an amendment to 16.19.27 NMAC, Section 1, 3 and 7, effective 11/30/2021.**

**16.19.27.1 ISSUING AGENCY:** [Regulation and Licensing Department] Board of Pharmacy [,-Albuquerque, NM 87102, (505)-841-9102].

[16.19.27.1 NMAC - N, 12/1/2003; A, 11/30/2021]

**16.19.27.3 STATUTORY AUTHORITY:** Section 61-11-20 NMSA 1978, Uniform Licensing Act authorizes the board of pharmacy to deny, withhold, suspend or revoke any registration or license held or applied for under the Pharmacy Act upon grounds that the licensee or applicant:

(1) is guilty of gross immorality or dishonorable or unprofessional conduct as defined by regulation of the board; (17) has violated any rule or regulation adopted by the board pursuant to the Pharmacy Act. Subsection B of Section 61-1-36 NMSA 1978 authorizes the board of pharmacy to promulgate rules relating to listing specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction. Subsection B of Section 28-2-3 NMSA 1978 prohibits the board of pharmacy from considering certain criminal records to be used, distributed or disseminated in connection with an application for a license. Section 28-2-4 NMSA 1978 authorizes the board of pharmacy the power to refuse to grant or renew, or suspend or revoke a license where the applicant or licensee has been convicted of a felony and the criminal conviction directly relates to the particular profession and other convictions specified. [16.19.27.3 NMAC - N, 12/1/2003; A, 11/30/2021]

**16.19.27.7 DEFINITIONS:**  
Dishonorable conduct by a pharmacist intern licensed pursuant to Section 61-11-6 NMSA 1978, or pharmacy technician registered pursuant to Section 61-11-6 NMSA 1978.

**A. "Dishonorable conduct by a pharmacist intern or pharmacy technician"** shall mean, among other things, but not to be limited to:

- (1) violation of any provision of the Pharmacy Act as determined by the board;
- (2) violation of the board of pharmacy regulations as determined by the board;
- (3) violation of the Drug and Cosmetic Act as determined by the board;
- (4) violation of the Controlled Substances Act as determined by the board;
- (5) failure of the licensee to conduct himself professionally in conformity with all applicable federal, state and

municipal laws and regulations to his relationship with the public and other health professionals;

(6) acquiring prescription stock from unlicensed sources;

(7) failure to hold on the strictest confidence all knowledge patrons, their prescriptions and other confidence entrusted or acquired of by him; divulging in the interest of the patron only by proper forms or where required for proper compliance with legal authorities;

(8) participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare;

(9) the solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon;

(10) the solicitation of prescription business by providing a prescriber with pre-selected medication on a prescription blank. This does not apply to:

(a) the inpatient, or institutional setting (i.e. long term care or correctional facility) by an in-house or contracted pharmacy; or

(b) a request for therapeutic interchange of a medication prescribed for the patient;

(11) the solicitation of a prescription whereby the initial prescription request was not initiated by the patient or practitioner. This does not apply to a request for therapeutic interchange of a medication prescribed for the patient;

(12) failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.9.4.12 NMAC;

(13) conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substances Act, Drug Device and Cosmetic Act or any

similar act of another state or territory of the United States;

(14) suspension, revocation, denial, or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States.

(15) Disqualifying criminal conviction: "Conviction" means either a plea of guilty or nolo contendere, or any other full adjudication on the merits by a court of competent jurisdiction, including but not limited to a trial. A copy of the record of conviction certified by the clerk of the court entering the conviction is conclusive evidence.

(a) A felony conviction for any of the following offenses, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may result in suspension of a license or registration, or disqualify a licensee or applicant from receiving or retaining a license or registration issued by the board.

(i) Section 30-2-1 NMSA 1978 "Murder";

(ii) Sections 30-9-1 and 30-9-11 to 30-9-13 NMSA 1978 Criminal sexual offenses, including of a minor and enticement of a child;

(iii) Sections 30-37-2 to 30-37-3.3 NMSA 1978, Sexually oriented material harmful to minors, including child solicitation by electronic communication device and criminal sexual communication with a child;

(iv) Sections 30-6A-3 to 30-6A-4 NMSA 1978, Sexual exploitation of children, including prostitution;

(v) Section 30-16-2 NMSA 1978 "Robbery";

(vi) Section 30-16-6 NMSA 1978 "Fraud";

(vii) Section Section 30-16-8 NMSA 1978 "Embezzlement";

<p><u>(viii)</u> Section 30-16-9 NMSA 1978 “Extortion”;</p>	<p><u>(xxiii)</u> Section 66-8-102 NMSA 1978 “Fourth or subsequent conviction for driving under the influence of intoxicating liquor or drugs”</p>	<p>with an application for licensure or registration, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:</p>
<p><u>(ix)</u> Section 30-16-10 NMSA 1978 “Forgery”;</p>	<p><u>(b)</u> Unless otherwise specified by law, the board shall not consider a criminal conviction as part of an application for licensure or registration unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (15) of Subsection A of this section 16.19.27.7 NMAC.</p>	<p><u>(i)</u> an arrest not followed by a valid conviction;</p>
<p><u>(x)</u> Section 30-16-11 NMSA 1978 “Receiving stolen property”;</p>	<p>Any decision by the board to take action against an applicant or licensee (including a registrant) on the basis of a disqualifying criminal conviction shall occur in conformance with the Uniform Licensing Act (Chapter 61, Article 1 NMSA 1978).</p>	<p><u>(ii)</u> a conviction that has been sealed, dismissed, expunged or pardoned;</p>
<p><u>(xi)</u> Section 30-16-24.1 NMSA 1978 “Theft of identity; obtaining identity by electronic fraud”;</p>	<p><u>(c)</u> Nothing in this section prevents the board from denying an application or disciplining a licensee (including a registrant) on the basis of the licensee or applicant’s conduct to the extent that such conduct violated the Pharmacy Act (Chapter 61, Article 11 NMSA 1978), the Drug Device and Cosmetic Act (Chapter 26, Article 1 NMSA 1978), the Controlled Substances Act (Chapter 30, Article 31 NMSA 1978), the Imitation Controlled Substances Act (Chapter 30, Article 31A NMSA 1978), or the Drug Precursor Act (Chapter 30, Article 31B NMSA 1978), or similar act of another state or of the United States, or pursuant to the Impaired Health Care Provider Act (Chapter 61, Article 7 NMSA 1978), or the Impaired Pharmacists Act (Chapter 61, Article 11 NMSA 1978), regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection A of this rule. Proceedings shall occur in conformance with the Uniform Licensing Act (Chapter 61, Article 1 NMSA 1978).</p>	<p><u>(iii)</u> a juvenile adjudication; or</p>
<p><u>(xii)</u> Section 30-16-30 NMSA 1978 “Dealing in credit cards of another”;</p>	<p><u>(d)</u> Notwithstanding Subparagraph (c) of this section, in connection</p>	<p><u>(iv)</u> a conviction for any crime other than the disqualifying criminal convictions listed in this section.</p>
<p><u>(xiii)</u> Section 30-16-31 NMSA 1978 “Forgery of a credit card”;</p>		<p><b>B. “Dishonorable conduct by a facility (business)”</b> shall mean but not to be limited to:</p>
<p><u>(xiv)</u> Section 30-16-33 NMSA 1978 “Fraudulent use of a credit card”;</p>		<p><u>(1)</u> violation of any provision of the Pharmacy Act as determined by the board;</p>
<p><u>(xv)</u> Section 30-28-3 NMSA 1978 “Criminal solicitation”;</p>		<p><u>(2)</u> violation of the board of pharmacy regulations as determined by the board;</p>
<p><u>(xvi)</u> Section 30-42-4 NMSA 1978 “Engaging in a pattern of racketeering activity”;</p>		<p><u>(3)</u> violation of the Drug and Cosmetic Act as determined by the board;</p>
<p><u>(xvii)</u> Sections 30-44-4 to 30-44-7 NMSA 1978, Offenses related to Medicaid Fraud;</p>		<p><u>(4)</u> violation of the Controlled Substances Act as determined by the board;</p>
<p><u>(xviii)</u> Sections 30-47-4 to 30-47-6 Abuse or neglect of a care facility resident, exploitation of a care facility resident’s property;</p>		<p><u>(5)</u> failure of the licensee to conduct himself professionally in conformity with all applicable federal, state and municipal laws and regulations to his relationship with the public and other health professionals;</p>
<p><u>(xix)</u> Section 30-51-4 NMSA 1978 “Money laundering”;</p>		<p><u>(6)</u> acquiring prescription stock from unlicensed sources;</p>
<p><u>(xx)</u> Section 30-52-1 NMSA 1978 “Human trafficking”;</p>		<p><u>(7)</u> failure to hold on the strictest confidence all knowledge concerning patrons, their prescriptions and other confidence entrusted or acquired of by him; divulging in the interest of the patron only by proper forms, or where required for proper compliance with legal authorities;</p>
<p><u>(xxi)</u> Section 24-26-12 NMSA 1978 “Intentionally hampering, obstructing, tampering with or destroying a monitoring device or a recording made by a monitoring device installed in a facility pursuant to the Patient Care Monitoring Act” (Sections 24- 26-1 to 24-26-12 NMSA 1978);</p>		<p><u>(8)</u> participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare;</p>
<p><u>(xxii)</u> Section 27-5-12 NMSA 1978, Making false statement in claim for payment under Indigent Hospital and County Health Care Act (Chapter 27, Article 5);</p>		



(9) the solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon;

(10) the solicitation of prescription business by providing a prescriber with pre-selected medication on a prescription blank. This does not apply to:

(a) the inpatient, or institutional setting (i.e. long term care or correctional facility) by an in-house or contracted pharmacy; or

(b) a request for therapeutic interchange of a medication prescribed for the patient;

(11) the solicitation of a prescription whereby the initial prescription request was not initiated by the patient or practitioner. This does not apply to a request for therapeutic interchange of a medication prescribed for the patient;

(12) failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.9.4.12 NMAC;

(13) conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substance Act, Drug Device and Cosmetic Act or any similar act of another state or territory of the United States;

(14) suspension, revocation, denial or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States;

(15) failure to correct written deficiencies, documented by drug inspectors during routine inspections;

(16) failure of the business owner or authorized representative to sign the annual self-assessment conducted by the pharmacist-in-charge (see 16.19.6.9.8 NMAC);

(17) when an error occurs and a patient is harmed, failure of the business owner or

authorized representative to provide an appropriate environment (staffing and physical environment) that can provide pharmaceutical care in a way that does not endanger the public;

(18) having a policy or procedure which hinders the apprehension and/or prosecution of individuals who the pharmacist or pharmacist intern after reasonable inquiry suspect of prescription forgery, alteration, fraud, misrepresentation or a prescription transaction which is not otherwise in accordance with the law;

(19) failure to adhere to the written policy and procedures established by the pharmacist-in-charge.

**C. "Pharmaceutical care"** means the provision of drug therapy and other patient care services related to drug therapy intended to achieve definite outcomes that improve a patient's quality of life, including identifying potential and actual drug-related problems, resolving actual drug-related problems and preventing potential drug-related problems. (Subsection V of Section 61-11-2 NMSA 1978)

**D. "Dispensing error"** means a prescription that was dispensed from the pharmacy differently from what was prescribed.

**E. "Harm"** means temporary or permanent impairment of the physical, emotional or psychological function or structure of the body and/or pain resulting there from requiring intervention.

**F. "Patient counseling"** means the oral communication by the pharmacist of information to a patient or his agent or caregiver regarding proper use of a drug or a device. (Subsection T of Section 61-11-2 NMSA 1978).

**G. "Physical environment"** means the facility layout design, fixtures, and surroundings that affect lighting levels, sound levels, temperature, interruptions, and distractions. [16.19.27.7 NMAC - N, 12/1/2003; A, 4/1/2004; A, 9/30/2005; A, 12/15/2008; A, 11/13/2018; A, 11/30/2021]

**RETIREE HEALTH CARE AUTHORITY**

This is an amendment to 2.81.5 NMAC, Section 7, effective 01/01/2022.

**2.81.5.7 DEFINITIONS:**

**A. "Act"** means the Retiree Health Care Act (Sections 10-7C-1 et seq. NMSA 1978)

**B. "Salary"**

(1) For those independent public employers and participating employers affiliated with the Public Employees Retirement Act (PERA), "salary" [means the base salary or wages paid for personal services rendered to the employer by the employee, including longevity pay, shift differentials, wages paid the employee for purposes of continuing the employee on the regular payroll while absent from work on account of vacation, holiday or illness. Salary shall not include overtime pay, allowances for housing, clothing, equipment or travel, or payments for unused sick leave unless the unused sick leave payment is made through continuation of the employee on the regular payroll for the period represented by that payment. Salary shall not include lump sum payments which are not part of the employee's fixed periodical compensation such as lump sum annual and sick leave not paid for purposes of continuation of the employee on the regular payroll. Salary shall not include any other form of remuneration not specifically designated by law as included in salary for PERA purposes. Lump sum or payments over time made to an employee where services are not rendered are not included in the definition of salary such as where the employer "buys-out" the employee's contract. Included is any sums due the employee but withheld and paid for benefits of a voluntary "cafeteria" plan.] has the meaning ascribed to it as set forth in the Public Employees Retirement Act, Section 10-11-2 NMSA 1978, and as amended from time to time.

(2) For those participating employers affiliated

with the Educational Retirement Act (ERA) “salary” means the total remuneration paid for personal services rendered to the employer by the employee for services rendered during each of the four calendar quarters of a fiscal year, beginning July 1 and ending June 30. This includes payment made directly to the employee of a third party on behalf of or for the benefit of the employee except that lump sum payment to the employee for accrued sick leave shall not be included. Bonuses or incentive pay for early retirement during the four quarters preceding the member’s retirement shall not be included. Lump sum payment for up to thirty days of accrued annual or vacation leave shall be included. Sixty percent of the amount paid to an employee under a school bus owner/ driver contract shall be included. Lump sum or payments over time made to an employee where services are not rendered are not included in the definition of annual salary such as where the employer “buys-out” the employee’s contract. Included is any sums due the employee but withheld and paid for benefits of a voluntary “cafeteria” plan.  
[6/15/1998; 2.81.5.7 NMAC - Rn, 2 NMAC 81.5.7, 1/1/2010; A, 01/01/2022]

**SECRETARY OF STATE,  
OFFICE OF THE**

The Office of the Secretary of State repeals its rule 12.9.2 NMAC, PERFORMING ELECTRONIC NOTARIAL ACTS, filed 5/30/2008, and replaced it with 12.9.3 NMAC – NOTARIAL PROCEDURES, and 12.9.4 NMAC – REMOTE ONLINE NOTARIZATIONS effective 1/1/2022.

**SECRETARY OF STATE,  
OFFICE OF THE**

**TITLE 12 TRADE,  
COMMERCE AND BANKING  
CHAPTER 9 NOTARIES  
PUBLIC  
PART 3 NOTARIAL  
PROCEDURES**

**12.9.3.1 ISSUING**  
**AGENCY:** Office of the Secretary of State.  
[12.3.3.1 NMAC - N, 1/1/2022]

**12.9.3.2 SCOPE:** The rule applies to notarial acts, notaries public and other notarial officers pursuant to the Revised Uniform Laws on Notarial Acts (RULONA).  
[12.9.3.2 NMAC - N, 1/1/2022]

**12.9.3.3 STATUTORY AUTHORITY:** This rule is authorized by Section 14-14A-26 NMSA 1978.  
[12.9.3.3 NMAC - N, 1/1/2022]

**12.9.3.4 DURATION:** Permanent.  
[12.9.3.4 NMAC - N, 1/1/2022]

**12.9.3.5 EFFECTIVE DATE:** January 1, 2022, unless a later date is cited at the end of a section.  
[12.9.3.5 NMAC - N, 1/1/2022]

**12.9.3.6 OBJECTIVE:** The objective of the rule is to establish standards, guidelines, procedures, fees, and responsibilities under the Revised Uniform Laws on Notarial Acts.  
[12.9.3.6 NMAC - N, 1/1/2022]

**12.9.3.7 DEFINITIONS:**  
**A. “County clerk duties”** means the official duties performed by the county clerk or deputy county clerk as determined by the county clerk pursuant to Paragraph (4) of Subsection A of Section 14-14A-9 NMSA 1978.

**B. “Deputy county clerk”** means a person authorized by the county clerk to be a deputy county clerk and who has taken an oath of office.

**C. “Electronic record”** means a record as defined pursuant to Subsection 7 of Section 14-16-2 NMSA 1978 and includes but is not limited to a PDF or Microsoft Word file.

**D. “In-person electronic notarization”** means that an electronic record is presented for notarization on a computer or mobile device with the individual signing the record and the notarial officer meeting physically face-to-face.

**E. “Notary seal”** means official stamp and the terms may be used interchangeably.

**F. “Remote online notarization (RON)”** means that an electronic record is presented for notarization and the individual signing the record and the notary public meet face-to-face online and communicate using communication technology.

**G. “Tamper evident”** means any change to the record provides evidence of the change.

**H. “Tangible copy”** means a physical paper copy of an electronic record or tangible record.

**I. “Tangible record”** means a physical paper record with an original written signature.  
[12.9.3.7 NMAC - N, 1/1/2022]

**12.9.3.8 APPLYING FOR OR RENEWING A NOTARY PUBLIC COMMISSION:**

**A.** A person applying for or renewing a notary public commission shall apply using the prescribed application form issued by the secretary of state. An applicant shall use the applicant’s name as it appears on the applicant’s state issued identification. In addition to meeting the requirements pursuant to Subsection B of Section 14-14A-20 NMSA 1978, the applicant shall provide:

**(1)** proof of having successfully completed an approved training course and passing the required examination. If the secretary of state has a record that a notary public applying for renewal has previously passed the required examination, a notary public applying

for renewal is not required to re-take the training and examination unless:

(a) the applicant's commission has expired for more than one year; or

(b) there have been substantial changes to the statutes or rules pertaining to notarial procedures, as determined by the secretary of state, since the applicant's last application date; and

(2) a true and complete copy of a surety bond pursuant to Subsection D of Section 14-14A-20 NMSA 1978. The surety bond shall contain the applicant's notarized signature listed as the principal or sole applicant;

(3) executed oath of office using the prescribed form issued by the secretary of state pursuant to Subsection C of Section 14-14A-20 NMSA 1978 notarized by a notarial officer; and

(4) a non-refundable application fee of \$30.

**B.** The secretary of state shall issue a notary public certificate of commission containing the notary public's commission number and term expiration date to the applicant once the secretary of state determines:

(1) that the applicant has met the qualifications to be commissioned as a notary public;

(2) that the name on the bond, on the application, and the signatures on those documents are the same; and

(3) the applicant has not previously had a notary public commission denied or revoked.

**C.** Within 45 days of receiving the notary public commission and prior to the notary public performing his or her first notarial act, the notary public shall provide a copy of the applicant's official stamp to the secretary of state. Failure to provide this information shall result in a referral to the state ethics commission.

**D.** A notarial officer may apply and must receive approval before conducting remote online notarizations pursuant to 12.9.4.8 NMAC.

**E.** The notary public is required to maintain the notary public's current name, contact information, and signature and official stamp on file with the secretary of state by submitting the form prescribed by the secretary of state within 30 days of the change of information. An amended certificate of commission will be issued upon notification of a name change and the notary public shall be required to obtain a new official stamp showing the updated information.

[12.9.3.8 NMAC - N, 1/1/2022]

**12.9.3.9 SUSPENSION OR REVOCATION OF A NOTARY PUBLIC COMMISSION:**

**A.** Upon the state ethics commission making a determination to deny, refuse to renew, revoke, suspend or impose a condition on a notary public pursuant to Subsection A of Section 14-14A-22 NMSA 1978, the state ethics commission shall notify the secretary of state in writing of the recommended action and reason for the determination.

**B.** Upon receipt of notification from the state ethics commission that a notary public's commission has been suspended or revoked, the secretary of state shall update the electronic database of notaries public maintained pursuant to Section 14-14A-23 NMSA 1978.

[12.9.3.9 NMAC - N, 1/1/2022]

**12.9.3.10 EDUCATION AND EXAMINATION PROCEDURES:**

**A.** The secretary of state shall provide regular training and administration of an examination pursuant to Subsection B of Section 14-14A-21 NMSA 1978. Training may be provided by the secretary of state or through any third-party training vendor approved by the secretary of state.

**B.** The fee for providing the training and examination is not included in the application fee collected pursuant to 12.9.3.8 NMAC.

**C.** An applicant shall provide proof of passing the required examination with a score of eighty percent or higher.

**D.** Examination records maintained by third-party vendors, including the applicant's score, shall be retained for five years. [12.9.3.10 NMAC - N, 1/1/2022]

**12.9.3.11 TECHNOLOGY FEES:**

**A.** A notary public or notarial officer may charge the maximum fees pursuant to Section 14-14A-28 NMSA 1978 with a fee not to exceed \$25.00 for each remote notarial act.

**B.** For an in-person notarization of an electronic record, the notary public shall follow the fee structure established pursuant to Subsection C of Section 14-14A-28 NMSA 1978. [12.9.3.11 NMAC - N, 1/1/2022]

**12.9.3.12 NOTARIAL PROCEDURES:**

**A.** Notarial procedures for tangible records. The individual and the notarial officer shall meet physically face-to-face, and the notarial officer shall determine whether the requirements of Section 14-14A-4 NMSA 1978 have been met and shall verify the identity of the individual appearing before the officer in accordance with Section 14-14A-6 NMSA 1978. The notarial officer shall:

(1) ensure the individual uses permanent ink in a photo-reproducible color to sign the record;

(2) ensure the notarial certificate meets the requirements of Subsection C of Section 14-14A-14 NMSA 1978, sign the certificate using permanent ink and affix the official stamp to the record; and,

(3) if the notarial officer is a notary public or otherwise required to keep a journal pursuant to Subsection E of Section 14-14A-18 NMSA 1978, chronicle or note the notarization in a paper or electronic journal in accordance with Section 14-14A-18 NMSA 1978.

**B.** Notarial procedures for in-person electronic records. The individual and the notarial officer shall meet physically face-to-face, and the notarial officer shall determine whether the requirements of Section 14-14A-4 NMSA 1978 have been met and shall verify the identity of the individual appearing before the officer in accordance with Section 14-14A-6 NMSA 1978. Upon making the required determination and identity verification:

(1) the individual shall sign the electronic record using an electronic signature;

(2) the notarial officer shall ensure the notarial certificate meets the requirements of Subsection C of Section 14-14A-14 NMSA 1978;

(3) the notarial officer shall sign the notarial certificate with an electronic signature and affix the electronic seal, provided the electronic signature and seal have been previously provided to the secretary of state; and

(4) if the notarial officer is a notary public, or otherwise required to keep a journal pursuant to Subsection E of Section 14-14A-18 NMSA 1978, the notarial officer shall chronical or note the notarization in a paper or electronic journal in accordance with Section 14-14A-18 NMSA 1978.

**C.** For an acknowledgment as defined in Subsection A of Section 14-14A-2 NMSA 1978, the individual or representative shall declare before a notarial officer that the individual is signing the record for the purpose stated in the record.

**D.** For a verification on oath or affirmation as defined in Subsection O of Section 14-14A-2 NMSA 1978, the individual shall declare before a notarial officer that the statement in the record is true.

**E.** When certifying or attesting a copy of a record, the notarial officer:

(1) may make or supervise the copy of a record as a means of assuring the accuracy of the copy; or

(2) review the original record along with the copy so that the notarial officer can make a comparison as required by Subsection D of Section 14-14A-4 NMSA 1978.

**F.** For witnessing or attesting a signature, the notarial officer shall certify that the individual has the identity claimed and that the signature is that of the individual signing. Witnessing or attesting a signature differs from an acknowledgment in that the record must be signed in the physical presence of the notarial officer and there is no declaration that the record is signed for the purposes stated in the record and differs from a verification of oath and affirmation in that the individual is not declaring that a statement in the record is true. [12.9.3.12 NMAC - N, 1/1/2022]

**12.9.3.13 PREVENTING FRAUD OR MISTAKES:**

**A.** A notarial officer shall only notarize a record when the signer is either physically face to face or face to face online with the notarial officer.

**B.** A notarial officer shall determine the signer’s identity from personal knowledge or satisfactory evidence pursuant to Section 14-14A-6 NMSA 1978 before performing a notarial act. When obtaining satisfactory evidence of the identity of the signer pursuant to Paragraph (1) of Subsection B of Section 14-14A-6 NMSA 1978, the notarial officer shall review the name, birth date, photo, or other available data elements on an identification document of the signer to make a determination regarding to the identity of the signer.

**C.** A notarial officer shall only enter the actual date of a notarial act (not an earlier or later date) on a record.

**D.** A notarial officer shall not share or publish his or her official stamp. [12.9.3.13 NMAC - N, 1/1/2022]

**12.9.3.14 OFFICIAL STAMP:**

**A.** The official stamp

of a commissioned notary public shall conform to the requirements pursuant to Section 14-14A-16 NMSA 1978 and shall also include the words “Notary Public” and “State of New Mexico.”

**B.** The official stamp of a notarial officer that is not a commissioned notary public shall conform to the requirements pursuant to Section 14-14A-16 NMSA 1978 and shall also include the words “Notarial Officer” and “State of New Mexico.”

**C.** The official stamp shall conform to the following requirements:

(1) be 10-point type;

(2) if the stamp is affixed to a tangible record, it shall be applied in permanent ink and shall be capable of being photocopied; and

(3) the official stamp shall not contain the New Mexico state seal.

**D.** If the notarial officer is authorized to perform remote online notarizations, the official stamp shall also conform to the requirements set forth in Section 12.9.4.13 NMAC. [12.9.3.14 NMAC - N, 1/1/2022]

**12.9.3.15 JOURNAL:**

**A.** A notary public shall maintain a journal to sequentially chronicle all notarial acts pursuant to Section 14-14A-18 NMSA 1978.

**B.** A current or former notary public shall store the journal in a secure location under the notary public’s sole control unless a current or former notary public transmits the journal to the secretary of state or state records officer.

**C.** A notarial officer shall provide a copy of a requested journal entry or audiovisual recording related to a specified notarial act to a member of the public upon request pursuant to Section 14-14A-29 NMSA 1978. The request shall name the subject of the record and the date the notarial act was performed.

**D.** If a current or former notary public transmits the journal to the state records officer, the notary public shall notify the secretary of state by submitting the prescribed form within 30 days.

**E.** A former employer may retain a copy of a notary public’s journal, but it shall be clearly marked as a copy.

**F.** Electronic journal.  
**(1)** If the journal is maintained in an electronic format, it shall meet all the requirements of a tangible journal and shall be:

- (a)** securely stored;
- (b)** recoverable in the event of a software malfunction or computer crash; and
- (c)** tamper evident.

**(2)** Entries from the electronic journal must be available to the public or the state ethics commission in a PDF format.

**(3)** If an electronic journal is turned over to the secretary of state or the state records officer, it shall be transferred in PDF format.

**G.** If a notary public’s journal is lost or stolen, the notary public shall promptly notify the secretary of state utilizing a form prescribed by the secretary of state. [12.9.3.15 NMAC - N, 1/1/2022]

**12.9.3.16 RULONA TRANSITION:**

**A.** A notarial officer who is not a notary public is not required to follow the application process prescribed by this rule. If a notarial officer desires to be authorized to conduct remote online notarizations, the notarial officer shall follow the application procedures pursuant to 12.9.4.8 NMAC.

**B.** The commission expiration date is December 31, 2021, for a notarial officer authorized to practice law in this state who was commissioned under the previous Uniform Law on Notarial Acts.

**C.** Within six months of the effective date of this rule, a

notary public with a commission date prior to the effective date of this rule shall upload a copy of the notary public’s official stamp that conforms to Subsection A of Section 14-14A-16 NMSA 1978 and 12.9.3.14 NMAC.

**D.** A notarial officer who is not a notary public shall upload a copy of the notarial officer’s official stamp to the secretary of state prior to the notarial officer’s initial notarial act.

[12.9.3.16 NMAC - N, 1/1/2022]

**History of 12.9.3 NMAC:**

12.9.2 NMAC, Performing Electronic Notarial Acts, filed 5/30/2008, was repealed and replaced with new rules 12.9.3 NMAC – Notarial Procedures, and 12.9.4 NMAC – Remote Online Notarizations, effective 1/1/2022.

**SECRETARY OF STATE,  
OFFICE OF THE**

**TITLE 12 TRADE,  
COMMERCE AND BANKING  
CHAPTER 9 NOTARIES  
PUBLIC  
PART 4 REMOTE  
ONLINE NOTARIZATION  
STANDARDS**

**12.9.4.1 ISSUING AGENCY:** Office of the Secretary of State. [12.9.4.1 NMAC - N, 1/1/2022]

**12.9.4.2 SCOPE:** Notaries public and other notarial officers authorized by the secretary of state to perform remote online notarizations in the state of New Mexico as well as remote notarization system providers. [12.9.4.2 NMAC - N, 1/1/2022]

**12.9.4.3 STATUTORY AUTHORITY:** In accordance with Subsection H of Section 14-14A-5 and Section 14-14A-26 NMSA 1978, the secretary of state has the authority to promulgate rules for notarial officers to perform notarial acts for remotely located individuals using communication technology. [12.9.4.3 NMAC - N, 1/1/2022]

**12.9.4.4 DURATION:** Permanent. [12.9.4.4 NMAC - N, 1/1/2022]

**12.9.4.5 EFFECTIVE DATE:** January 1, 2022, unless a later date is cited at the end of a section. [12.9.4.5 NMAC - N, 1/1/2022]

**12.9.4.6 OBJECTIVE:** The objective of the rule is to establish uniform standards of performance and governance of notarial acts for remotely located individuals by use of communication technology. [12.9.4.6 NMAC - N, 1/1/2022]

**12.9.4.7 DEFINITIONS:**

**A. “Certified tangible copy of an electronic record”** means an original tangible copy, as defined pursuant to Subsection F of 2.9.3.7 NMAC, of an electronic record that has been certified by a notarial officer as an accurate copy of the electronic record.

**B. “Credential analysis”** means an identity assessment used by a notarial officer to determine if an individual’s government-issued identification card is genuine. The assessment requires the use of technology to confirm the security features on an identification card and confirm the identification card is not fraudulent.

**C. “Electronic record”** means see Subsection C of 12.9.3.7 NMAC.

**D. “Identity credential”** means a government issued identification card pursuant to the requirements of Paragraph (1) of Subsection B of Section 14-14A-6 NMSA 1978.

**E. “Knowledge-based authentication”** means an identity assessment used by a notarial officer to verify the identity of an individual that is based on questions formulated from public or private data sources for which the individual has not provided prior answers.

**F. “Remote online notarization (RON)”** means see Subsection F of 12.9.3.7 NMAC.

**G. “Remote online notarization system”** means a set of applications, programs, hardware, or software designed to enable a notarial officer to perform notarial acts on electronic records involving the use of communication technology that satisfies the requirements outlined in this rule.

**H. “Remote online notarization system provider”** means a business entity that provides a remote online notarization system that has been approved by the secretary of state.  
[12.9.4.7 NMAC - N, 1/1/2022]

**12.9.4.8 REMOTE ONLINE NOTARIZATION APPLICATION REQUIREMENTS:**

**A.** A notarial officer must submit an application to perform remote online notarizations (RON) on a form prescribed by the secretary of state and receive approval from the secretary of state before the notarial officer may remotely notarize a record. The notarial officer shall provide:

- (1) the name of all remote online notarization systems approved for use by the secretary of state the notarial officer intends to use;
- (2) a copy of any necessary instructions or techniques supplied by a remote online notarization system provider that allow the notarial officer’s signature and official stamp to be read and authenticated;
- (3) an explanation of the methods and technology by which the notarial officer will maintain and store the required journal, if applicable, and audio video recording;
- (4) proof of having successfully completed an approved training course and passing the required examination. If the secretary of state has a record that a commissioned notary public applying for renewal has previously passed the required examination, a commissioned notary public applying for renewal is not required to re-take the training and examination unless:

**(a)** the applicant’s commission has expired for more than one year; or

**(b)** there have been substantial changes to the statutes or rules pertaining to RONs, as determined by the secretary of state, since the effective date of applicant’s last application date; and

**(5)** a non-refundable application fee of \$75.

**B.** An individual applying for authorization to perform RONs shall already be a current notarial officer pursuant to Section 14-14A-9 or Section 14-14A-20 NMSA 1978 or an individual may simultaneously apply to be commissioned as a notary public with authorization to perform RONs.

**C.** The secretary of state shall issue an approval authorizing the notarial officer to perform RONs when the secretary of state determines that the applicant has met the qualifications. Within 45 days of receiving authorization to perform RONs from the secretary of state, the notarial officer shall provide a copy of the applicant’s official electronic stamp to the secretary of state along with the form prescribed by the secretary of state. The applicant’s official electronic stamp must be received by the secretary of state prior to the notarial officer performing a RON. Failure to provide this information shall result in a referral to the State Ethics Commission.

**D.** The expiration date for a notary public authorized to perform RONs shall be the commission expiration date established when an individual is commissioned as a notary public pursuant to Section 14-14A-20 NMSA 1978.

**E.** If at any time a notarial officer authorized to perform RONs adopts a new remote online notarization system provider, the notarial officer must notify the secretary of state of the new system and provider on a form prescribed by the secretary of state.

**F.** The renewal of the commission of a notary public who has previously been authorized

to perform RONs under this section constitutes renewal of the notary public’s qualification without the necessity to submit another application under this section, and the renewal fees shall be the same as that to renew a notary public commission unless the applicant’s commission has been expired for more than one year. If an applicant’s commission has been expired for more than one year, the applicant must complete the application for authorization to perform RONs and pay the required application fee as prescribed by this section.  
[12.9.4.8 NMAC - N, 1/1/2022]

**12.9.4.9 EDUCATION AND EXAMINATION PROCEDURES:**

**A.** The secretary of state shall provide a remote notarization course and examination. Training may be administered in house or through any third-party training vendor approved by the secretary of state.

**B.** The fee for administering the training and examination is not included in the application fee collected pursuant to 12.9.4.8 NMAC.

**C.** An applicant must provide proof of passing the required examination with a score of eighty percent or higher.

**D.** Examination records maintained by any third-party vendor, including the applicant’s score, shall be retained for five years.  
[12.9.4.9 NMAC - N, 1/1/2022]

**12.9.4.10 PERFORMANCE OF REMOTE ONLINE NOTARIAL ACTS:**

**A.** A notarial officer authorized to perform RONs must be physically located in New Mexico at the time the notarial act takes place.

**B.** A notarial officer authorized to perform RONs may perform authorized notarial acts relating to electronic records only if the individual personally appears before the notarial officer at the time of the notarization by means of communication technology.

C. A notarial officer authorized to perform RONs may make a reasonable determination regarding whether an individual is under duress or being coerced to complete a transaction. The notarial officer may:

- (1) observe the individual's behavior for signs of being nervous, fearful, hesitant, distracted, distraught or uncomfortable;
- (2) observe the surroundings and watch the behavior of others in the room who seem to make the individual uncomfortable;
- (3) request to speak privately with the individual; and
- (4) ask direct questions such as "are you signing this record of your own free will?"

D. A notarial officer may refuse to perform a notarial act if the notarial officer has reasonable grounds to believe that the individual is acting under coercion or undue influence.

E. A notarial officer authorized to perform RONs shall verify the identity of the individual at the start of an online notarial session by means of communication technology. Identity shall be verified by the notarial officer pursuant to Section 14-14A-6 NMSA 1978 or 12.9.4.11 NMAC.

F. A notarial officer shall not base identification merely on familiarity with an individual's signature or an electronic verification process that authenticates the individual's electronic signature without the individual personally before the notarial officer by two-way audio and video communication technology.

G. A notarial officer authorized to perform RONs shall refuse to complete the notarial act if the notarial officer:

- (1) is unable to verify the identity of the individual in compliance with these rules;
- (2) becomes aware that communication technology is not secure;

(3) determines the signature of the individual cannot be attached to the electronic record; or

(4) cannot attach the notarial officer's electronic stamp to the electronic record using technology that renders any subsequent change or modification to the record evident.

H. The notarial officer shall complete and affix or attach the officer's signature and official stamp to the electronic notarial certificate.

The electronic notarial certificate shall meet the requirements of Subsection A of Section 14-14A-14 NMSA 1978. [12.9.4.10 NMAC - N, 1/1/2022]

**12.9.4.11 IDENTITY**

**PROOFING:** If a notarial officer does not personally know the identity of a remotely located individual pursuant to Subsection A of Section 14-14A-6 NMSA 1978, the notarial officer must reasonably verify the individual's identity through two different types of identity proofing procedures as provided in this section. The procedure shall analyze the individual's identity credential against trusted third-person data sources, bind the individual's identity to the individual following successful knowledge-based authentication, and permit the notarial officer to visually compare the identity credential and the individual. The analysis of the identity credential and the knowledge-based authentication shall conform to the following requirements:

**A. Credential Analysis.**

The analysis of an identity credential must use public or private data sources to confirm the genuineness of the identity credential presented by a remotely located individual and, at a minimum:

- (1) use automated software processes to aid the notarial officer in verifying the identity of each remotely located individual;
- (2) require the identity credential to pass an authenticity test, consistent with sound commercial practices that use appropriate technologies to confirm the integrity of visual, physical, or

cryptographic security features and to confirm that the identity credential is not fraudulent or inappropriately modified;

(3) use information held or published by the issuing source or an authoritative source, as available and consistent with sound commercial practices, to confirm the validity of personal details and identity credential details; and

(4) enable the notarial officer to visually compare for consistency, the information and photograph on the identity credential and the remotely located individual appearing before the notarial officer in real time through communication technology.

**B. Knowledge-based authentication.** A knowledge-based authentication is successful if it meets the following requirements:

- (1) the remotely located individual must answer a quiz consisting of a minimum of five questions related to the individual's personal history or identity formulated from public or private data sources;
- (2) each question must have a minimum of five possible answer choices;
- (3) at least eighty percent of the questions must be answered correctly;
- (4) all questions must be answered within two minutes;
- (5) if the remotely located individual fails after two attempts, the individual may not retake the quiz within 24 hours;
- (6) during a retake of the quiz, a minimum of forty percent of the prior questions must be replaced; and
- (7) the notarial officer must not be able to see or record the questions or answers.

**C. Credible witness.**

A notarial officer has satisfactory evidence of the identity of a remotely located individual if the notarial officer has personal knowledge and satisfactory evidence of the identity of the individual by oath

or affirmation of a credible witness appearing before the notarial officer as provided in Paragraph (2) of Subsection B of Section 14-14A-6 NMSA 1978. A credible witness may be remotely located if the notarial officer, credible witness, and remotely located individual can communicate simultaneously by using communication technology.  
[12.9.4.11 NMAC - N, 1/1/2022]

**12.9.4.12 COMMUNICATION TECHNOLOGY REQUIREMENTS:**

**A.** Communication technology shall provide:

(1) for synchronous audio-video feeds of sufficient video resolution and audio clarity to enable the notarial officer and the remotely located individual to see and speak with each other;

(2) a means for the notarial officer to reasonably confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the remotely located individual executed a signature; and

(3) accessibility accommodations to facilitate communication with a remotely located individual who has a vision, hearing, or speech impairment.

**B.** Communication technology shall provide reasonable security measures to prevent unauthorized access to the live transmission of the audiovisual feeds, the methods used to perform the identity proofing process, and the electronic record that is the subject of the notarial act.

**C.** A notarial officer authorized to perform RONs shall stop and restart the remote online notarization process from the beginning if the:

(1) remotely located individual or the remote notarial officer must exit the remote online notarization system before completion of the notarial act;

(2) audio or visual feed is interrupted or terminated; or

(3) resolution or quality of the transmission becomes such that the remote notarial officer believes the process has been compromised and cannot be completed.

**D.** A notarial officer performing a RON shall verify that each remote online notarization system provider has an active status with the secretary of state before using that provider's remote online notarization system to perform a remote notarization. This duty extends to each remote online notarization.  
[12.9.4.12 NMAC - N, 1/1/2022]

**12.9.4.13 ELECTRONIC SIGNATURE AND STAMP:**

**A.** A notarial officer authorized to perform RONs shall use the same electronic signature and electronic official stamp for all electronic notarial acts. A copy of the official stamp shall be provided to the secretary of state within 45 days of being authorized by the secretary of state to perform RONs and prior to the first RON being performed.

**B.** A notarial officer shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to use a technology that the notarial officer has not selected. The tamper-evident technology must be capable of:

(1) affixing or attaching the notarial officer's electronic signature to the electronic record in a manner that is capable of independent verification and renders any subsequent change or modification to the electronic record evident; and

(2) utilizing a valid digital certificate issued by a third-party provider that uses public key infrastructure (PKI) technology that is X.509 compliant or higher. A notarial officer shall not perform a notarial act with respect to an electronic record if the digital certificate:

(a) has expired;

(b) has been revoked or terminated by the issuing or registering authority;

(c) is invalid; or

(d) is incapable of authentication.

**C.** The remote notarial officer's electronic signature and official stamp must be retained under the notarial officer's sole control and access. A notarial officer's employer must not permit the use of a notarial officer's electronic signature or official stamp by anyone except the notarial officer.  
[12.9.4.13 NMAC - N, 1/1/2022]

**12.9.4.14 AUDIOVISUAL RECORD RETENTION AND REPOSITORIES:**

**A.** A notarial officer authorized to perform RONs shall retain an audiovisual recording required under Paragraph (4) of Subsection C of Section 14-14A-5 NMSA 1978, on a computer, storage device, or online storage that protects the audiovisual recording against unauthorized access by password or cryptographic process. The recording must be created in an open file format and not include images of any record in which a remotely located individual made a statement or on which the remotely located individual executed a signature.

**B.** On the death or adjudication of incompetency of a current or former notarial officer, the notarial officer's personal representative or guardian or any other person knowingly in possession of an audiovisual recording shall:

(1) comply with the retention requirements of this section;

(2) transmit the recording to one or more repositories pursuant to Subsection C below; or

(3) transmit the recording on a data storage device to the secretary of state on an open file format that can be accessed and read by the secretary of state.

**C.** A notarial officer, a guardian, conservator, or agent



of a notarial officer, or a personal representative of a deceased notarial officer may, by written contract, engage a third person to act as a secure repository to provide the storage required by this Subsection. The contract shall:

(1) enable the notarial officer, the guardian, conservator, or agent of the notarial officer, or the personal representative of the deceased notarial officer to comply with the retention requirements of this section even if the contract is terminated;

(2) enable the notarial officer to keep all audiovisual recordings under the sole control of the notarial officer and provide copies to any requesting person; or

(3) provide that the information will be securely transferred to the notarial officer, the guardian, conservator, or agent of the notarial officer, or the personal representative of the deceased notarial officer if the contract is terminated. [12.9.4.14 NMAC - N, 1/1/2022]

**12.9.4.15 NOTARIAL JOURNAL TO RECORD REMOTE ONLINE NOTARIZATIONS:**

A. A notarial officer authorized to perform RONs shall adhere to the rule on journals pursuant to 12.9.3.16 NMAC.

B. In addition to the journal information required by Subsection C of Section 14-14A-18 NMSA 1978, the notarial officer must record the name of the remote online notarization system provider used for each remote online notarization. [12.9.4.15 NMAC - N, 1/1/2022]

**12.9.4.16 CERTIFICATE OF REMOTE NOTARIAL ACT:**

A. An electronic certificate of a notarial act for a remote online notarization must clearly state that the remotely located individual signing the record appeared using communication technology. This requirement is met if the statement is substantially as follows: "This notarial act involved the use of communication technology."

B. A certified tangible copy of an electronic record shall be considered an original record. A certified tangible copy of an electronic record must include a notarial certificate substantially in the short form provided in Subsection E of Section 14-14A-15 NMSA 1978. [12.9.4.16 NMAC - N, 1/1/2022]

**12.9.4.17 STANDARDS FOR REMOTE ONLINE NOTARIZATION SYSTEM PROVIDERS:**

A. Application. A provider must submit an application on a form prescribed by the secretary of state before the provider can provide its remote online notarization system to a notarial officer in New Mexico. Upon being approved as a provider, the secretary of state shall list the provider as active on the website of the secretary of state.

B. Criteria for approval. To be approved and maintain an active status, a remote online notarization system provider shall:

(1) provide the ability for an individual receiving notarization services to print tangible copies of all records notarized for that individual executed on the system;

(2) ensure that access to a notarial officer's electronic signature and official stamp is limited solely to the notarial officer and protected by the use of a password or other secure means of authentication;

(3) communication technology provided by the remote notarization system provider shall comply with the requirements of Section 12.9.4.12 NMAC;

(4) provide for the credential analysis and knowledge-based authentication assessment requirements provided for in Section 12.9.4.11 NMAC;

(5) provide, or allow a notarial officer to provide, a public key certificate to satisfy the requirement of Paragraph 2 of Subsection B of Section 12.9.4.13 NMAC; and

(6) provide a storage system that complies with 12.9.4.14 NMAC.

C. The secretary of state may request that remote online notarization system providers submit an application on an annual basis for a remote online notarization system provider to maintain active status.

D. Notifications.

(1) If a remote online notarization system provider becomes aware of a security breach involving its data, the provider must comply with the requirements of the Data Breach Notification Act, Sections 57-12C-1 to 57-12C-12 NMSA 1978, and submit notice to the secretary of state.

(2) No later than 30 days before making any substantial changes or feature enhancements to the remote online notarization system that was previously approved by the secretary of state, a provider must request approval from the secretary of state and notify the New Mexico notarial officers using its system.

(3) No later than 30 days after any changes to the provider's information on file with the secretary of state, the provider must notify and update the information on a form prescribed by the secretary of state.

E. Complaints. A person may file a complaint with the secretary of state against a remote online notarization system provider. The complaint must allege a specific violation of New Mexico's Revised Uniform Law on Notarial Acts or these rules.

F. Grounds for termination of active status. The secretary of state may terminate approval of a provider for any of the following reasons:

(1) a violation of the Revised Uniform Law on Notarial Act or these rules that impacts the ability of the remote online notarization provider from providing a compliant remote online notarization system;

(2) making representations that the secretary

of state endorses, recommends, or mandates use of any of the provider's products, goods, or services;

(3) if the provider sustains a security breach pursuant to Subsection D of Section 57-12C-2 NMSA 1978; and

(4) failure to respond within ten business days to the secretary of state's request for information or otherwise cooperate with an investigation, including providing requested information.

[12.9.4.17 NMAC - N, 1/1/2022]

**12.9.4.18 NON-COMMISSIONED NOTARIAL OFFICERS:**

**A.** If a notarial officer who is not commissioned as a notary public desires to be authorized to conduct RONS, the notarial officer shall follow the authorization application procedures pursuant to 12.9.4.8 NMAC.

**B.** Upon approval by the secretary of state to perform RONS, the notarial officer shall comply with this rule and all statutes applicable to a notary public performing RONS.

[12.9.4.18 NMAC - N, 1/1/2022]

**12.9.4.19 NOTARY PUBLIC COMMISSION IN EFFECT:**

A notary public with an appointment or renewal date prior to the effective date of the Revised Uniform Law on Notarial Acts who desires to be authorized to perform RONS shall follow the application process prescribed by Subsection B of 12.9.4.8 NMAC to apply to become authorized to perform RONS.

[12.9.4.19 NMAC - N, 1/1/2022]

**History of 12.9.4 NMAC:**

12.9.2 NMAC, Performing Electronic Notarial Acts, filed 5/30/2008, was repealed and replaced with new rules 12.9.3 NMAC – Notarial Procedures, and 12.9.4 NMAC – Remote Online Notarizations, effective 1/1/2022.

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**End of Adopted Rules**

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**Other Material Related to Administrative Law**

**ECONOMIC  
DEVELOPMENT  
DEPARTMENT**

**NOTICE OF EXTENDED PUBLIC  
COMMENT PERIOD**

In response to House Bill 11 of the 1st Session of the 55th Legislature, Section 9-15-6, adding a new section of the Local Economic Development Act (LEDA) establishing the LEDA Recovery Grant program and the COVID-19 public health emergency, the New Mexico Economic Development Department (EDD) adopted rule for the LEDA Recovery Grant program. EDD was appropriated two-hundred million dollars (\$200,000,000) from the State of New Mexico general fund for expenditures in fiscal years 2021-2023 to provide grants, through the New Mexico Finance Authority, for the reimbursement of rent, lease or mortgage payments for certain businesses deemed “recovery entities”. The rule governs the implementation and administration of the LEDA Recovery Grant Fund enacted under the LEDA Recovery Grant legislation. The Duration of the rule is permanent, there were no substantive changes made to the published rule during the public hearing, and there were no substantive arguments made through public comment. A notice of proposed rulemaking was published in the New Mexico Register on September 28, 2021. [https://www.srca.nm.gov/nmac/nmregister/xxxii/EDDnotice\\_xxxii18.html](https://www.srca.nm.gov/nmac/nmregister/xxxii/EDDnotice_xxxii18.html). A public hearing was held to invite public comment on November 4, 2021.

EDD hereby gives notice that it will conduct an extended public comment period, to begin at 8:00 am on November 30, 2021, and end at 5:00 pm on December 30, 2021. Individuals wishing to comment on the LEDA Recovery Grant Program, 2.92.1 NMAC, Public Finance, LEDA Recovery Grant are encouraged

to contact Sara Gutiérrez, Deputy Division Director, New Mexico Economic Development Department by email at [sara.gutierrez@state.nm.us](mailto:sara.gutierrez@state.nm.us). Written comments will be posted to the agency’s website within 3 days of receipt. Interested individuals may address written comments to the Economic Development Department, ATTN: Sara Gutierrez, P.O. Box 20003 Santa Fe, New Mexico 87504-5003.

A PDF of 2.92.1 NMAC, Public Finance, LEDA Recovery Grant may be accessed through EDD’s website <https://edd.newmexico.gov/about-us/public-notice/> on November 30, 2021.

**GOVERNOR, OFFICE OF  
THE**

**EXECUTIVE ORDER 2021-062**

**EXPANDING COVID-19  
VACCINE BOOSTER DOSE  
ELIGIBILITY  
TO ALL ADULTS WORKING  
OR LIVING IN NEW MEXICO**

**WHEREAS**, on January 30, 2020, the World Health Organization (“WHO”) announced the emergence of a novel Coronavirus Disease 2019 (“COVID-19”) that had not previously circulated in humans, but has been found to have adopted to humans such that it is contagious and easily spread from one person to another and one country to another;

**WHEREAS**, COVID-19 cases had been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

**WHEREAS**, on March 11, 2020, because of the spread

of COVID-19, I issued Executive Order 2020-004 declaring a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked my authority under the All Hazards Emergency Management Act;

**WHEREAS**, I have renewed the declaration of a Public Health Emergency through December 10, 2021;

**WHEREAS**, the currently available COVID-19 vaccines are a safe and effective way of preventing serious illness or death;

**WHEREAS**, new COVID-19 infections dropped significantly following the State’s effective rollout of the vaccines early this year;

**WHEREAS**, the State recently recorded a significant surge in new COVID-19 infections beginning in early Fall and continuing to this day;

**WHEREAS**, a highly-transmissible variant, B.1.617.2, commonly known as the Delta variant, now accounts for the majority of new infections;

**WHEREAS**, many, if not all, of our hospitals are operating above capacity to accommodate and treat those infected with COVID-19;

**WHEREAS**, the U.S. Food and Drug Administration (“FDA”) has authorized booster doses of the COVID-19 vaccines for, among other populations, individuals 18 years of age and older who live or work in high risk settings;

**WHEREAS**, the FDA authorized the booster doses to be administered two months after receiving the Johnson & Johnson Janssen vaccine and six months after completing the Pfizer-BioNTech or Moderna vaccination series;

**WHEREAS**, the widespread and ongoing surge of COVID-19 infections poses a substantial risk to the health, safety, and wellbeing of all New Mexicans; and

WHEREAS, all vaccinated New Mexicans are urged to receive a booster dose of a COVID-19 vaccine as soon as they are eligible.

NOW THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, do hereby DECLARE the entire State of New Mexico high risk for exposure or transmission of COVID-19 and, therefore, all individuals 18 years of age and older living or working in this State are now eligible to receive a safe and effective booster dose of a COVID-19 vaccine.

I FURTHER ORDER and DIRECT as follows:

1. This Order supersedes any previous orders, proclamations, policies or directives to the extent they are in conflict.
2. This Order shall take effect on November 12, 2021 and shall remain in effect until renewed, modified, or rescinded.

ATTEST:  
DONE AT THE EXECUTIVE OFFICE  
THIS 12TH DAY OF  
NOVEMBER 2021  
/ S /  
MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE

WITNESS MY HAND AND THE GREAT SEAL OF THE STATE OF NEW MEXICO  
  
/ S /  
MICHELLE LUJAN GRISHAM  
GOVERNOR

HEALTH,  
DEPARTMENT OF  
  
PUBLIC HEALTH ORDER  
NEW MEXICO DEPARTMENT  
OF HEALTH  
ACTING SECRETARY DAVID  
R. SCRASE, M.D.  
  
November 12, 2021

**Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose Certain Public Health Measures**

**PREFACE**

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 (“COVID-19”). While vaccines are the most effective method to prevent the spread of COVID-19, masks, social distancing and self-isolation measures continue to be necessary to protect New Mexicans who are ineligible to receive a COVID-19 vaccine or who choose not to receive a vaccine. All New Mexicans should continue to adhere to social distancing protocols when required to protect our State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans continue social distancing measures.

It is hereby ORDERED that  
1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

- A. December 15, 2020 Amended Public Health Emergency Order Implementing Additional Contact Tracing Information Requirements for All Laboratories and Submitters

Submitting Notifiable Condition COVID- 19 Test Results to the New Mexico Epidemiology and Response Division;  
B.

January 8, 2021 Emergency Order Implementing Administration and Reporting Requirements for All COVID-19 Vaccine Providers;

C. April 5, 2021 Amended Public Health Emergency Order Temporarily Limiting Long-Term Care Facilities Visitation Due to COVID-19;

D. February 26, 2021 Public Health Emergency Order Implementing Administration Requirements for all COVID-19 Vaccine Providers and Requiring Accurate Information be Provided by Individuals Registering to Receive the COVID-19 Vaccine; and

E. September 15, 2021 Amended Public Health Emergency Order Requiring All School Workers Comply with Certain Health Requirements and Requiring Congregate Care Facility Workers, Hospital Workers, and Employees of the Office of the Governor Be Fully Vaccinated.

3. The October 15, 2021 Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose Certain Public Health Measures is hereby amended as follows:

**ORDER**

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor

Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through December 10, 2021;

**WHEREAS**, confirmed cases in the United States have risen to more than 46 million and confirmed COVID-19 infections in New Mexico have risen to over 285,000;

**WHEREAS**, COVID-19 is a deadly virus and has taken the lives of over 755,000 Americans and over 5,100 New Mexicans;

**WHEREAS**, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

**WHEREAS**, vaccination, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize the spread of COVID-19 and mitigate the potentially devastating impact of this pandemic in New Mexico; and

**WHEREAS**, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

**NOW, THEREFORE**,

**I**, David R. Scrase, M.D., Acting Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance, as defined in NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

**I HEREBY DIRECT AS FOLLOWS:**

(1) Unless a healthcare provider instructs otherwise, all individuals ages 2 years and older shall wear a mask or multilayer cloth face covering in all indoor public settings except when eating or drinking. Nothing in this Order shall be construed as prohibiting any business, house of worship, non-profit entity, or other entity from imposing more stringent requirements.

(2) Any business, establishment, or non-profit (other than those which are a healthcare operation, utility, or indigent care services) which members of the public regularly visit must report to the New Mexico Environment Department when there is an occurrence of a rapid response. The New Mexico Environment Department shall monitor when an entity has four (4) or more rapid responses within a fourteen (14) day period. For purposes of this directive, rapid responses will be counted on a rolling basis. Businesses, establishments, or non-profits with four or more rapid responses shall not be required to cease operations. However, the

rapid responses must be reported to the Environment Department so that the public may be made aware of the positive cases.

(3) All businesses, establishments, and non-profit entities must adhere to the pertinent COVID-Safe Practices

(4) Private educational institutions serving children and young adults from pre-Kindergarten through 12th Grade, including homeschools serving children who are not household members, shall adhere to the face covering and other COVID-Safe Practices requirements for in person instruction contained in the New Mexico’s Public Education Department’s “Reentry Guidance” and “COVID-19 Response Toolkit for New Mexico’s Public Schools”, available at <https://webnew.ped.state.nm.us/reentry-district-and-school-guidance/>, and may operate up to maximum capacity. Private educational institutions shall follow the reporting, testing, and closure requirements set forth by the Public Education Department in the Reentry Guidance and COVID-19 Response Toolkit for New Mexico’s Public Elementary Schools.

**I FURTHER DIRECT** as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect immediately and remain in effect through December 10, 2021.

(5) The New Mexico Department of Health,

the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Public Health Order by issuing a citation of violation, which may result in civil administrative penalties of up to \$5,000 for each violation under NMSA 1978, Section 12-10A-19.

**ATTEST:**  
**DONE AT THE EXECUTIVE**  
**OFFICE**  
**THIS 12TH DAY OF**  
**NOVEMBER 2021**  
/ S /  
**MAGGIE TOULOUSE OLIVER**  
**SECRETARY OF STATE**

**WITNESS MY HAND AND THE**  
**GREAT SEAL OF THE STATE**  
**OF NEW MEXICO**

/ S /  
**DAVID R. SCRASE, M.D.**  
**ACTING SECRETARY OF THE**  
**NEW MEXICO DEPARTMENT**  
**OF HEALTH**

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**PUBLIC REGULATION**  
**COMMISSION**

**NOTICE OF ERRATA**  
**PUBLICATION**

In issue 21 of Volume XXXII of the New Mexico Register, an incorrect notice of minor, nonsubstantive correction was published. This incorrect notice was due to a publication error. What should have been published on behalf of the Public Regulation Commission is, as follows:

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The Public Regulation Commission gives Notice of a Minor, Nonsubstantive Correction to 17.7.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, 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:

**Section 8:** in Subsection A, the new text in the table was incorrectly placed in front of the deleted text and was not underlined. The new text was reformatted to comply with proper style.

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

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**End of Other Material**  
**Related to Administrative**  
**Law**

# 2021 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXII, Issues 1-24

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

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The New Mexico Register is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941.



# 2022 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXIII, Issues 1-24

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

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