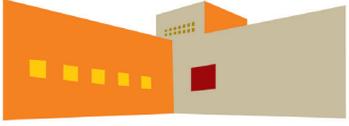


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New Mexico Register

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

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New Mexico Register

Volume XXXIII, Issue 1

January 11, 2022

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HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

Annual adjustments were made to the income limits found in 8.102.500 NMAC and 8.106.500 NMAC. Each year the Department is required to update the income and resource eligibility standards as well as the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS). The Department received notification of the adjusted amounts on August 16, 2021 and made the adjustments effective for benefit month October 2021 for Federal Fiscal Year (FFY) 2022 to comply with federal law and regulations. The Department is also amending 8.100.130 NMAC, 8.102.410 NMAC and 8.106.410 NMAC for SNAP and Cash to align the Federal Regulations surrounding felon status and the eligibility of certain convicted felons. In addition, the Department is clarifying dependent care expenses in relation to SNAP found in 8.139.520 NMAC and adding lottery and gambling winnings to 8.139.120 NMAC as a reportable change.

A public hearing to receive public comment on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Thursday, February 10, 2022 from 9:00am-10:00am. The hearing will be held virtually through GoTo Meeting at this link: <https://global.gotomeeting.com/install/236361669>. If you prefer to join via phone you may call +1 (646) 749-3122, Access Code: 236-361-669. You may provide written comment during the scheduled public hearing by dropping it off at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505; this drop off site will be for written comment only. The conference room is located

on the first floor in the ASD Rodeo Building.

The Human Services Register Vol. 44 No. 36 outlining the proposed regulations are available on the HSD's website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify or to request a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348, or by calling 505-670-1791.

If you are a person with a disability and you require this information in an alternative format, or you require a special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-6201 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, Thursday, February 10, 2022. The agency shall post all written comments on its website, if one exists, as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency. Please send comments to:

Human Services Department
P.O. Box 2348,
Santa Fe, New Mexico 87504-2348

You may send comments electronically to: HSD-isdrules@state.nm.us

RACING COMMISSION

NOTICE OF PUBLIC MEETING AND RULE HEARING

The New Mexico Racing Commission (Commission) will hold a Public Meeting and Rule Hearing on February 17, 2022. The Rule hearing will be held during the Commission's regular business meeting with the public session beginning at 9:00 a.m. The Rule Hearing and Commission meeting will be held virtually via Zoom.

Join Zoom Meeting
<https://us02web.zoom.us/j/81366851095?pwd=UjdjL1dlVHRYZlBHOWQ1aTEvK2E3QT09>

Meeting ID: 813 6685 1095
Passcode: L8Z5mV
One tap mobile
+16699006833,,81366851095#,,,,*23 6141# US (San Jose)
+12532158782,,81366851095#,,,,*23 6141# US (Tacoma)

Dial by your location
+1 669 900 6833 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 929 205 6099 US (New York)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
Meeting ID: 813 6685 1095
Passcode: 236141
Find your local number: <https://us02web.zoom.us/j/81366851095>

The Commission is proposing the following amendments listed below to the Rules Governing Horse Racing in New Mexico to clarify the rules regarding the Open Meetings Act and purse moneys.

15.2.1 NMAC – Commission & Due Process and Disciplinary Action
15.2.2 NMAC – Gaming

A copy of the proposed rules may be found on the Commission's website at <http://nmrc.state.nm.us/>

rules-regulations.aspx. You may also contact Denise Chavez at (505) 249-2184 to request to receive a copy of the proposed rules by regular mail.

Interested persons may submit their written comments on the proposed rules to the Commission at the address below and/or may appear at the scheduled meeting and provide brief, verbal comments. All written comments must be received by the Commission by 12:00 PM on February 16, 2022. Written comments should be submitted to: Denise Chavez, Law Clerk, via email at DeniseM.Chavez@state.nm.us.

The **final** agenda for the Commission meeting will be available one hundred twenty (120) hours prior to the meeting. A copy of the **final** agenda may be obtained from Denise Chavez or from the Commission's website.

No technical information served as the basis for the proposed rule.

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

Statutory Authority: Legal authority for this rulemaking can be found in the New Mexico Horse Racing Act, Sections 60-1A-1 through 60-1A-30 NMSA 1978 (2007, as amended through 2017), which, among other provisions, specifically authorizes the Commission to promulgate rules and regulations and carry out the duties of the Act to regulate horse racing in the State.

The Commission proposes the following rule amendments:

Subsection H of 15.2.1.8 NMAC:

The purpose of the proposed amendment is to provide the New Mexico Racing Commission with increased flexibility in its statutorily-mandated oversight of gaming monies and its oversight and regulation of the horseracing related entities which receive, maintain and reconcile gaming monies.

Subsection C of 15.2.1.9 NMAC:

The purpose of the proposed amendment is to be consistent with the Open Meetings Act.

Subsection A of 15.2.2.9 NMAC:

The purpose of the proposed amendment is to provide the New Mexico Racing Commission with increased flexibility in its statutorily-mandated oversight of gaming monies and its oversight and regulation of the horseracing related entities which receive, maintain and reconcile gaming monies.

Subsection B of 15.2.2.9 NMAC:

The purpose of the proposed amendment is to provide the New Mexico Racing Commission with increased flexibility in its statutorily-mandated oversight of gaming monies and its oversight and regulation of the horseracing related entities which receive, maintain and reconcile gaming monies.

**REGULATION AND LICENSING DEPARTMENT
CANNABIS CONTROL DIVISION**

**NOTICE OF PROPOSED RULE
AMENDMENTS**

Public Hearing. The New Mexico Regulation and Licensing Department (RLD), Cannabis Control Division (CCD), will hold a public rule hearing on Tuesday, February 22, 2022, 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 amendments to existing rules. Proposed rule amendments will remove duplicate or conflicting

requirements for licensure as well as unintended barriers to licensure across all license types. Additional amendments will clarify licensing requirements and processes submitted as part of an application for renewal or amendments of licensure.

Lastly, proposed amendments will update definitions as needed corresponding to changes made to licensure requirements and processes.

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 Tuesday January 11, 2022. 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. Written comment may also be submitted by visiting the Division website at 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 written public comments must be received by 5:00pm on Tuesday, February 22, 2022. 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.

No later than January 11, 2022, 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 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 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 amendments to be discussed at the hearing will include updated definitions as needed corresponding to changes made to licensure requirements and the removal of unintended barriers to licensure.

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 governs the licensing and operational requirements for additional types of licensees. The proposed amendments to be discussed at the hearing will include the removal of duplicate or conflicting requirements for licensure as well as unintended barriers to licensure across all license types. Additional amendments will clarify licensing requirements and processes submitted as part of an application for renewal or amendments of licensure.

REGULATION AND LICENSING DEPARTMENT MANUFACTURED HOUSING DIVISION

NOTICE OF RESCHEDULED PUBLIC HEARING

The Manufactured Housing Committee will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 14.12.1 – GENERAL PROVISIONS, 14.12.2 – LICENSURE REQUIREMENTS, 14.12.8 – RENEWAL AND CONTINUING EDUCATION, 14.12.10 – FEES, and 14.12.11 – DISCIPLINE. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing. The original public notice hearing scheduled for December 10, 2021, was cancelled and is reset through this notice to February 11, 2022.

The proposed rules will add definitions of “military service member” and “veteran” to the Manufactured Housing administrative code, and will expedite issuance of licenses for military service members and veterans, and waive registration fees for the first three years of the issuance of the license. The proposed rules will also list the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction.

The purpose for the proposed rules is to expedite and make less financially burdensome for military service members and veterans the process of seeking and obtaining a manufactured housing license. Additionally, the proposed rules propose to list those crimes for which a license applicant has been convicted that are job-related for the license in question and are consistent with business necessity.

The specific legal authority authorizing the proposed rules and their adoption is NMSA 1978, § 16-14-4(D), NMSA 1978, § 61-1-34, and NMSA 1978, § 61-1-36.

The hearing is scheduled as follows:

The hearing shall begin at 9:30 a.m., February 11, 2022, and will remain open until 10 a.m. or until participants have an opportunity to make public comment, whichever is longer. 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.

Interested persons may secure copies of the proposed changes by accessing the Manufactured Housing Division website (<https://www.rld.nm.gov/manufactured-housing-division>) to download the proposed rules or by written request to the Albuquerque MHD Office – 5500 San Antonio Dr., Albuquerque, NM 87109, attention: Aaron Aragon.

In order to ensure that the rules hearing is open to the public in a manner allowing members of the public to participate while social distancing due to COVID-19, the division shall implement the following procedures: You may send written comments to: Manufactured Housing Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 856-2045, or submitted to Aaron Aragon at his email address: aaron.aragon2@state.nm.us. All written comments must be received no later than 5:00 p.m., on Thursday, February 10, 2022. You may also review submitted comments by contacting Aaron Aragon at his email address above. All public comment received shall be admitted into the record during the public hearing.

Written comments may also be received on the day of the hearing as a division representative shall be stationed at the each of the division

offices: Toney Anaya Building, Santa Fe; 5500 San Antonio NE, Suite F, Albuquerque; and 505 S. Main St., Suite 103, Las Cruces, between 8:30 and 9:30 a.m. to receive written comments and to provide for the comments to be admitted into the record during the public hearing. Those desiring to participate in the public video/telephonic hearing process may do so by remote participation through livestreaming the meeting or becoming a participant by following these instructions:

Friday, February 11, 2022

9:30 AM | (UTC-07:00) Mountain Time (US & Canada) | 1 hr 10 mins

More ways to join:

Join from the meeting link
<https://nmrld.webex.com/nmrld/j.php?MTID=mf49655b4cd83ca27f49a2773d02f3ee7>

Join by meeting number

Meeting number (access code): 2498 134 3853

Meeting password: 2mQquNTNs38

Tap to join from a mobile device (attendees only)

+1-415-655-0002,,24981343853##
 United States Toll

Join by phone

+1-415-655-0002 United States Toll
 Global call-in numbers

Join from a video system or application

Dial 24981343853@nmrld.webex.com

You can also dial 173.243.2.68 and enter your meeting number.

You may also access the division's website (<https://www.rld.nm.gov/manufactured-housing-division>) the day of the hearing to locate instructions for participating in the hearing. All persons desiring to make public comment during the hearing shall do so through the WebEx process notifying the host who shall then ensure the ability for recorded comment. If you have any issues you may contact Aaron Aragon (505) 365-3429.

All public comments and documentation will be entered into

the record during the public rules hearing. If you require special accommodations to attend the hearing, please notify MHD by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 365-3429; Email: aaron.aragon2@state.nm.us; Fax No. (505) 856-2045.

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 Aaron Aragon, MHD Licensing Manager, telephone: (505) 365-3429; Email: aaron.aragon2@state.nm.us; Fax No. (505) 856-2045.

REGULATION AND LICENSING DEPARTMENT MANUFACTURED HOUSING DIVISION

NOTICE OF RESCHEDULED PUBLIC HEARING

The Construction Industries Division will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 12.2.15 – SALE OF RECYCLED METALS, and 12.2.16 – APPLICATION FOR REGISTRATION. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing. The original public notice hearing scheduled for December 13, 2021, was cancelled and is reset through this notice to February 18, 2022.

The proposed rules will add definitions of "military service member" and "veteran" to the Recycled Metals administrative code, and will expedite issuance of registrations for military service members and veterans as secondhand metal dealers, and waive registration

fees for the first three years of the registration's issuance.

The purpose for the proposed rules is to expedite and make less financially burdensome for military service members and veterans the process of seeking and obtaining a secondhand metal dealer's registration.

The specific legal authority authorizing the proposed rules and their adoption is NMSA 1978, § 57-30-10 and NMSA 1978, § 61-1-34.

The hearing is scheduled as follows:

The hearing shall begin at 9 a.m., February 18, 2022, and will remain open until 9:30 a.m., or until participants have an opportunity to make public comment, whichever is longer. 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.

Interested persons may secure copies of the proposed changes by accessing the Construction Industries Division website (<https://www.rld.nm.gov/construction-industries>) to download the proposed rules or by written request to the Recycled Metals Program Office, P.O. Box 25101, Santa Fe, New Mexico 87504, attention: Mary James.

In order to ensure that the rules hearing is open to the public in a manner allowing members of the public to participate while social distancing due to COVID-19, the division shall implement the following procedures: You may send written comments to Construction Industries Division, P.O. Box 25101, Santa Fe, New Mexico 87504, Attention: Public Comments. Written comments may also be faxed to (505) 476-4702 or submitted to Mary James at her email address: mary.james2@state.nm.us. All written comments must be received no later than 5:00 p.m., on Thursday, February 17, 2022. You may also review submitted

comments by contacting Mary James at her email address above. All public comment received shall be admitted into the record during the public hearing.

Written comments may also be received on the day of the hearing as a division representative shall be stationed at the each of the division offices: Toney Anaya Building, Santa Fe; 5500 San Antonio NE, Suite F, Albuquerque; and 505 S. Main St., Suite 103, Las Cruces, between 8:00 and 9:00 a.m. to receive written comments and to provide for the comments to be admitted into the record during the public hearing. Those desiring to participate in the public video/telephonic hearing process may do so by remote participation through livestreaming the meeting or becoming a participant by following these instructions:

Join from the meeting link
Join via Video:
<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ef53789e3282e182b859aa4228e5a1361>
Once you join through the above link you will be provided instructions for accessing the meeting.
Event password not required.

Join via telephone:
United States Toll
+1-415-655-0002
Access code: 2480 263 9804
No password required.

You may also access the division's website (<https://www.rld.nm.gov/construction-industries>) the day of the hearing to locate instructions for participating in the hearing. All persons desiring to make public comment during the hearing shall do so through the WebEx process notifying the host who shall then ensure the ability for recorded comment. If you have any issues you may contact Mary James (505) 476-4616.

All public comments and documentation will be entered into the record during the public rules

hearing. If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 476-4616. Email: mary.james2@state.nm.us; Fax No. (505) 476-4702.

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 Mary James, Santa Fe Supervisor, at mary.james2@state.nm.us or (505) 476-4616 at least seven (7) days prior to the hearing.

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.

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.1 NMAC, Section 7, effective 01/11/2022. Subsections A through I, and L through O were not published as there were no changes.

16.30.1.7 DEFINITIONS:

J. “Misconduct”
means:

- (1) knowingly preparing or stamping construction documents in violation of applicable codes, laws or regulations;
- (2) stamping and signing construction documents, specifications, reports or other professional work not prepared under the architect-of record’s responsible charge, as defined herein;
- (3) engaging in any conduct involving fraud or deceit related to the business or practice of architecture;
- (4) making any false statement or giving any false information in connection with an application for registration or for renewal of registration;
- (5) being convicted of a crime related to the practice of architecture with a copy of the record of the conviction, certified by the clerk of the court entering the conviction, serving as conclusive evidence;
- (6) violating federal or state statute or rule that directly relates to the practice of architecture;
- (7) being unable to practice architecture with reasonable skill and safety to clients by reason of use of alcohol, drugs, narcotics, chemicals, or any other

type of material or as a result of any mental or physical condition;

(8) making any substantial misrepresentation in the course of practice including, but not limited to, false, misleading or deceptive advertising or fraudulent or misleading claims;

(9) using or altering material prepared by another person without the knowledge and consent of that person;

(10) using the professional seal of another person without the knowledge and consent of that person;

(11) engaging in conduct in conflict with the Code of Conduct for Architects (16.30.4 NMAC);

(12) engaging in conduct that the architects knows or should know through professional knowledge or experience is not within the acceptable standard for professional conduct that is ordinarily applied by architects of good standing practicing in the state of New Mexico or that is set forth in the board’s Minimum Standards for the Practice of Architecture in New Mexico, (16.30.6 NMAC);

(13) violating the Architectural Act, Sections 61-15-1 through 13 NMSA 1978, the rules and regulations of the board, or the architectural laws of any other state or jurisdiction;

(14) incurring a prior disciplinary action in another state or jurisdiction based upon acts or conduct by the registrant which if committed in this state would subject the registrant to disciplinary action by the board; certified copies of the record of disciplinary action shall be conclusive evidence thereof; and

(15) failing to report to the board any adverse action taken against the registrant by the

licensing board of another jurisdiction or the national council of architectural registration boards (NCARB) for acts or conduct that would constitute grounds for disciplinary action by the board.

(16) Knowingly allowing an unauthorized person to use the architect’s seal.

K. “NCARB” means the national council of architectural registration boards.

[16.30.1.7 NMAC - Rp, 16 NMAC 30.1.7, 9/6/2001; A, 9/15/2002; A, 9/15/2003; A, 9/15/2016; A, 01/11/2022]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.3 NMAC, Sections 8, 10 and 12, effective 01/11/2022.

16.30.3.8 GENERAL QUALIFICATIONS:

B. The applicant shall be of good character and repute. Factors that the board may consider under this qualification are:

(1) [conviction of a felony;] misstatement or misrepresentation of fact by the applicant in connection with his or her application;

(2) [misstatement or misrepresentation of fact by the applicant in connection with his or her application;] violation of any of the standards of conduct required by registration holders and set forth in the statutes or rules and regulations; or

(3) [violation of any of the standards of conduct required by registration holders and set forth in the statutes or rules

~~and regulations; or] practicing architecture without a valid and current registration in the jurisdiction in which the practice took place; or~~

~~(4) [practicing architecture without a valid and current registration in the jurisdiction in which the practice took place.]~~

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 issued by the board:

(a) homicide or manslaughter;

(b) trafficking, or trafficking in controlled substances;

(c) kidnapping, false imprisonment, aggravated assault or aggravated battery;

(d) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses;

(e) crimes involving adult abuse, neglect or financial exploitation;

(f) crimes involving child abuse or neglect;

(g) crimes involving robbery, larceny, extortion, burglary, bribery, fraud, forgery, embezzlement, credit card fraud, misuse of public funds, violation of the procurement code, offering or soliciting an illegal kickback, tampering with public records, perjury, identity theft, or receiving stolen property;

(h) human trafficking;

(i) driving under the influence or driving while intoxicated;

(j) using a forged architectural registration seal pursuant to Subsection A of Sections 61-15-10, et. seq. NMSA 1978; or

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

(5) 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.

(6) 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.

(7) 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 Architecture 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.

(8) 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:

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

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

(c) a juvenile adjudication; or

(d) a conviction for any crime other than the disqualifying criminal convictions listed in Subsection A of this rule.

C. Rules and procedures set out herein for obtaining registration in New Mexico apply equally to residents of the state and non-residents.

D. An oral interview before the board may be required of any applicant for New Mexico registration.

E. All applicants must pass the New Mexico architectural

jurisprudence exam administered by the board. Failure to answer all questions may result in a failing grade. An applicant who has failed two successive architectural jurisprudence exams shall not be eligible to apply for architectural registration for a period of one year from the date of the last jurisprudence exam failed.

F. All registration and application fees are non-refundable. [16.30.3.8 NMAC - Rp, 16 NMAC 30.3.8, 9/6/2001; A, 9/15/2002; A, 9/15/2016; A, 01/11/2022]

16.30.3.10 REGISTRATION THROUGH RECIPROCITY:

A. An individual who holds a current NCARB certificate and is seeking registration through reciprocity shall return a completed application and all fees to the board for processing. The application shall be valid for ~~[six months]~~ one year from the time the board receives it.

B. An individual currently registered as an architect in another jurisdiction who does not hold a current NCARB certificate may apply for a New Mexico architect license upon receiving an NCARB certification acquired through the alternative path to licensure for experienced professionals.

C. An individual who does not hold a current NCARB certificate and is seeking registration through reciprocity as a broadly experienced architect must hold a current and valid registration issued by the licensing authority of another jurisdiction and either: (1) hold a degree accredited by the national architectural accrediting board, pass the necessary examination, and successfully complete the architectural experience program (AXP) offered by NCARB; or (2) hold a position of responsibility for at least the previous five years in the jurisdiction(s) of licensure with no disciplinary action during that five-year period. The term "position of responsibility" shall mean a person in responsible charge as defined in Subsection N of 16.30.1.7 NMAC. The broadly

experienced category applicant shall return to the board a completed application, on a form prescribed by the board, along with other pertinent documents and application fee. Each applicant shall provide the board evidence of academic training and work experience directly related to architecture and demonstrating minimum competence as described in 16.30.6 NMAC including but not limited to, evidence of training or experience in the following areas:

- (1) design and construction documents;
- (2) construction administration;
- (3) project management; and
- (4) architectural related activities.

D. Each applicant must attest on an affidavit that the applicant:

- (1) has not performed or offered to perform, and will not perform or offer to perform, architectural services in the state of New Mexico until such time as the applicant becomes a New Mexico registered architect;
- (2) is in good standing and has disclosed all requested information on disciplinary proceedings in any other jurisdiction; and
- (3) has secured a copy and has read the Architectural Act, and the New Mexico board of examiners for architects rules and regulations, and agrees to comply with the same.

E. All applicants must pass a New Mexico architectural jurisprudence exam administered by the board. An applicant who has failed two successive architectural jurisprudence exams shall not be eligible to apply for architectural registration for a period of one year from the date of the last jurisprudence exam failed.

F. Applicants for registration through reciprocity shall present a certificate of good standing from a jurisdiction in which a current and valid registration is held.

G. Comprehensive design requirements: Applicants for registration through reciprocity shall present evidence satisfactory to the board of their qualification in comprehensive design.

H. The board may require an applicant for registration through reciprocity to appear before the board for a personal interview and to complete a written or oral examination.

I. The board shall review all applications on a case-by-case basis.

J. Upon receipt of a complete reciprocity application and fee, board staff are authorized to approve and issue a registration to an applicant for whom no licensing issues are apparent from the application. [Board staff] As necessary, board staff shall consult with the enforcement subcommittee prior to review by the examination and reciprocity committee if licensing issues are present before issuing a registration. When an application has apparent issues, or a denial is recommended, the application should be presented to the board prior to any staff approving and issuing a registration. The board shall vote to ratify the issuance of all registrations issue by staff at the next regularly scheduled board meeting. In the event the board votes not to ratify a reciprocity registration issued by board staff, the board shall pursue disciplinary action as required by the Uniform Licensing Act, Section 61-15-12 NMSA 1978.

[16.30.3.10 NMAC - Rp, 16 NMAC 30.3.10, 9/6/2001; A, 9/15/2003; A, 9/16/2004; A, 9/9/2005; A, 12/23/2005; A, 6/1/2009; A, 9/15/2016; A, 10/31/2016; A, 1/15/2019; A, 01/11/2022]

16.30.3.12 CONTINUING EDUCATION: Architects registered in New Mexico will be required to show compliance with mandatory education requirements as a condition for renewing registration:

- A.** Purpose and scope:
 - (1) These rules provide for a continuing education

program to insure that all architects remain informed of these technical subjects necessary to safeguard life, health, property, and promote the public welfare.

(2) Continuing education is post licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety and welfare.

(3) These rules apply to all architects registered in New Mexico.

B. Definitions:

(1) "Continuing education hour" is one continuous instructional hour (minimum 50 minutes) spent in structured educational activities intended to increase or update the architect's knowledge and competence in health, safety and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the board finds the prescribed time to be unreasonable, be accepted as the architect's time for continuing education hour purposes irrespective of actual time spent on the activity.

(2) "Health, safety and welfare in architecture" is anything that relates to the structure or soundness of a building or site or its role in promoting the health, safety or well-being of its occupants.

(3) "Health, safety and welfare subjects" are technical and professional subjects in continuing education that the board deems appropriate to protect the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction and utilization of buildings and the built environment.

- (a) Building systems: structural, mechanical, electrical, plumbing, communications, security, fire protection.

(b) Construction contract administration:

contracts, bidding, contract negotiations.

(c)

Construction documents: drawings, specifications, delivery methods.

(d)

Design: urban planning, master planning, building designs, site design, interiors, safety and security measures.

(e)

Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation.

(f)

Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public.

(g)

Materials and methods: construction systems, products, finishes, furnishings, equipment.

(h)

Pre-design: land use analysis, programming, site selection, site and soils analysis, surveying.

(i)

Preservation: historic, reuse, adaptation.

(4) "Structured

educational activities" are educational activities in which at least seventy-five percent of an activity's content and instruction time must be devoted to health, safety and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety and welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

C. Requirements:

(1) In

addition to all other requirements for registration renewal, an architect must complete a minimum of 12 continuing education hours each calendar year or be exempt from these continuing education requirements as provided below. Failure to complete these requirements may result in non-renewal of the architect's registration or other disciplinary action by the board. Architects shall be assessed

an administrative fee of \$100.00 for each continuing education hour they fail to complete. In addition to the fee, the architect shall be required to make up the deficient health safety welfare continuing education hours within 60 days. A first violation of this provision shall not be reported as disciplinary action to NCARB. Two or more violations of this provision shall be reported as disciplinary action to NCARB. At the discretion of the enforcement subcommittee, special circumstances will be reviewed by the subcommittee.

(2) Continuing

education hours must be completed in health, safety and welfare subjects acquired in structured education activities. Continuing education hours may be acquired at any location, whether delivered by direct contact or distant learning methods. Excess continuing education hours may not be credited to a future calendar year.

D. Activities: The following list shall be used by all registrants in determining the types of activities that would fulfill continuing education requirements:

(1) continuing

education hours in attendance at short courses or seminars dealing with architectural subjects and sponsored by academic institutions;

(2) continuing

education hours in attendance at technical presentations on architectural subjects which are held in conjunction with conventions or at seminars related to materials use and functions; such presentations as those sponsored by the American institute of architects, construction specifications institute, construction products manufacturers council or similar organizations devoted to architectural education may qualify;

(3) continuing

education hours in attendance at short courses or seminars related to new technology and offered by colleges, universities, professional organizations or system suppliers;

(4) continuing

education hours spent in self-study courses such as those sponsored by

the national council of architectural registration boards, American institute of architects or similar organizations;

(5) up to three

preparation hours may be credited for each class hour spent teaching architectural courses or seminars; college or university faculty may not claim credit for teaching regular curriculum courses;

(6) up to

three continuing education hours spent in architectural research that is published or formally presented to the profession or public;

(7) college or

university credit courses dealing with architectural subjects; each semester hour shall equal 15 continuing education hours; a quarter hour shall equal 10 continuing education hours;

(8) up to four

continuing education hours in service to the public that is directly related to the practice of architecture in the area of health, safety and welfare.

E. Records and record-keeping:

(1) A

registered architect shall complete and submit forms prescribed or accepted by the board certifying to the architect's having obtained the required continuing education hours. Documentation of reported continuing education hours shall be maintained by the architect for three years from the date of award.

(2) One

continuing education hour shall represent a minimum of actual course time. No credit will be allowed for introductory remarks, meals, breaks or administrative matters related to courses of study.

(3) Failure

to fulfill the continuing education requirements ~~shall~~ may result in non-renewal of an architect's certificate of registration and will result in the administrative or disciplinary actions set forth in Subsection C of this section. Certification of fulfillment of continuing education requirements without completion of the continuing education may result in disciplinary action.

(4) Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and may subject the registrant to additional disciplinary action.

F. Initial registration:
An architect whose initial examination registration occurs less than 12 months from December 31st shall not be required to report continuing education hours for that calendar year. An architect whose initial examination registration occurs more than 12 months prior to December 31st shall be required to complete 12 continuing education hours within the final calendar year prior to renewal.

G. Reinstatement:
Pursuant to Section 61-15-7 NMSA 1978, a former registrant may only apply for reinstatement and renewal of an expired certificate under 16.30.3.13 NMAC if delinquent continuing education hours are earned as required by Subparagraph (a) of Paragraph (3) of Subsection B of 16.30.3.11 NMAC, i.e. 12 continuing education hours each calendar year while registration is expired or be exempt from these continuing education requirements as provided below.

H Exemptions:
A registrant shall be deemed to have complied with the foregoing continuing education requirements if the architect attests in the required affidavit that for not less than 21 months of the preceding two-year-period of registration, the architect:

(1) has served honorably on active duty in the military service (exceeding 90 consecutive days); or

(2) is a government employee working as an architect and assigned to duty outside the United States, or outside the jurisdiction established by the national council for architectural registration boards.

I. The board may consider a hardship case under extenuating circumstances to modify

the requirements established by these rules.

J. Audit: A number of registrants shall be selected at random to submit substantiating information to support their continuing education claim. If any credits are disallowed by the board, then the registrant shall have 60 calendar days after notification to substantiate the original claim or obtain other continuing education hours to meet the minimum requirements. Such continuing education hours shall not be used again in the next renewal cycle. Any registrant found to be non-compliant with the minimum continuing education hours requirement will result in the administrative or disciplinary actions set forth in Subsection C of this section.

Additional audits may be conducted at the board's discretion.

K. Non-compliance:
Failure to comply with the requirements of this section shall result in non-renewal of registration and forfeit of the renewal fee. [16.30.3.12 NMAC - A & Rn, 16.30.3.11 NMAC, 1/15/2019; A, 01/11/2022]

History of Repealed Material:

16 NMAC 30.3, Registration and Renewal, Duplicate Certificates, Seal Specifications and Document Identification, - Repealed, 9/6/2001.

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.4 NMAC, Section 11, effective 01/11/2022.

16.30.4.11 COMPLIANCE WITH LAWS:

A. An architect, in the conduct of his or her architectural practice, shall not [~~violate any state or federal criminal law~~] be convicted of any crime listed in Paragraph (4) of Subsection B of 16.30.3.8 NMAC.

B. An architect shall neither offer nor make any payment or gift to a government official, whether elected or appointed, with the intent

of influencing the official's judgment in connection with a prospective or existing project in which the architect is interested.

C. An architect shall comply with the registration laws and regulations governing his or her professional practice in any jurisdiction.

[16.30.4.11 NMAC - Rp, 16 NMAC 30.4.8.4, 9/6/2001; A, 01/11/2022]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.5 NMAC, Sections 7 and 8, effective 01/11/2022.

16.30.5.7 DEFINITIONS:

All terms defined in this section shall have the same meaning as terms defined in the Parental Responsibility Act, [~~Sections 41-5A-1~~] Sections 40-5A-1 through 13 NMSA 1978.

A. "HSD" means the New Mexico human services department.

B. "Statement of compliance" means a certified statement from HSD stating that an applicant or registrant is in compliance with a judgment and order for support.

C. "Statement of non-compliance" means a certified statement from HSD stating that an applicant or registrant is not in compliance with a judgment and an order for support.

[16.30.5.7 NMAC - Rp, 16 NMAC 30.5.7, 9/6/2001; A, 01/11/2022]

16.30.5.8 COMPLAINTS:

A. Disciplinary proceedings against a registered New Mexico architect, applicant, or unlicensed individual may be initiated by a [~~sworn~~] complaint of any person, including members of the board, that is signed under penalty of perjury. Complaint forms shall be obtained from the board office or the board's [~~web-site~~] website and shall be reviewed by the enforcement subcommittee of the rules and regulations committee.

B. Complaint forms shall be confidential pursuant to Subsection D of Section 61-15-5 NMSA 1978. Complaints admitted as evidence during a formal disciplinary hearing are no longer confidential pursuant to Subsection D of Section 61-15.5 NMSA 1978, and may be subject to public inspection.

C. The enforcement subcommittee shall have the authority to initiate investigations and determine whether sufficient evidence exists to support the recommendation for the issuance of a notice of contemplated action to the full board for a vote. If the enforcement subcommittee deems the alleged action did not amount to a violation or was a minor violation, it may close the matter with an advisory letter.

D. a report of all complaints filed shall be provided to the board at each regular board meeting.
[16.30.5.8 NMAC - Rp, 16 NMAC 30.5.8, 9/6/2001; A, 9/15/2016; A, 6/10/2018; A, 01/11/2022]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.7 NMAC, Sections 8 and 9, effective 01/11/2022.

16.30.7.8 EXPEDITED LICENSURE: The Board complies with the expedited licensure procedures and fee schedule for military service members, spouses and veterans as outlined in the Uniform Licensing Act, Section 61-1-34, NMSA 1978.
[16.30.7.8 NMAC - N, 1/15/2019; A, 01/11/2022]

16.30.7.9 ~~[FEES: Fees for military service members, their spouses and veterans shall be reduced by fifty percent.]~~ **[RESERVED]**
[16.30.7.9 NMAC - N, 1/15/2019; Repealed 01/11/2022]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 7 LICENSURE REQUIREMENTS FOR SPECIAL EVENTS, MOBILE BODY ART AND GUESTS

16.36.7.1 ISSUING AGENCY: Board of Body Art Practitioners.
[16.36.7.1 NMAC – N, 2/3/2022]

16.36.7.2 SCOPE: Any person wanting to participate in a body art related special event, mobile body art and guests.
[16.36.7.2 NMAC – N, 2/3/2022]

16.36.7.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.
[16.36.7.3 NMAC – N, 2/3/2022]

16.36.7.4 DURATION: Permanent.
[16.36.7.4 NMAC – N, 2/3/2022]

16.36.7.5 EFFECTIVE DATE: February 3, 2022, unless a later date is cited at the end of a section.
[16.36.7.5 NMAC – N, 2/3/2022]

16.36.7.6 OBJECTIVE: To outline the application process, for body art related special events, mobile body art, and guests.
[16.36.7.6 NMAC – N, 2/3/2022]

16.36.7.7 DEFINITIONS: **[RESERVED]**

16.36.7.8 SPECIAL EVENT, MOBILE BODY ART AND GUEST LICENSE REQUIREMENTS:

A. Any licensee desiring to sponsor a special event must first obtain approval from the board office staff. The purpose

of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board must be submitted at least 10 days prior to the event. Approval for the special events may be made administratively.

(1) The sponsor(s) and the establishment where the sponsor(s) is practicing must have a current license.

(2) The sponsor shall apply for the license at least 30 days prior to the event.

B. All provisions of these regulations shall apply with the following exceptions.

(1) Hand wash facilities shall be easily accessible to each procedure area and designated for use by artists only. Hand wash facilities or temporary hand wash facilities shall consist of antibacterial liquid soap, single-use paper towels, and adequate supply of potable water dispensed through a continuous flow spout. Wastewater shall be collected and disposed of in a sanitary manner.

(2) Body artist practitioners may bring pre-sterilized instruments or instruments that have been sterilized at another location with documentation showing a negative spore test result within the previous 30 days. On site sterilization units may be used and shall comply with 16.36.5 NMAC of these rules.

(3) After the last procedure is completed, all procedure areas shall be cleaned and disinfected.

C. A guest licensee is a body artist practitioner who is licensed in another jurisdiction or meets the requirements of licensure in New Mexico and shall practice 30 days or less in New Mexico. Registration is required before any person may act as a guest licensee. An applicant for registration as a guest licensee must:

(1) hold current licensure as a body artist practitioner in another jurisdiction or have the education or experience relating to the applicable type of New Mexico license requested; and

(2) be under the sponsorship of a New Mexico licensed body artist practitioner.

D. To be registered as a guest licensee the following must be submitted to the board:

(1) verification of sponsorship by a licensed body artist practitioner;

(2) a complete application;

(3) registration fee;

(4) proof of age indicating applicant is at least 18 years old (government-issued identification with a photo);

(5) copy of current CPR, first aid and blood borne pathogen training as defined within 16.36.7.9 NMAC.

(6) verification of licensure in another jurisdiction.

E. Applicants not licensed in another jurisdiction must provide documentation of education and experience relating to the applicable type of New Mexico license requested.

F. Guest body art registration will expire 30 days from the date of issuance. A guest license shall not extend beyond 30 days unless the licensee petitions the board and provides documentation that licensee has not worked 30 days in New Mexico. A guest license shall not be granted more than three times within a 12 month period. [16.36.7.8 NMAC – N, 2/3/2022]

16.36.7.9 PROOF OF COMPLETION OF TRAINING PROGRAM: Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a permanent cosmetic practitioner or body art operator. Such training must include:

A. a board approved blood borne pathogens training course that meets OSHA (occupational safety and health administration) standards and CDC (center for disease control) recommendations. The training course shall include an examination as

a condition of the training completion. The training must be completed within 12 months prior to application and annually thereafter. The training may be obtained through any of the following:

(1) nationally accredited organization;

(2) local government sponsored;

(3) hospital sponsored;

(4) college sponsored;

(5) OSHA sponsored;

(6) red cross;

or (7) board approved.

B. Current certification in first aid and cardiopulmonary resuscitation (CPR). The training shall be obtained through any of the following:

(1) nationally accredited organization;

(2) local government sponsored;

(3) hospital sponsored;

(4) college sponsored;

(5) OSHA (occupational safety and health administration) sponsored;

(6) red cross;

or (7) board approved;

C. An applicant for a permanent cosmetics apprenticeship shall file an apprentice agreement notarized by all parties that applicant shall complete the board required training requirements. [16.36.7.9 NMAC - N, 2/3/2022]

HISTORY OF 16.36.7 NMAC:

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 36 BODY ARTISTS AND OPERATORS PART 8 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS AND VETERANS

16.36.8.1 ISSUING AGENCY: Board of Body Art Practitioners. [16.36.8.1 NMAC – N, 2/3/2022]

16.36.8.2 SCOPE: This part sets for the application procedures to expedite licensure for military service members, their spouse or dependent children, and for veterans. [16.36.8.2 NMAC – N, 2/3/2022]

16.36.8.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978. [16.36.8.3 NMAC – N, 2/3/2022]

16.36.8.4 DURATION: Permanent. [16.36.8.4 NMAC – N, 2/3/2022]

16.36.8.5 EFFECTIVE DATE: February 3, 2022, unless a later date is cited at the end of a section. [16.36.8.5 NMAC – N, 2/3/2022]

16.36.8.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to 61-1-34 NMSA 1978. [16.36.8.6 NMAC – N, 2/3/2022]

16.36.2.7 DEFINITIONS: [RESERVED]

16.36.8.8 APPLICATION REQUIREMENTS:

A. Applications for registration shall be completed on a form provided by the board. All applications are valid for one year from date received. All fees are non-refundable.

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;

(4) date of birth;

(5) current bloodborne pathogens certification;

(6) current CPR/First Aid certification; 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 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 military service member's military orders, and 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 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 Body Art Safe Practices Act. [16.36.8.8 NMAC - N, 2/3/2022]

16.36.8.9 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 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B 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. 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.

C. An applicant whose license has expired for more than five years shall re-enter an approved training program (apprenticeship), take the tattoo, body piercing-scarification or permanent cosmetic exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent. [16.36.8.9 NMAC - N, 2/3/2022]

HISTORY OF 16.36.8 NMAC:
[RESERVED]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 36 BODY ARTISTS AND OPERATORS

PART 9 LICENSURE REQUIREMENTS FOR PERMANENT COSMETICS PRACTITIONER

16.36.9.1 ISSUING

AGENCY: Board of Body Art Practitioners.

[16.36.9.1 NMAC – N, 2/3/2022]

16.36.9.2 SCOPE:

Any person licensed as a permanent cosmetics practitioner pursuant to the Body Art Safe Practices Act.

[16.36.9.2 NMAC – N, 2/3/2022]

16.36.9.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.

[16.36.9.3 NMAC – N, 2/3/2022]

16.36.9.4 DURATION:

Permanent.

[16.36.9.4 NMAC – N, 2/3/2022]

16.36.9.5 EFFECTIVE

DATE: February 3, 2022, unless a later date is cited at the end of a section.

[16.36.9.5 NMAC – N, 2/3/2022]

16.36.9.6 OBJECTIVE:

To outline the application process, training and examination requirements and the renewal procedures for permanent cosmetics practitioner licensure.

[16.36.9.6 NMAC – N, 2/3/2022]

16.36.9.7 DEFINITIONS:

[RESERVED]

16.36.9.8 APPRENTICE LICENSE APPLICATION FOR PERMANENT COSMETICS PRACTITIONER:

A. Application forms:
(1) Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose. Incomplete applications will be returned. Designated deadlines will apply to resubmitted applications. All applications are valid for one year from date received.
(2) Applications for apprentice licensure must include:
(a) non-refundable application fee;
(b) a completed and signed application;
(c) full applicant name;
(d) proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);
(e) current electronic mail address;
(f) current phone number;
(g) name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be current upon receipt of application.
(h) an apprentice sponsorship application which must be completed and signed by a body art practitioner who meets the requirements within 16.36.9.9 NMAC and is licensed in the kind of body art the applicant is seeking an apprenticeship license;
(i) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.9.13 NMAC; and
(j) proof of current immunizations as defined in 16.36.9.11 NMAC; and
(k) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.
B. Photographs:
 Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of seventy-five percent or higher.
D. An apprentice must remain under the direct supervision of a sponsor until all requirements have been met or the apprentice license has been terminated by the board.
E. Renewal of a body art apprentice license:
(1) License will expire one year after date of issue;
(2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee.
(3) Licensees shall renew a body artist apprentice license on or before the expiration date if needed to complete their current apprenticeship.
(4) Renewal of apprentice license shall include the following information:
(a) name of apprentice sponsor;
(b) name of establishment and address where apprenticeship will be conducted, establishment license must be current upon receipt of application.
(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and
(d) proof of current immunizations as defined in 16.36.9.11 NMAC; and
(e) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.
 [16.36.9.8 NMAC – N, 2/3/2022]
16.36.9.9 SPONSOR LICENSE APPLICATION FOR PERMANENT COSMETICS:
A. A licensee may be approved to sponsor only one permanent cosmetic apprentice at a

time. Incomplete applications will be returned. All applications are valid for one year from date received. A complete application includes:
(1) non-refundable application fee;
(2) a current New Mexico permanent cosmetic license;
(3) documentation of legally practicing as a permanent cosmetics practitioner in New Mexico for at least five years without any disciplinary action;
(4) a curriculum as required in 16.36.9.14 NMAC to the board staff for approval; curriculum shall include references and resources to be used and methods of evaluation for each area covered; and
(5) name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be active upon receipt of application;
(6) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.
B. Photographs:
 Applicants for sponsor licensure shall attach a recent passport size, color photograph, front-view of face.
C. Upon approval of application, a board approved log will be available to record progress during the apprenticeship. This log will serve as proof of completion of training program.
D. Upon completion of the apprenticeship program, the sponsor and apprentice shall submit the apprentice log to the board administrator. The log shall be sent to the board administrator within 15 days and shall include a sworn statement made under penalty of perjury, from the sponsor and the apprentice stating the apprenticeship has been completed. The sponsor will give a copy of the log and statement to the apprentice.
E. The apprentice will then receive notification from the board stating the apprentice is eligible to take the national theory exam.

F. Renewal of body art apprentice sponsor license:

(1) License will expire one year after date of issue.

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee.

(3) Licensees shall renew a body artist apprentice sponsor license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

(a) name of apprentice;

(b) name of establishment and address where apprenticeship will be conducted, establishment license must be active upon receipt of application; and

(c) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.

[16.36.9.9 NMAC – N, 2/3/2022]

16.36.9.10 APPLICATION FOR PERMANENT COSMETICS PRACTITIONER LICENSE:

A. Application forms:
(1)

Applications shall be made on the official form provided by the board. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

(2) Applications for licensure must include:

(a) a completed and signed application;

(b) applicant name;

(c) date of birth;

(d) proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);

(e) establishment mailing address;

(f) current phone number;

(g) name, address and phone number of licensed establishment where services will be performed. Establishment license must be current upon receipt of application;

(h) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.9.13 NMAC;

(i) proof of current immunizations as defined in 16.36.9.11 NMAC;

(j) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC;

(k) proof of completion permanent cosmetics training program and examination as defined in 16.36.9.14 NMAC;

(l) a recent passport size, color photograph; and

(m) non-refundable application fee as required by the board.

B. Photographs: applicant for permanent cosmetic practitioner must submit a minimum of 10 photographs with at least two from the following areas:

(1) eyebrow simulation;

(2) lip liner;

(3) lip color;

and
(4) eyeliner/eyelash enhancer of eyes.

C. The applicant shall take and pass a written examination approved by the board and the board approved jurisprudence examination. The applicant must pass the exams with a minimum score of seventy-five percent or higher.

D. Renewal of a practitioner license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full

and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of license shall include the following information:

(a) name and address of establishment. Establishment license must be current upon receipt of application;

(b) name of establishment operator or supervisor;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.9.13 NMAC;

(d) proof of current immunizations as defined in 16.36.9.11 NMAC; and

(e) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.

[16.36.9.10 NMAC - N, 2/3/2022]

16.36.9.11 PROOF OF CURRENT IMMUNIZATIONS:

Proof shall be provided upon request of the board or board representative that apprentice, practitioner, and permanent cosmetic practitioner licensee has either completed or declined, on a form provided by the board, the hepatitis B vaccination series. For those who decline the hepatitis B vaccination series, an information brochure developed by the New Mexico department of health will be provided which explains the risks of hepatitis B and C.

[16.36.9.11 NMAC – N, 2/3/2022]

16.36.9.12 PROOF OF COMPLETION OF TRAINING PROGRAM:

Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a permanent cosmetic practitioner or body art operator. Such training must include:

A. a board approved blood borne pathogens training course that meets OSHA (occupational safety and health administration) standards and CDC (center for disease control) recommendations. The training course shall include an examination as a condition of the training completion. The training must be completed within 12 months prior to application and annually thereafter. The training may be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA sponsored;
- (6) red cross; or
- (7) board approved.

B. Current certification in first aid and cardiopulmonary resuscitation (CPR). The training shall be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA (occupational safety and health administration) sponsored;
- (6) red cross; or
- (7) board approved;

C. An applicant for a permanent cosmetics apprenticeship shall file an apprentice agreement notarized by all parties that applicant shall complete the board required training requirements.
[16.36.9.12 NMAC - N, 2/3/2022]

16.36.9.13 PERMANENT COSMETIC APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS:

A. Upon successful completion of an apprenticeship program, an applicant for an original permanent cosmetic practitioner license shall provide proof of having completed a 255 hour board approved curriculum, and shall perform under the direct supervision of a board approved sponsor. An approved basic fundamental curriculum shall include the following requirements:

- B.** A minimum of five of each of the following procedures: 60 hours
- (1) eye brow simulation; microblading, hairstrokes, shading;
 - (2) lip liner;
 - (3) lip color; and
 - (4) eye liner/eyelash enhancement.

C. Client records shall be maintained by the practitioner applicant to verify that the minimum requirements for the procedures were completed.

D. The practitioner applicant shall submit 10 before and after photographs whereby the practitioner has personally performed one complete procedure for each of the following areas:

- (1) eye brow simulation;
- (2) lip liner;
- (3) lip color; and
- (4) eye liner/eyelash enhancement.

E. Introduction to permanent cosmetics: 10 hours

- (1) History of tattooing as it applies to permanent makeup.
- (2) Overview of the different types of machines and devices.

F. Professional standards and client care: 20 hours

- (1) Client expectations.

- (2) Medical history.
- (3) Consent and disclosure form.
- (4) Record keeping.

(5) HIPPA standards.

(6) Photography.

G. Office set-up: 10 hours

(1) Understanding establishment requirements.

(2) General equipment.

(3) Table, chair, work surface, lightening.

H. Disinfection and sterilization: 100 hours

(1) Definition of terms.

(2) Discuss acceptable forms of sterilization.

(3) Proper use of chemical agents, antiseptics, disinfestations, and fumigants.

(4) OSHA and CDC guidelines regarding blood borne pathogens.

(5) Hand washing stations.

(6) Hepatitis B vaccination.

(7) PPE, such as gloves and proper attire to avoid cross contamination.

(8) Proper handling of devices, needles, and pigments.

(9) Sanitary measures during procedure set-up, and clean-up.

I. Client preparation: 10 hours

(1) Preparing the clients skin.

(2) Ways of marking the skin.

(3) Anesthetics used before, during, and after procedure.

J. Color and pigment theory: 10 hours

(1) Knowledge of skin type and undertones.

(2) Pigment care such as expiration, storage, and mixing.

(3) Use of safety sheets.

K. Skin anatomy: 20 hours

(1) Understanding of skin and layers.

(2) Healing process of the skin and its care.

(3) Diseases, disorders, and conditions such as; infection, herpes simplex, shingles, moles, warts, freckles, psoriasis, eczema, rosacea, and reactions.

L. Machine/Needle theory: 10 hours

(1) Operation, maintenance, and instrument storage.

(2) Proper needle handling and disposal.

(3) Groups, numbers, and configurations.

(4) Pre-sterilized, single use.

M. Business set-up: 5 hours

(1) Basic business and social media guidelines.

(2) Legal requirements.

(3) Insurance/liability.

(4) New Mexico laws and regulations.

N. An applicant for permanent cosmetic practitioner license shall take an exam approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.

O. A permanent cosmetic practitioner applicant engaged in a state board approved apprenticeship training program prior to the effective date of July 1, 2018 shall have until August 31, 2018 to comply with apprenticeship requirements.
[16.36.9.13 NMAC – N, 2/3/2022]

16.36.9.14 EXPIRED LICENSE:

A. An applicant whose license has been expired for one year but less than two years shall

submit an application, payment of all renewal fees to bring the license current, proof of completion of blood borne pathogens training within the prior 12 months, current CPR and first aid certification, and take and pass a board approved jurisprudence examination with a minimum score of seventy-five percent.

B. An applicant whose license has expired for more than two years shall take the permanent cosmetic written examination approved by the board with a passing minimum score approved by the board. Applicant must also take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

C. An operator whose establishment license has expired shall submit a reinstatement application, payment of reinstatement fee for each year the license has been expired; and name of licensed operator.

D. A practitioner whose license has been expired more than five years shall re-enter an approved training program (apprenticeship), take permanent cosmetic exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.
[16.36.9.14 NMAC – N, 2/3/2022]

16.36.9.15 CREDIT GRANTED FOR SUBSTANTIALLY EQUIVELENT TRAINING AND EXPERIENCE:

A. An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant's training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an

official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition to those set forth in Subsections A through C of this Section 16.36.9.16 NMAC:

B. An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant's training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition to those set forth in Subsections A through C of this Section 16.36.9.16 NMAC:

(1) a certified copy of a current tattoo or body artist license from the other state or jurisdiction or provided that the board shall grant credit for training and experience obtained from any source;

(2) a current copy of the rules and regulations pertaining to tattooing, body piercing, scarification, and permanent cosmetics from the other state or jurisdiction;

(3) a letter of licensure verification mailed by the licensing authority from the other state or jurisdiction to the board which shall include:

(a) verification that the applicant holds a valid and unexpired license;

(b) the license issuance date;

(c) the license expiration date;

(d) a statement as to whether the applicant has ever been subject to discipline or if there are any complaints or investigations pending against the licensee; and

(e) upon the request of the board, a written consent from the applicant allowing the board or its designee to examine disciplinary, complaint, or investigative records of the other licensing authority; and

(f) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC.

C. An applicant seeking credit for training and experience obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico whose licensing requirements are less stringent than those in effect in New Mexico shall be required to meet the requirements of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act.

(1) If the applicant's training and experience is from a state or jurisdiction outside New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following requirements are met:

(2) the applicant was authorized by law to perform tattooing, body piercing, scarification, or permanent cosmetics without limitation in the state or jurisdiction during the time period the applicant obtained the training and experience;

(3) the applicant has been a tattoo or body artist who has performed tattooing, body piercing, scarification, and permanent cosmetics in that state or jurisdiction immediately prior to applying for licensure as a body artist in New Mexico; and

(4) the applicant shall submit to the board:

(a) three letters of recommendation from a licensed tattoo or body artist in good standing in New Mexico or another state or jurisdiction;

(b) twenty color photographs of completed procedures by the applicant, demonstrating the applicant's ability, knowledge, and

fitness to tattooing, body piercing, scarification, and permanent cosmetics procedures effectively and in a safe and healthy environment;

(c) CPR, First Aid and blood borne pathogen certificates issued to the applicant within six months immediately preceding the application for licensure;

(d) affidavits from prior employers or supervisors;

(e) W-2 or 1099 forms; and

(f) federal or state tax returns verifying occupational status.

D. If the applicant's training and experience was not obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico, or through an apprenticeship or training program from a state or jurisdiction outside New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following minimum requirements are met.

For the board to approve an apprenticeship or training program from a state or jurisdiction outside New Mexico, the applicant must submit satisfactory evidence to the board or its designee of the following:

(1) the apprenticeship or training program was licensed or accredited for that purpose by a state agency;

(2) the applicant successfully completed the apprenticeship or training program, as shown by an official transcript or certificate of completion;

(3) during the applicant's participation in the apprenticeship or training program, the applicant's sponsor or trainer was licensed and in good standing as a tattoo or body artist in the state or jurisdiction where the apprenticeship or training was completed;

(4) the applicant completed the apprenticeship or training program under the direct supervision of the sponsor or trainer in a state-approved program for tattoo or body artists;

(5) the apprenticeship or training program covered the areas of theory and practical experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act;

(6) if the apprenticeship or training program completed in another state or jurisdiction included hours allotted to studying the laws and regulations of that state or jurisdiction, the board in its sole discretion may count those hours toward the required number of hours allotted to studying New Mexico laws and regulations; and

(7) the apprenticeship or training program included the total number of hours of theory and practical experience and the number of completed procedures required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act.

[16.36.9.15 NMAC - N, 2/3/2022]

16.36.9.16 ADDITIONAL TRAINING REQUIREMENTS:

If the board determines that an applicant's training and experience is not substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act, it may require:

A. the applicant to complete additional course work before proceeding with the application process; and

B. the applicant to meet any other requirements as may be prescribed by the board, including a practical exam or an apprenticeship program.

[16.36.9.16 NMAC - N, 2/3/2022]

HISTORY OF 16.36.9 NMAC: [RESERVED]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 36 BODY ARTISTS AND OPERATORS PART 10 LICENSURE REQUIREMENTS FOR BODY PIERCING-SCARIFICATION PRACTITIONER

16.36.10.1 ISSUING

AGENCY: Board of Body Art Practitioners.
[16.36.10.1 NMAC – N, 2/3/2022]

16.36.10.2 SCOPE:

Any person licensed to practice body piercing-scarification under the Body Art Safe Practices Act.
[16.36.10.2 NMAC – N, 2/3/2022]

16.36.10.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the Body Art Safe Practices Act, Section 61-17B-5 NMSA 1978.
[16.36.10.3 NMAC – N, 2/3/2022]

16.36.10.4 DURATION:

Permanent.
[16.36.10.4 NMAC – N, 2/3/2022]

16.36.10.5 EFFECTIVE

DATE: February 3, 2022, unless a later date is cited at the end of a section.
[16.36.10.5 NMAC – N, 2/3/2022]

16.36.10.6 OBJECTIVE:

To outline the application process, training and examination requirements and the renewal procedures.
[16.36.10.6 NMAC – N, 2/3/2022]

16.36.10.7 DEFINITIONS:

[RESERVED]
[16.36.10.7 NMAC – N, 2/3/2022]

16.36.10.8 APPRENTICE LICENSE APPLICATION FOR BODY PIERCING-SCARIFICATION:

A. Application forms: (1)

Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose. Incomplete applications will be returned. Designated deadlines will apply to resubmitted applications. All applications are valid for one year from date received.

(2)

Applications for apprentice licensure must include:

- (a)** non-refundable application fee;
- (b)** a completed and signed application;
- (c)** applicant name;
- (d)** proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);
- (e)** current electronic mail address
- (g)** current phone number;
- (h)** name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be current upon receipt of application.
- (i)** an apprentice sponsorship application which must be completed and signed by a body art practitioner who meets the requirements within 16.36.10.9 NMAC and is licensed in the kind of body art the applicant is seeking an apprenticeship license;
- (j)** copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.10.13 NMAC; and
- (k)** proof of current immunizations as defined in 16.36.10.11 NMAC; and
- (l)** proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.

B. Photographs:

Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure

the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of seventy-five percent or higher.

D. An apprentice

must remain under the direct supervision of his or her sponsor until all requirements have been met or the apprentice license has been terminated by the board.

E. Renewal of a body art apprentice license:

- (1)** License will expire one year after date of issue;
 - (2)** Timely renewal of license(s) is the full and complete responsibility of the Licensee. Failure to renew the license by the expiration date will result in a late fee.
 - (3)** Licensees shall renew a body piercing-scarification license on or before the expiration date if needed to complete their current apprenticeship.
 - (4)** Renewal of apprentice license shall include the following information:
 - (a)** name of apprentice sponsor;
 - (b)** name of establishment and address where apprenticeship will be conducted, establishment license must be current upon receipt of application.
 - (c)** copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.10.13 NMAC; and
 - (d)** proof of current immunizations as defined in 16.36.10.11 NMAC; and
 - (e)** proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.
- [16.36.10.8 NMAC – N, 2/3/2022]

16.36.10.9 SPONSOR LICENSE APPLICATION FOR BODY PIERCING-SCARIFICATION:

A. A licensee may be approved to sponsor only one body piercing-scarification apprentice at a time. Incomplete applications will be returned. All applications are valid for one year from date received. A complete application includes:

- (1) non-refundable application fee;
- (2) a current New Mexico body piercing-scarification license;
- (3) documentation of legally practicing body piercing-scarification in New Mexico for at least five years without any disciplinary action;
- (4) a curriculum as required in 16.36.10.14 NMAC to the board staff for approval; curriculum shall include references and resources to be used and methods of evaluation for each area covered; and
- (5) name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be active upon receipt of application.

(6) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.

B. Photographs: Applicants for sponsor licensure shall attach a recent passport size, color photograph, front-view of face.

C. Upon approval of application, a board approved log will be available to record progress during the apprenticeship. This log will serve as proof of completion of training program. The sponsor shall submit a completed log to the board administrator on the first day of each month showing the previous month progress report.

D. Upon completion of the apprenticeship program, the sponsor and apprentice shall submit the apprentice log to the board administrator. The log shall be sent to the board administrator within 15 days and shall include a sworn statement made under penalty of perjury, from the sponsor and the apprentice stating the apprenticeship has been completed. The sponsor will

give a copy of the log and statement to the apprentice.

E. The apprentice will then receive notification from the board stating the apprentice is eligible to take the national theory exam.

F. Renewal of body piercing and scarification sponsor license:

- (1) License will expire one year after date of issue;
- (2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee.
- (3) Licensees shall renew a body piercing and scarification apprentice sponsor license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

- (a) name of apprentice; and
- (b) name of establishment and address where apprenticeship will be conducted, establishment license must be active upon receipt of application.

(c) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC. [16.36.10.9 NMAC – N, 2/3/2022]

16.36.10.10 APPLICATION FOR BODY PIERCING-SCARIFICATION PRACTITIONER LICENSE:

A. Application forms: (1)

Applications shall be made on the official form provided by the board. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

- (2) Applications for licensure must include:
 - (a) a completed and signed application;

- (b) applicant name;
- (c) date of birth;
- (d) proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);
- (e) establishment mailing address;
- (f) current phone number;
- (g) name, address and phone number of licensed establishment where services will be performed. Establishment license must be current upon receipt of application;
- (h) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.10.13 NMAC;
- (i) proof of current immunizations as defined in 16.36.10.11 NMAC;
- (j) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC;
- (k) proof of completion of body piercing-scarification training program and examination as defined in 16.36.10.14 NMAC.
- (l) a recent passport size, color photograph; and
- (m) non-refundable application fee as required by the board.

B. Photographs: applicant for body piercing-scarification must include a minimum of 10 photographs of healed piercing the applicant has personally performed.

C. The applicant shall take and pass a written examination approved by the board and the board approved jurisprudence examination. The applicant must pass the exams with a minimum score of seventy-five percent or higher.

D. Renewal of a practitioner license: (1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of license shall include the following information:

(a) name and address of establishment. Establishment license must be current upon receipt of application;

(b) name of establishment operator or supervisor;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.10.13 NMAC; and

(d) proof of current immunizations as defined in 16.36.10.11 NMAC; and

(e) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.

[16.36.10.10 NMAC – N, 2/3/2022]

16.36.10.11 PROOF OF CURRENT IMMUNIZATIONS:

Proof shall be provided upon request of the board or board representative that apprentice, practitioner, and permanent cosmetic practitioner licensee has either completed or declined, on a form provided by the board, the hepatitis B vaccination series. For those who decline the hepatitis B vaccination series, an information brochure developed by the New Mexico department of health will be provided which explains the risks of hepatitis B and C.

[16.36.10.11 NMAC – N, 2/3/2022]

16.36.10.12 PROOF OF COMPLETION OF TRAINING PROGRAM:

Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a body piercing scarification

practitioner, or body art operator.

Such training must include:

A. a board approved blood borne pathogens training course that meets OSHA (occupational safety and health administration) standards and CDC (center for disease control) recommendations. The training course shall include an examination as a condition of the training completion. The training must be completed within 12 months prior to application and annually thereafter. The training may be obtained through any of the following:

(1) nationally accredited organization;

(2) local government sponsored;

(3) hospital sponsored;

(4) college sponsored;

(5) OSHA sponsored;

(6) red cross;

(7) board approved.

B. Current certification in first aid and cardiopulmonary resuscitation (CPR). The training shall be obtained through any of the following:

(1) nationally accredited organization;

(2) local government sponsored;

(3) hospital sponsored;

(4) college sponsored;

(5) OSHA (occupational safety and health administration) sponsored;

(6) red cross;

(7) board approved;

C. An applicant for a body piercing-scarification apprenticeship shall file an apprentice agreement signed under penalty of perjury, by all parties that applicant shall complete the board required training requirements.

[16.36.10.12 NMAC – N, 2/3/2022]

16.36.10.13 BODY PIERCING - SCARIFICATION APPRENTICESHIP TRAINING AND EXAMINATION REQUIREMENTS

A. Upon successful completion of apprenticeship program, an applicant for original piercing-scarification practitioner license shall provide proof, acceptable to the board or its designee, that applicant has completed an apprenticeship program under the direct supervision of a licensed practitioner with instruction and experience in the kind of body art for which the applicant seeks a body art practitioner license.

B. Proof of completing an apprentice program shall include:

(1) verification of completion of apprenticeship program on a log provided by the board;

(2) a minimum of 10 original photographs of healed piercings-scarifications which the artisan has personally performed and a minimum of three signed testaments from previous clients.

C. Body piercing apprenticeship curriculum: 1200 hours:

(1) Orientation - 100 hours:

(a) state laws and regulations;

(b) tax and business license requirements;

(c) OSHA blood borne pathogens standard;

(d) the establishment's exposure control plan;

(e) SDS sheets;

(f) paperwork and business documentation;

(g) HIPAA (Health Insurance Portability and Accountability Act of 1996 privacy rule);

(h) environment/appropriate studio set-up;

professional image;	(i)	sterile chart;	(m)	determining the appropriateness of a piercing;	(q)
appropriate communication with clients;	(j)	cleaning/appropriate procedures;	(n)	equipment;	(r)
ethics and legalities:	(k)	implement pre-cleaning before sterilization/appropriate use of cleaning solutions and ultrasonic cleaners;	(o)	disposable supplies;	(s)
minors;	(i)	disinfection/appropriate use and disposal of disinfecting solutions; and	(p)	reusable equipment;	(t)
drugs and alcohol;	(ii)	sterilization/appropriate use and maintenance of autoclave sterilizers.	(q)	storage;	(u)
medical conditions/risk assessment;	(iii)		(3) Body	aftercare; and	(v)
personal boundaries;	(iv)	piercing theory - 200 hours:	(a)	piercing guns (theory only).	(w)
dealing with emergencies:	(i)	jewelry;	(b)	piercing observation/practical - 800 hours:	(x)
blood spills;	(ii)	standards and certifications;	(c)	proper use of safety procedures outlined in theory training;	(y)
fainting;	(iii)	certified materials for new piercings;	(d)	aseptic technique;	(4) Body
bleeding;	(iv)	other appropriate materials for new piercings;	(e)	room set-up and break-down;	(a)
needlesticks; and	(v)	jewelry materials for healed piercings;	(f)	skin preparation;	(b)
other exposures.	(2)	jewelry to avoid;	(g)	client relations/relaxation techniques;	(c)
Sterilization, disinfection theory and practical - 100 hours:	(a)	quality jewelry (things to look for);	(h)	pain management;	(d)
microbiology;	(b)	jewelry styles;	(i)	piercing techniques;	(e)
definitions;	(c)	cleaning, sterilization and storage of jewelry;	(j)	dealing with mistakes;	(f)
microorganisms of the skin;	(d)	anatomy;	(k)	in order to be approved, curriculum for body piercing practitioner training shall include, at a minimum, 50 practical body piercing procedures performed by the apprentice under sponsor supervision. The 50 supervised completed procedures shall consist of at least five completed procedures in each of the following areas:	(g)
factors that influence the survival and growth of microorganisms;	(e)	understanding of skin;	(l)	ears;	(h)
breaking the chain of infection;	(f)	parts and functions of skin;	(m)	nose;	(i)
infection control;	(g)	oral/facial anatomy as it pertains to piercing;	(n)	tongue;	(ii)
handwashing;	(h)	knowledge and ability to avoid damage to underlying blood vessels and nerves;	(o)	nipple;	(iii)
types of soaps and hand sanitizers;	(i)	knowledge and recognition of disorders, anomalies and diseases of the skin;	(p)		(iv)
use of gloves and other personal protective equipment;	(j)	body anatomy as it pertains to piercing;			
how to recognize, prevent and remedy cross-contamination;	(k)				
immunizations;	(l)				
cleaning, disinfection and sterilization;					

navel;
 eyebrow;
 lip/labret; and
 septum.

(j) Curriculum should include the following for each procedure:

related anatomy;
 appropriate placement;
 skin preparation;
 implement selection and use;
 techniques; and
 healing and aftercare.

An applicant for a body art piercing-scarification practitioner license shall take the body piercing-scarification examination approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program. [16.36.10.13 NMAC – N, 2/3/2022]

16.36.10.14 EXPIRED LICENSE:

A. An applicant whose license has been expired for one year but less than two years shall submit an application, payment of all renewal fees to bring the license current, proof of completion of blood borne pathogens training within the prior 12 months, current CPR and first aid certification, and take and pass a board approved jurisprudence examination with a minimum score of seventy-five percent.

B. An applicant whose license has expired for more than two years shall take the body piercing-scarification written examination

(v) approved by the board with a passing minimum score approved by the board. Applicant must also take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

(vii) **C.** An operator whose establishment license has expired shall submit a reinstatement application, payment of reinstatement fee for each year the license has been expired; and name of licensed operator.

(viii) **D.** A practitioner whose license has been expired more than five years shall re-enter an approved training program (apprenticeship), take the body piercing-scarification exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.

[16.36.10.14 NMAC – N, 2/3/2022]

16.36.10.15 CROSSOVER

HOURS: Individuals who are licensed in one discipline may transfer 100 hours of orientation toward their apprenticeship in another discipline, if they have at least one year of full time, verified work experience in a licensed establishment and complete the remaining required hours for licensure.

[16.36.10.15 NMAC – N, 2/3/2022]

16.36.10.16 CREDIT GRANTED FOR SUBSTANTIALLY EQUIVELENT TRAINING AND EXPERIENCE:

A. An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant’s training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an

official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition to those set forth in Subsections A through C of this Section 16.36.10.17 NMAC:

B. An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant’s training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition to those set forth in Subsections A through C of this Section 16.36.10.17 NMAC:

(1) a certified copy of a current tattoo or body artist license from the other state or jurisdiction or provided that the board shall grant credit for training and experience obtained from any source;

(2) a current copy of the rules and regulations pertaining to tattooing, body piercing, scarification, and permanent cosmetics from the other state or jurisdiction;

(3) a letter of licensure verification mailed by the licensing authority from the other state or jurisdiction to the board which shall include:

(a) verification that the applicant holds a valid and unexpired license;

(b) the license issuance date;

(c) the license expiration date;

(d) a statement as to whether the applicant has ever been subject to discipline or if there are any complaints or

investigations pending against the licensee; and

(e) upon the request of the board, a written consent from the applicant allowing the board or its designee to examine disciplinary, complaint, or investigative records of the other licensing authority.

(f) proof of criminal convictions as defined in 16.36.4.9 NMAC.

C. An applicant seeking credit for training and experience obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico whose licensing requirements are less stringent than those in effect in New Mexico shall be required to meet the requirements of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act.

(1) If the applicant's training and experience is from a state or jurisdiction outside New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following requirements are met:

(2) the applicant was authorized by law to perform tattooing, body piercing, scarification, or permanent cosmetics without limitation in the state or jurisdiction during the time period the applicant obtained the training and experience;

(3) the applicant has been a tattoo or body artist who has performed tattooing, body piercing, scarification, and permanent cosmetics in that state or jurisdiction immediately prior to applying for licensure as a body artist in New Mexico; and

(4) the applicant shall submit to the board:

(a) three letters of recommendation from a licensed tattoo or body artist in good standing in New Mexico or another state or jurisdiction;

(b) twenty color photographs of completed procedures by the applicant, demonstrating the

applicant's ability, knowledge, and fitness to tattooing, body piercing, scarification, and permanent cosmetics procedures effectively and in a safe and healthy environment;

(c) CPR, First Aid and blood borne pathogen certificates issued to the applicant within six months immediately preceding the application for licensure;

(d) affidavits from prior employers or supervisors;

(e) W-2 or 1099 forms; and

(f) federal or state tax returns verifying occupational status.

D. If the applicant's training and experience was not obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico, or through an apprenticeship or training program from a state or jurisdiction outside New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following minimum requirements are met. For the board to approve an apprenticeship or training program from a state or jurisdiction outside New Mexico, the applicant must submit satisfactory evidence to the board or its designee of the following:

(1) the apprenticeship or training program was licensed or accredited for that purpose by a state agency;

(2) the applicant successfully completed the apprenticeship or training program, as shown by an official transcript or certificate of completion;

(3) during the applicant's participation in the apprenticeship or training program, the applicant's sponsor or trainer was licensed and in good standing as a tattoo or body artist in the state or jurisdiction where the apprenticeship or training was completed;

(4) the applicant completed the apprenticeship or training program under the direct supervision of the

sponsor or trainer in a state-approved program for tattoo or body artists;

(5) the apprenticeship or training program covered the areas of theory and practical experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act;

(6) if the apprenticeship or training program completed in another state or jurisdiction included hours allotted to studying the laws and regulations of that state or jurisdiction, the board in its sole discretion may count those hours toward the required number of hours allotted to studying New Mexico laws and regulations; and

(7) the apprenticeship or training program included the total number of hours of theory and practical experience and the number of completed procedures required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act.

[16.36.10.16 NMAC - N, 2/3/2022]

16.36.10.17 ADDITIONAL TRAINING REQUIREMENTS:

If the board determines that an applicant's training and experience is not substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act, it may require:

A. the applicant to complete additional course work before proceeding with the application process; and

B. the applicant to meet any other requirements as may be prescribed by the board, including a practical exam or an apprenticeship program.

[16.36.10.17 NMAC - N, 2/3/2022]

HISTORY OF 16.36.10 NMAC: [RESERVED]

**REGULATION AND
LICENSING DEPARTMENT
BODY ART PRACTITIONERS**

This is an amendment to 16.36.1 NMAC, Sections 1, 7 and 12, effective 2/3/2022.

16.36.1.1 ISSUING AGENCY: [~~Regulation and Licensing Department,~~] Board of Body Art Practitioners. [16.36.1.1 NMAC - Rp, 16.36.1.1 NMAC, 2/4/2016; A, 2/3/2022]

16.36.1.7 DEFINITIONS: As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning.

A. "Aftercare" means written instructions given to the client, specific to the body piercing or tattooing procedure(s) rendered, on caring for the body piercing or tattoo and surrounding area.

B. "Antiseptic" means an agent that destroys disease-causing microorganisms on human skin or mucosa.

C. "Apprentice" means a person who works under the direct supervision of a licensed apprentice sponsor to learn a trade from someone who is already skilled at a job.

D. "Apprentice Sponsor" means a person who is an actively licensed, skilled professional in a profession, art, craft or trade for a minimum of five years and is someone who accepts responsibility to teach an apprentice one on one.

E. "Aseptic" means the state of being free from the living disease, fermentation, or putrefaction.

F. "Autoclave" means a piece of medical equipment that employs the steam under pressure method of sterilization.

G. "Board" means the board of body art practitioners.

H. "Body art" means tattooing, body piercing, [or] scarification, or permanent cosmetics but does not include practices that are considered medical procedures by the New Mexico medical board.

I. "Body art establishment" means a fixed or mobile place where body art is administered on the premises.

J. "Body artist" means a person who administers body piercing, tattooing, [or] scarification, or permanent cosmetics.

K. "Body piercing" means to cut, stab or penetrate the skin to create a permanent hole or opening.

L. "Client" means an individual receiving any body art procedure(s).

M. "Completed procedure" means, for the purposes of determining qualification for licensure, a tattoo, body piercing, scarification or permanent cosmetics that has been finished, including any touchups or additional work following initial healing, with the client released from service.

[M] N. "Direct Supervision" means the process under which an act is performed by another person with a licensed body artist or permanent makeup cosmetics professional practitioner licensed pursuant to the Body Art Safe Practices Act:

- (1) Is physically present in the establishment 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 client departs the care setting; and
- (4) Is capable of responding immediately if any emergency should arise.

O. "Disqualifying Criminal Conviction" has the same meaning as defined in Subsection E of Section 61-1-36 NMSA 1978.

[N] P. "Equipment" means machinery used in connection with the operation of a body art establishment, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks and other apparatuses and appurtenances.

[O] Q. "Guest License" means a person temporary authorized to administer tattooing, body piercing-scarification, or permanent cosmetics for a period of 30 days from date license issued.

[P] R. "Instruments used for body art" means hand pieces, needles, needle bars and other items that may come into contact with a person's body during the administration of body art.

[Q] S. "Jurisprudence Examination" means the examination given regarding the laws, rules and regulations, which relate to the practice of body art in the state of New Mexico.

T. "License" has the same meaning as defined in Paragraph (1) of Subsection F of Section 61-1-34 NMSA 1978.

U. "Licensing fee" has the same meaning as defined in Paragraph (2) of Subsection F of Section 61-1-34 NMSA 1978.

[R] V. "Military service member" [means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard:] has the same meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

[S] W. "Operator" means the owner of a body art establishment.

[F] X. "Permanent Cosmetics Practitioner" means a person who tattoos eyeliner, eyebrows, lip liner, full lip color, and repigmentation or camouflage on the face, using tattooing techniques of placing pigments under the skin.

[H] Y. "SDS" means safety data sheet(s) used to communicate the hazards of hazardous chemical products which may be found in a body art establishment.

[V] Z. "Sharps" means any sterilized object that is used for the purpose of penetrating the skin or mucosa, including needles, scalpel blades and razor blades.

[W] AA. "Single use" means products or items that are intended for one-time, one-person

use and are disposed of after use on each client, including cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups and protective gloves.

~~[X]~~ **BB. “Special Event”** means an event where procedures will be performed and will not be conducted at a licensed establishment.

~~[Y]~~ **CC. “Sterilization”** means destruction of all forms of macrobiotic life, including spores.

~~DD.~~ **“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 Body Art Safe Practice Act.

~~[Z]~~ **EE. “Supervising Licensee”** means licensed practitioner who manages the licensed body art establishment. This may or may not be the operator.

~~[AA]~~ **FF. “Veteran”** [means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section:] has the same meaning as defined in Paragraph (4) of Subsection F of Section 61-1-34 NMSA 1978. [16.36.1.7 NMAC - Rp, 16.36.1.7 NMAC, 2/4/2016; A, 6/21/2018; A, 2/3/2022]

16.36.1.12 ELECTRONIC SIGNATURES: Electronic signatures will be acceptable for body artist practitioner and establishment applications, renewal applications and forms pursuant to the Uniform Electronic Transactions Act, Section 14-16-1 NMSA 1978. [16.36.1.12 NMAC - N, 2/3/2022]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

This is an amendment to 16.36.2 NMAC, Sections 1, 2, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 21, 22 and 23, effective 2/3/2022.

16.36.2.1 ISSUING AGENCY: [~~Regulation and Licensing Department;~~] Board of Body Art Practitioners. [16.36.2.1 NMAC - Rp, 16.36.2.1 NMAC, 6/21/2018, A, 2/3/2022]

16.36.2.2 SCOPE: Any person licensed to practice body art tattoo [~~piereing, scarification~~] and all operators. [16.36.2.2 NMAC - Rp, 16.36.2.2 NMAC, 6/21/2018, A, 2/3/2022]

16.36.2.8 APPRENTICE LICENSE APPLICATION FOR BODY ART TATTOO [~~PIERCING-SCARIFICATION, OR PERMANENT COSMETICS~~]:

A. Application forms:
(1)

Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose. Incomplete applications will be returned. Designated deadlines will apply to resubmitted applications. All applications are valid for one year from date received.

(2)

Applications for apprentice licensure must include:

- (a)** non-refundable application fee;
- (b)** a completed and signed application;
- (c)** applicant name;
- ~~[d]~~ social security number;]

~~[e]~~ **(d)** proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);

~~[f]~~ **(e)** [email] current electronic mail address;

~~[g]~~ **(f)** current phone number;

~~[h]~~ **(g)** name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be current upon receipt of application.

~~[i]~~ **(h)** an apprentice sponsorship application which must be completed and signed by a body art practitioner who meets the requirements within 16.36.2.9 NMAC and is licensed in the kind of body art the applicant is seeking an apprenticeship license;

~~[j]~~ **(i)** copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and

~~[k]~~ **(j)** proof of current immunizations as defined in 16.36.2.12 NMAC; and

~~[l]~~ **(k)** proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.

B. Photographs: Applicants for original licensure shall attach a recent passport size, color photograph, front-view of face.

C. Prior to licensure the applicant shall take and pass a board approved jurisprudence examination. The applicant must pass the jurisprudence exam with a minimum score of seventy-five percent or higher.

D. An apprentice must remain under the direct supervision of [~~his or her~~] their sponsor until all requirements have been met or the apprentice license has been terminated by the board.

E. Renewal of a body art apprentice license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the [~~LICENSEE~~] licensee. Failure to renew the license by the expiration date will result in a late fee.

(3) Licensees shall renew a body artist apprentice license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

- (a) name of apprentice sponsor;
- (b) name of establishment and address where apprenticeship will be conducted, establishment license must be current upon receipt of application.

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; ~~and~~

(d) proof of current immunizations as defined in 16.36.2.12 NMAC; ~~and~~

~~(e) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.~~

~~[(5) — Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.] [16.36.2.8 NMAC - Rp, 16.36.2.8 NMAC, 6/21/2018, A, 2/3/2022]~~

16.36.2.9 SPONSOR LICENSE APPLICATION FOR BODY ART TATTOO [~~PIERCING-SCARIFICATION, OR PERMANENT COSMETICS~~]:

A. A licensee may be approved to sponsor only one body art tattoo, [~~body piercing-scarification, or permanent cosmetic~~] apprentice at a time. Incomplete applications will be returned. All applications are valid for one year from date received. A complete application includes:

- (1) non-refundable application fee;
- (2) a current New Mexico body art tattoo, [~~body piercing-scarification, or permanent cosmetic~~] license;
- (3) documentation of legally practicing body art tattooing, [~~body piercing-scarification, or permanent cosmetics~~] in New Mexico for at least five years without any disciplinary action;

(4) a curriculum as required in [~~Sections 14, 15 and 16 of 16.36.2~~] 16.36.2.15 NMAC to the board staff for

approval; curriculum shall include references and resources to be used and methods of evaluation for each area covered; and

(5) name, address and phone number of licensed establishment where apprenticeship will be conducted. Establishment license must be active upon receipt of application;

~~(6) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC;~~

B. Photographs:
Applicants for sponsor licensure shall attach a recent passport size, color photograph, front-view of face.

C. Upon approval of application, a board approved log will be available to record progress during the apprenticeship. This log will serve as proof of completion of training program. The sponsor shall submit a completed log to the board administrator on the first day of each month showing the previous month progress report.

D. Upon completion of the apprenticeship program, the sponsor and apprentice shall submit [sign and notarize] the apprentice log to the board administrator. The [notarized] signed log shall be sent to the board within [30] 15 days and shall include a sworn statement made under penalty of perjury, from the sponsor and the apprentice stating the apprenticeship has been completed. The sponsor will give a copy of the [notarized] signed log and statement to the apprentice.

E. The apprentice will then receive notification from the board stating the apprentice is eligible to take the national theory exam.

F. Renewal of body art apprentice sponsor license:

- (1) License will expire one year after date of issue;
- (2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee.

(3) Licensees shall renew a body artist tattoo

apprentice sponsor license on or before the expiration date if needed to complete their current apprenticeship.

(4) Renewal of apprentice license shall include the following information:

- (a) name of apprentice; ~~and~~
- (b) name of establishment and address where apprenticeship will be conducted, establishment license must be active upon receipt of application; ~~and~~

~~(c) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC;~~

~~[G. — Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.] [16.36.2.9 NMAC - Rp, 16.36.2.9 NMAC, 6/21/2018, A, 2/3/2022]~~

16.36.2.10 APPLICATION FOR BODY ART TATTOO [~~PIERCING-SCARIFICATION, OR PERMANENT COSMETICS~~] PRACTITIONER LICENSE:

A. Application forms:
(1)

Applications shall be made on the official form provided by the board. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

(2) Applications for licensure must include:

- (a) a completed and signed application;
- (b) applicant name;
- ~~(c) social security number;~~
- ~~(d) date of birth;~~
- ~~(e) proof of age indicating applicant is at least 18 years of age (government-issued identification with a photo);~~
- ~~(f) establishment mailing address;~~
- ~~(g) phone number;~~

~~(h)~~ ~~(g)~~
name, address and phone number of licensed establishment where services will be performed. Establishment license must be current upon receipt of application;

~~(h)~~ ~~(h)~~
copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC;

~~(h)~~ ~~(i)~~
proof of current immunizations as defined in 16.36.2.12 NMAC;

~~(j)~~
proof of disqualifying criminal convictions as defined in 16.16.36.4.9 NMAC;

~~(k)~~
proof of completion of tattoo, piercing-scarification, or permanent cosmetics training program and examination as defined in 16.36.2.14 NMAC.

~~(l)~~
a recent passport size, color photograph; and

~~(m)~~
non-refundable application fee as required by the board.

B. Photographs:
~~(h)~~ applicant for tattoo artist license must include a minimum of 10 original photographs of healed tattoos, which the applicant has personally performed.

~~(2)~~ applicant for body piercing must include a minimum of ten photographs of healed piercing the applicant has personally performed.

~~(3)~~ applicant for permanent cosmetic practitioner must submit a minimum of 10 photographs with at least two from the following areas:

~~(a)~~
eyebrow simulation;

~~(b)~~
lip liner;

~~(c)~~
lip color;

~~(d)~~
eyeliner/eyelash enhancer of eyes; and]

C. The applicant shall take and pass a written examination approved by the board and the board

approved jurisprudence examination. The applicant must pass the exams with a minimum score of seventy-five percent or higher.

D. Renewal of a practitioner license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee. Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of license shall include the following information:

(a) name and address of establishment. Establishment license must be current upon receipt of application;

(b) name of establishment operator or supervisor;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; ~~and~~

(d) proof of current immunizations as defined in 16.36.2.12 NMAC; ~~and~~

(e) proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC.

[E.] Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.

F. A permanent cosmetic professional applicant engaged in a state board approved apprenticeship training program prior to the effective date of July 1, 2018 shall have until August 31, 2018 to comply with apprenticeship requirements]

[16.36.2.10 NMAC - Rp, 16.36.2.10 NMAC, 6/21/2018, A, 2/3/2022]

16.36.2.11 [APPLICATION FOR BODY ART OPERATOR ESTABLISHMENT LICENSE:

~~A.~~ Any establishment licensed by the board must be under the immediate supervision of a board licensed practitioner while licensed activity is being practiced therein. Incomplete applications will be returned. All applications are valid for one year from date received. All fees are non-refundable.

~~B.~~ The supervising licensee(s) must be licensed by the board in tattoo, piercing-scarification, or permanent cosmetics.

~~C.~~ Application forms:

~~(1)~~
Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

~~(2)~~
Applications for licensure must include:

~~(a)~~ a completed and signed application;

~~(b)~~ name of the body art establishment;

~~(c)~~ name of the operator of the establishment;

~~(d)~~ government-issued identification with a photo showing proof of age indicating applicant is at least 18 years old;

~~(e)~~ operator's social security number;

~~(f)~~ establishment address;

~~(g)~~ establishment phone number;

~~(h)~~ name(s) of the body art supervising practitioner(s) working at the establishment, each of whom must be currently licensed with the board at time of application;

~~(i)~~ a copy of current city or county business license;

~~(j)~~ copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC;

~~(k)~~ proof of current immunizations as defined in 16.36.2.12 NMAC; and

~~(l)~~

non-refundable application fee as required by the board:

~~(D.) Renewal of a body art operator establishment license:~~

~~(1) License will expire one year after date of issue;~~

~~(2) Timely renewal of license(s) is the full and complete responsibility of the licensee; Failure to renew the license by the expiration date will result in a late fee;~~

~~(3) Licensees shall renew their license on or before the expiration date;~~

~~(4) Renewal of a body art operator establishment license shall include the following information:~~

~~(a) name(s) of the body art supervising practitioner(s) working at the establishment, must be currently licensed with the board at time of application;]~~

~~(b) copy of current city or county business license;~~

~~(c) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2.13 NMAC; and~~

~~(d) proof of current immunizations as defined in 16.36.2.12 NMAC:~~

~~E. Electronic signatures will be acceptable for renewals submitted pursuant to 16.36.1 through 16.36.6 NMAC.;~~

~~[RESERVED]~~

~~[16.36.2.11 NMAC - Rp, 16.36.2.11 NMAC, 6/21/2018; Repealed, 2/3/2022]~~

16.36.2.12 PROOF OF CURRENT IMMUNIZATIONS:

Proof shall be provided upon request of the board or board representative that [apprentice;] each practitioner, [and permanent cosmetic practitioner] licensee has either completed or declined, on a form provided by the board, the hepatitis B vaccination series. For those who decline the hepatitis B vaccination series, an information brochure developed by

the New Mexico department of health will be provided which explains the risks of hepatitis B and C.

[16.36.2.12 NMAC - Rp, 16.36.2.12 NMAC, 6/21/2018, A, 2/3/2022]

16.36.2.13 PROOF OF COMPLETION OF TRAINING PROGRAM:

Proof shall be provided with the original application that the applicant has, at a minimum, completed the following training prior to making application for a license as a body artist apprentice, body artist practitioner, [permanent cosmetic professional or body art operator.]

Such training must include:

A. a board approved blood borne pathogens training course that meets OSHA (occupational safety and health administration) standards and CDC (center for disease control) recommendations. The training course shall include an examination as a condition of the training completion. The training must be completed within 12 months prior to application and annually thereafter. The training may be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA sponsored;
- (6) red cross;
- (7) board approved.

B. Current certification in first aid and cardiopulmonary resuscitation (CPR). The training shall be obtained through any of the following:

- (1) nationally accredited organization;
- (2) local government sponsored;
- (3) hospital sponsored;
- (4) college sponsored;
- (5) OSHA

(occupational safety and health administration) sponsored;

(6) red cross;

or

(7) board approved;

C. An applicant for a tattoo or body piercing-scarification apprenticeship shall file an apprentice agreement [notarized] signed under penalty of perjury, by all parties that applicant shall complete the board required training requirements.

[16.36.2.13 NMAC - Rp, 16.36.2.13 NMAC, 6/21/2018, A, 2/3/2022]

16.36.2.14 [BODY-PIERCING - SCARIFICATION-APPRENTICESHIP TRAINING- AND EXAMINATION-REQUIREMENTS

A. Upon successful completion of apprenticeship program, an applicant for original piercing-scarification practitioner license shall provide proof, acceptable to the board or its designee, that applicant has completed an apprenticeship program under the direct supervision of a licensed practitioner with instruction and experience in the kind of body art for which the applicant seeks a body art practitioner license.

B. Proof of completing an apprentice program shall include:

(1) verification of completion of apprenticeship program on a log provided by the board;

(2) a minimum of 10 original photographs of healed piercings-scarifications which the artisan has personally performed and a minimum of three signed testaments from previous clients:

C. Body piercing apprenticeship curriculum: 1200 hours:

(1) Orientation - 100 hours:

(a) state laws and regulations;

(b) tax and business license requirements;

(c) OSHA blood borne pathogens standard;

(d)	(g)	(m)
the establishment's exposure control plan;	handwashing;	oral/facial anatomy as it pertains to piercing;
(e)	(h)	(n)
SDS sheets;	types of soaps and hand sanitizers;	knowledge and ability to avoid damage to underlying blood vessels and nerves;
(f)	(i)	(o)
paperwork and business documentation;	use of gloves and other personal protective equipment;	knowledge and recognition of disorders, anomalies and diseases of the skin;
(g)	(j)	(p)
HIPAA (Health Insurance Portability and Accountability Act of 1996-privacy rule);	how to recognize, prevent and remedy cross-contamination;	body anatomy as it pertains to piercing;
(h)	(k)	(q)
environment/appropriate studio set-up;	immunizations;	determining the appropriateness of a piercing;
(i)	(l)	(r)
professional image;	cleaning, disinfection and sterilization;	equipment;
(j)	(m)	(s)
appropriate communication with clients;	sterile chart;	disposable supplies;
(k)	(n)	(t)
ethics and legalities:	cleaning/appropriate procedures;	needles;
(i)	(o)	(u)
minors;	implement pre-cleaning before sterilization/appropriate use of cleaning solutions and ultrasonic cleaners;	sharps disposal;
(ii)	(p)	(v)
drugs and alcohol;	disinfection/appropriate use and disposal of disinfecting solutions; and	reusable equipment;
(iii)	(q)	(w)
medical conditions/risk assessment;	sterilization/appropriate use and maintenance of autoclave sterilizers:	storage;
(iv)	(3)	(x)
personal boundaries;	Body-piercing theory - 200 hours:	aftercare; and
(l)	(a)	(y)
dealing with emergencies:	jewelry;	piercing guns (theory only):
(i)	(b)	(4)
blood spills;	standards and certifications;	Body-piercing observation/practical - 800 hours:
(ii)	(c)	(a)
fainting;	certified materials for new piercings;	proper use of safety procedures outlined in theory training;
(iii)	(d)	(b)
bleeding;	other appropriate materials for new piercings;	aseptic technique;
(iv)	(e)	(c)
needlesticks; and	jewelry materials for healed piercings;	room set-up and break-down;
(v)	(f)	(d)
other exposures:	jewelry to avoid;	skin preparation;
(2)	(g)	(e)
Sterilization, disinfection theory and practical - 100 hours:	quality jewelry (things to look for);	client relations/relaxation techniques;
(a)	(h)	(f)
microbiology;	jewelry styles;	pain management;
(b)	(i)	(g)
definitions;	cleaning, sterilization and storage of jewelry;	piercing techniques;
(c)	(j)	(h)
microorganisms of the skin;	anatomy;	dealing with mistakes;
(d)	(k)	(i)
factors that influence the survival and growth of microorganisms;	understanding of skin;	in order to be approved, curriculum for body piercing practitioner training shall include, at a minimum, 50-practical body piercing procedures
(e)	(l)	
breaking the chain of infection;	parts and functions of skin;	
(f)		
infection control;		

performed by the apprentice under sponsor supervision. The 50 supervised completed procedures shall consist of at least five completed procedures in each of the following areas:

- _____ (i) ears;
- _____ (ii) nose;
- _____ (iii) tongue;
- _____ (iv) nipple;
- _____ (v) navel;
- _____ (vi) eyebrow;
- _____ (vii) lip/labret; and
- _____ (viii) septum.

_____ (j)

Curriculum should include the following for each procedure:

- _____ (i) related anatomy;
- _____ (ii) appropriate placement;
- _____ (iii) skin preparation;
- _____ (iv) implement selection and use;
- _____ (v) techniques; and
- _____ (vi) healing and aftercare.

[An applicant for a body art piercing-scarification practitioner license shall take the tattoo or body piercing-scarification examination approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.]

[RESERVED]

[16.36.2.14 NMAC - Rp, 16.36.2.14 NMAC, 6/21/2018; Repealed, 2/3/2022]

16.36.2.16 [PERMANENT-COSMETIC APPRENTICESHIP-TRAINING AND EXAMINATION REQUIREMENTS:

A. Upon successful completion of an apprenticeship program, an applicant for an original permanent cosmetic practitioner license shall provide proof of having completed a 255 hour board approved curriculum, and shall perform under the direct supervision of a board approved sponsor. An approved basic fundamental curriculum shall include the following requirements:

B. A minimum of five of each of the following procedures: 60 hours

- _____ (1) eye brow simulation; microblading, hairstrokes, shading;
- _____ (2) lip liner;
- _____ (3) lip color;
- and
- _____ (4) eye liner/ eyelash enhancement.

C. Client records shall be maintained by the practitioner applicant to verify that the minimum requirements for the procedures were completed:

D. The practitioner applicant shall submit 10 before and after photographs whereby the professional has personally performed one complete procedure for each of the following areas:

- _____ (1) eye brow simulation;
- _____ (2) lip liner;
- _____ (3) lip color;
- and
- _____ (4) eye liner/ eyelash enhancement.

E. Introduction to permanent cosmetics: 10 hours

- _____ (1) History of tattooing as it applies to permanent makeup;
- _____ (2) Overview of the different types of machines and devices;

F. Professional standards and client care: 20 hours

- _____ (1) Client expectations;
- _____ (2) Medical history;

_____ (3) Consent and disclosure form:

_____ (4) Record keeping:

_____ (5) HIPPA standards:

_____ (6) Photography:

G. Office set-up: 10 hours

_____ (1) Understanding establishment requirements:

_____ (2) General equipment:

_____ (3) Table, chair, work surface, lightening:

H. Disinfection and sterilization: 100 hours

_____ (1) Definition of terms:

_____ (2) Discuss acceptable forms of sterilization:

_____ (3) Proper use of chemical agents, antiseptics, disinfectations, and fumigants:

_____ (4) OSHA and CDC guidelines regarding blood borne pathogens:

_____ (5) Hand washing stations:

_____ (6) Hepatitis B vaccination:

_____ (7) PPE, such as gloves and proper attire to avoid cross contamination:

_____ (8) Proper handling of devices, needles, and pigments:

_____ (9) Sanitary measures during procedure set-up, and clean-up:

I. Client preparation: 10 hours

_____ (1) Preparing the clients skin:

_____ (2) Ways of marking the skin:

_____ (3) Anesthetics used before, during, and after procedure:

J. Color and pigment theory: 10 hours

_____ (1) Knowledge of skin type and undertones:

_____ (2) Pigment care such as expiration, storage, and mixing:

_____ (3) Use of safety sheets:

_____ **K.** Skin anatomy: 20 hours

_____ (1) Understanding of skin and layers:

_____ (2) Healing process of the skin and its care:

_____ (3) Diseases, disorders, and conditions such as; infection, herpes simplex, shingles, moles, warts, freckles, psoriasis, eczema, rosacea, and reactions:

_____ **L.** Machine/Needle theory: 10 hours

_____ (1) Operation, maintenance, and instrument storage:

_____ (2) Proper needle handling and disposal:

_____ (3) Groups, numbers, and configurations:

_____ (4) Pre-sterilized, single use:

_____ **M.** Business set-up: 5 hours

_____ (1) Basic business and social media guidelines:

_____ (2) Legal requirements:

_____ (3) Insurance/liability:

_____ (4) New Mexico laws and regulations:

_____ **N.** An applicant for permanent cosmetic professional license shall take an exam approved by the board with a minimum passing score of seventy-five percent or higher. A candidate who does not meet this score can retest up to two times. A candidate who does not pass the written examination must wait at least seven days before retesting. Any candidate who does not meet the minimum passing score after three attempts shall be required to enroll or re-enroll in an apprentice program.

_____ **O.** A permanent cosmetic professional applicant engaged in a state board approved apprenticeship training program prior to the effective date of July 1, 2018 shall have until August 31, 2018 to comply with apprenticeship requirements.] [RESERVED]
[16.36.2.16 NMAC - N, 6/21/2018; Repealed, 2/3/2022]

16.36.2.17 [SPECIAL EVENT, MOBILE BODY ART AND GUEST LICENSE REQUIREMENTS:

_____ **A.** Any licensee desiring to sponsor a special event must first obtain approval from the board office. The purpose of prior approval is to ensure professional integrity and that sanitation and safety requirements are met. An application on the form provided by the board office must be submitted at least 10 days prior to the event. Approval for the special events may be made administratively:

_____ (1) The sponsor(s) and the establishment where the sponsor(s) is practicing must have a current license.]

_____ (2) The sponsor shall apply for the license at least 30 days prior to the event.

_____ **B.** All provisions of these regulations shall apply with the following exceptions:

_____ (1) Hand wash facilities shall be easily accessible to each procedure area and designated for use by artists only. Hand wash facilities or temporary hand wash facilities shall consist of antibacterial liquid soap, single-use paper towels, and adequate supply of potable water dispensed through a continuous flow spout. Wastewater shall be collected and disposed of in a sanitary manner.

_____ (2) Body artists may bring pre-sterilized instruments or instruments that have been sterilized at another location with documentation showing a negative spore test result within the previous 30 days. On site sterilization units may be used and shall comply with 16.36.5 NMAC of these rules.

_____ (3) After the last procedure is completed, all procedure areas shall be cleaned and disinfected.]

_____ **C.** A guest licensee is a body artist who is licensed in another jurisdiction or meets the requirements of licensure in New Mexico and shall practice 30 days or less in New Mexico. Registration is required before any person may act as a guest licensee. An applicant for registration as a guest licensee must:

_____ (1) hold current licensure as a body artist in another jurisdiction or have the education or experience relating to the applicable type of New Mexico license requested; and

_____ (2) be under the sponsorship of a New Mexico licensed body artist.

_____ **D.** To be registered as a guest licensee the following must be submitted to the board:

_____ (1) verification of sponsorship by a licensed body artist;

_____ (2) a complete application;

_____ (3) registration fee;

_____ (4) proof of age indicating applicant is at least 18 years old (government-issued identification with a photo);

_____ (5) copy of current CPR, first aid and blood borne pathogen training as defined within 16.36.2.13 NMAC;

_____ (6) verification of licensure in another jurisdiction.

_____ **E.** Applicants not licensed in another jurisdiction must provide documentation of education and experience relating to the applicable type of New Mexico license requested.

_____ **F.** Guest body art registration will expire 30 days from the date of issuance. A guest license shall not extend beyond 30 days unless the licensee petitions the board and provides documentation that licensee has not worked 30 days in New Mexico. A guest license shall not be granted more than three times within a 12 month period.]

[RESERVED]
[16.36.2.17 NMAC - Rp, 16.36.2.18 NMAC, 6/21/2018; Repealed, 2/3/2022]

16.36.2.18 [EXPEDITED LICENSURE - MILITARY SERVICE MEMBERS, SPOUSES & VETERANS:

_____ **A.** Applications shall be completed on a form provided by the board All applications are valid for one year from date received. All fees are non-refundable.

~~_____ B. _____ The information shall include:~~

~~_____ (1) _____ Completed application and fee pursuant to 16.36.6.8 NMAC~~

~~_____ (2) _____ Satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction and has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the license the applicant applies for pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.~~

~~_____ (3) _____ Proof of honorable discharge (DD214), active duty military ID card, or proof of military spouse status.~~

~~_____ C. _____ Renewal for a license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance set forth in 16.36.2 NMAC and for the renewal of a license set forth in 16.36.2 NMAC pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.~~

~~_____ D. _____ An applicant whose license has expired for more than five years shall re-enter an approved training program (apprenticeship), take the tattoo, body piercing-scarification or permanent cosmetic exam approved by the board with a passing minimum score approved by the board and take and pass a board approved jurisprudence examination with a minimum passing score of seventy-five percent.] [RESERVED] [16.36.2.18 NMAC - N, 6/21/2018; Repealed, 2/3/2022]~~

16.36.2.21 [RECIPROcity:

~~_____ A. _____ Submit an affidavit of licensure demonstrating proof of current license, which is active with no current or pending disciplinary action, as a tattoo artist, body piercing-scarification, permanent cosmetics. The licensing requirements in the other state-jurisdiction must be substantially equivalent to New Mexico licensing requirements.~~

~~_____ B. _____ If they are not substantially equivalent, the applicant~~

~~must demonstrate to the satisfaction of the body art practitioners that the licensee has been employed or working as a tattoo artist, body artist, body piercing-scarification, permanent cosmetics full-time for three years. Documentation includes employment-related documents such as paystubs, W-2 Forms, 1099 and federal tax forms.] [RESERVED] [16.36.2.21 NMAC - N, 6/21/2018, Repealed, 2/3/2022]~~

16.36.2.22 CREDIT GRANTED FOR SUBSTANTIALLY EQUIVELENT TRAINING AND EXPERIENCE:

~~_____ A. _____ An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant's training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition to those set forth in Subsections A through C of this Section 16.36.2.17 NMAC:~~

~~_____ B. _____ An applicant for licensure as a body artist may be granted credit for training and experience obtained from any source, whether within or outside New Mexico, if the applicant demonstrates to the satisfaction of the board that the applicant's training and experience is substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act. The applicant shall apply for licensure as a body artist on an official form approved by the board obtained from the department for that purpose, and shall meet the following minimum requirements in addition~~

~~to those set forth in Subsections A through C of this Section 16.36.2.17 NMAC:~~

~~_____ (1) _____ a certified copy of a current tattoo or body artist license from the other state or jurisdiction or provided that the board shall grant credit for training and experience obtained from any source;~~

~~_____ (2) _____ a current copy of the rules and regulations pertaining to tattooing, body piercing, scarification, and permanent cosmetics from the other state or jurisdiction;~~

~~_____ (3) _____ a letter of licensure verification mailed by the licensing authority from the other state or jurisdiction to the board which shall include:~~

~~_____ (a) _____ verification that the applicant holds a valid and unexpired license;~~

~~_____ (b) _____ the license issuance date;~~

~~_____ (c) _____ the license expiration date;~~

~~_____ (d) _____ a statement as to whether the applicant has ever been subject to discipline or if there are any complaints or investigations pending against the licensee; and~~

~~_____ (e) _____ upon the request of the board, a written consent from the applicant allowing the board or its designee to examine disciplinary, complaint, or investigative records of the other licensing authority.~~

~~_____ (f) _____ proof of disqualifying criminal convictions as defined in 16.36.4.9 NMAC;~~

~~_____ C. _____ An applicant seeking credit for training and experience obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico whose licensing requirements are less stringent than those in effect in New Mexico shall be required to meet the requirements of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act.~~

~~_____ (1) _____ If the applicant's training and experience~~

is from a state or jurisdiction outside New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following requirements are met:

(2) the applicant was authorized by law to perform tattooing, body piercing, scarification, or permanent cosmetics without limitation in the state or jurisdiction during the time period the applicant obtained the training and experience;

(3) the applicant has been a tattoo or body artist who has performed tattooing, body piercing, scarification, and permanent cosmetics in that state or jurisdiction immediately prior to applying for licensure as a body artist in New Mexico; and

(4) the applicant shall submit to the board:

(a) three letters of recommendation from a licensed tattoo or body artist in good standing in New Mexico or another state or jurisdiction;

(b) twenty color photographs of completed procedures by the applicant, demonstrating the applicant's ability, knowledge, and fitness to tattooing, body piercing, scarification, and permanent cosmetics procedures effectively and in a safe and healthy environment;

(c) CPR, First Aid and blood borne pathogen certificates issued to the applicant within six months immediately preceding the application for licensure;

(d) affidavits from prior employers or supervisors;

(e) W-2 or 1099 forms; and

(f) federal or state tax returns verifying occupational status.

D. If the applicant's training and experience was not obtained as a licensed tattoo or body artist in a state or jurisdiction outside New Mexico, or through an apprenticeship or training program from a state or jurisdiction outside

New Mexico, the applicant shall demonstrate to the satisfaction of the board that all of the following minimum requirements are met.

For the board to approve an apprenticeship or training program from a state or jurisdiction outside New Mexico, the applicant must submit satisfactory evidence to the board or its designee of the following:

(1) the apprenticeship or training program was licensed or accredited for that purpose by a state agency;

(2) the applicant successfully completed the apprenticeship or training program, as shown by an official transcript or certificate of completion;

(3) during the applicant's participation in the apprenticeship or training program, the applicant's sponsor or trainer was licensed and in good standing as a tattoo or body artist in the state or jurisdiction where the apprenticeship or training was completed;

(4) the applicant completed the apprenticeship or training program under the direct supervision of the sponsor or trainer in a state-approved program for tattoo or body artists;

(5) the apprenticeship or training program covered the areas of theory and practical experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act;

(6) if the apprenticeship or training program completed in another state or jurisdiction included hours allotted to studying the laws and regulations of that state or jurisdiction, the board in its sole discretion may count those hours toward the required number of hours allotted to studying New Mexico laws and regulations; and

(7) the apprenticeship or training program included the total number of hours of theory and practical experience and the number of completed procedures required under the applicable provisions of the Body Art Safe

Practices Act and the regulations promulgated by the board pursuant to the Act.

[16.36.2.22 NMAC - N, 2/3/2022]

16.36.2.23 ADDITIONAL TRAINING REQUIREMENTS:

If the board determines that an applicant's training and experience is not substantially equivalent to the training and experience required under the applicable provisions of the Body Art Safe Practices Act and the regulations promulgated by the board pursuant to the Act, it may require:

(1) the applicant to complete additional course work before proceeding with the application process; and

(2) the applicant to meet any other requirements as may be prescribed by the board, including a practical exam or an apprenticeship program.

[16.36.2.23 NMAC - N, 2/3/2022]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

This is an amendment to 16.36.3 NMAC, Sections 1, 6, 9 and 10, effective 2/3/2022.

16.36.3.1 ISSUING AGENCY: [Regulation and Licensing Department,] Board of Body Art Practitioners.

[16.36.3.1 NMAC - Rp, 16.36.3.1 NMAC, 2/4/2016; A, 2/3/2022]

16.36.3.6 OBJECTIVE: To outline the application process for body art operator licensure and requirements for all establishments. [16.36.3.6 NMAC - Rp, 16.36.3.6 NMAC, 2/4/2016, A, 2/3/2022]

16.36.3.9 APPLICATION FOR BODY ART OPERATOR ESTABLISHMENT LICENSE:

A. Any establishment licensed by the board must be under the immediate supervision of a board licensed practitioner while licensed activity is being practiced therein. Incomplete applications will be

returned. All applications are valid for one year from date received. All fees are non-refundable.

B. The supervising licensee(s) must be licensed by the board in tattoo, piercing scarification, or permanent cosmetics.

C. Application forms:

(1)
Application for any license to be issued or renewed by the board shall be made on the official form provided by the board for that purpose.

(2)
Applications for licensure must include:

(a) a completed and signed application;

(b) name of the body art establishment;

(c) name of the operator of the establishment;

(d) government-issued identification with a photo showing proof of age indicating applicant is at least 18 years old;

(e) establishment address;

(f) establishment phone number;

(g) name(s) of the body art supervising practitioner(s) working at the establishment, each of whom must be currently licensed with the board at time of application;

(h) a copy of current city or county business license;

(i) copy of current CPR, first aid and blood borne pathogen training certificates, as defined within 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;

(j) proof of current immunizations as defined in 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;

(k) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC pursuant to Chapter 61, Article 17B NMSA 1978; and

(l)
non-refundable application fee as required by the board.

D. Renewal of a body art operator establishment license:

(1) License will expire one year after date of issue;

(2) Timely renewal of license(s) is the full and complete responsibility of the licensee; Failure to renew the license by the expiration date will result in a late fee;

(3) Licensees shall renew their license on or before the expiration date;

(4) Renewal of a body art operator establishment license shall include the following information:

(a) name(s) of the body art supervising practitioner(s) working at the establishment, must be currently licensed with the board at time of application;

(b) copy of current city or county business license;

(c) copy of current CPR, first aid and blood borne pathogen training certificates, as 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978;

(d) proof of current immunizations as defined in 16.36.2 or 16.36.9. or 16.36.10 NMAC pursuant to Chapter 61, Article 17B NMSA 1978; and

(e) proof of disqualifying criminal conviction as defined in 16.36.4.9 NMAC pursuant to Chapter 61, Article 17B NMSA 1978. [16.36.3.9 NMAC – N, 2/3/2022]

16.36.3.10 EXPIRED

LICENSE: An operator whose establishment license has expired shall submit a reinstatement application, payment of reinstatement fee for each year the license has been expired; and name of licensed operator. [16.36.3.10 NMAC – N, 2/3/2022]

REGULATION AND LICENSING DEPARTMENT BODY ART PRACTITIONERS

This is an amendment to 16.36.4 NMAC, Sections 1, 8 and 9, effective 2/3/2022.

16.36.4.1 ISSUING AGENCY: [~~Regulation and Licensing Department,~~] Board of Body Art Practitioners. [16.36.4.1 NMAC - Rp, 16.36.4.1 NMAC, 2/4/2016, A, 2/3/2022]

16.36.4.8 ENFORCEMENT, COMPLAINTS AND DISCIPLINARY ACTION:

A. A member of the board, its employees or agents may enter and inspect a school, enterprise or establishment at any time during regular business hours for the purpose of determining compliance with the Body Art Safe Practices Act.

B. It shall be unlawful for any artist to perform body piercing or tattoo procedures outside of a licensed body piercing or tattooing establishment.

C. It shall constitute a violation of the Body Art Safe Practices Act when a licensee:

(1) attempts by means of any threat, force, intimidation or violence to deter, interfere with or prevent any inspector or board designee from performing any official duty of the department or board;

(2) willfully resists, delays or obstructs an inspector or board designee in the performance of his/her official duty;

(3) fails to comply with the lawful command of an inspector or board designee in the discharge of his/her official duty; or

(4) fails to cooperate in investigations, proceedings, and requirements of this code.

D. The board, or its designee, will consider a formal complaint filed against a licensee or an establishment provided the complaint is on the proper form,

signed [~~and notarized~~] under penalty of perjury.

E. When a complaint is received on the proper form, the board, or its designee, will write to the licensee the complaint is against and request a response within 15 days of receipt of such request.

F. The response will be reviewed by a committee designated by the board chairman.

G. If the committee's recommendation is that the complaint be taken before the board, the complaint will be reviewed at the next regularly scheduled board meeting. The board shall:

- (1) take no further action; or
- (2) issue a notice of contemplated action (NCA) under the Uniform Licensing Act; or
- (3) assess an administrative penalty subject to appropriate procedural requirements and safeguards.

H. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Body Art Safe Practices Act.

I. The board may fine, deny, revoke, suspend, stipulate, or otherwise limit a license if the board determines the licensee is guilty of violating any of the provisions of the act, the Uniform Licensing Act, or these rules.

J. Subject to legally required procedural safeguards, any person who violates any provisions of the act or any rule adopted by the board may incur, in addition to any other penalty provided by law, a civil penalty in an amount of less than one hundred fifty dollars (\$150) for each violation. The board will serve on the licensee official notice of any such fine that the board proposes to assess. Failure to pay a fine, once properly assessed, may result in an additional fine and revocation of license or other disciplinary action. The penalties to be assessed are as follows:

- (1) Failure to comply with operator requirements:
 - (a) first offense: one hundred dollars (\$100);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(2) Failure to comply with sanitation and safety requirements:

(a) first offense: one hundred dollars (\$100);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(3) Failure to post required licenses:

(a) first offense: fifty dollars (\$50);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(4) Working on an expired or invalid license:

(a) first offense: fifty dollars (\$50);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act

(5) Performing services for compensation in an unlicensed establishment:

(a) first offense: one hundred dollars (\$100);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

(6) Any violation of the Body Art Safe Practices Act or rules:

(a) first offense: one hundred dollars (\$100);

(b) second offense: one hundred fifty dollars (\$150);

(c) third and subsequent offenses: the board shall take steps to impose a further fine up to the limit of one hundred fifty dollars (\$150) or to take other disciplinary action as permitted by the act or the New Mexico Uniform Licensing Act.

K. The board may suspend a license immediately without prior notice to the holder of the license if it determines, after inspection, that conditions within a body art establishment present a substantial danger of illness, serious physical harm or death to customers who might patronize a body art establishment. A suspension action taken pursuant to this section is effective when communicated to the operator or body artist. Suspension action taken pursuant to this section shall not continue beyond the time that the conditions causing the suspension cease to exist, as determined by a board inspection at the request of the operator or body artist. A license holder may request an administrative hearing, as provided by Section 61-17B-5 NMSA 1978 of the Body Art Safe Practices Act, if the board does not lift an immediate

suspension within 10 days.
[16.36.4.8 NMAC - Rp, 16.36.4.8
NMAC, 2/4/2016, A, 2/3/2022]

**16.36.4.9 DISQUALIFYING
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) murder;
- (2) aggravated assault;
- (3) assault with intent to commit a violent felony;
- (4) aggravated battery inflicting great bodily harm or with a deadly weapon;
- (5) kidnapping;
- (6) abandonment of a child resulting in death or great bodily harm;
- (7) abuse of child;
- (8) negligent abuse of a child resulting in death;
- (9) intentional abuse of a child 12 to 18 years old resulting in death;
- (10) sexual exploitation of children;
- (11) sexual exploitation of children by prostitution;
- (12) criminal sexual penetration;
- (13) criminal sexual contact;
- (14) criminal sexual contact of a minor;
- (15) aggravated indecent exposure;
- (16) criminal sexual communication with a child;
- (17) human trafficking;
- (18) willfully or knowingly failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;
- (19) willfully or knowingly providing false

information when complying with the registration or verification requirements of the Sex Offender Registration and Notification Act:

- (20) sex offender who fails to comply with SORNA re moving to another state;
 - (21) failure to comply with proclamation of the governor;
 - (22) practicing medicine without a license;
 - (23) forgery;
 - (24) fraud;
 - (25) aggravated escape from the custody of the children, youth and families department;
 - (26) bringing contraband into a juvenile detention facility or juvenile correctional facility;
 - (27) tampering with public records;
 - (28) delivering drug paraphernalia to a person under eighteen years of age and who is at least three years the person's junior;
 - (29) intentionally selling an imitation controlled substance to a person under the age of eighteen years; and
 - (30) selling or giving alcoholic beverages to minors, and possession of alcoholic beverages by minors.
- 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 Body Art Safe 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 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.

[16.36.4.9 NMAC – N, 2/3/2022]

**REGULATION AND
LICENSING DEPARTMENT
BODY ART PRACTITIONERS**

This is an amendment to 16.36.5 NMAC, Section 1 effective, 2/3/2022.

**16.36.5.1 ISSUING
AGENCY:** [Regulation and Licensing Department,] Board of Body Art Practitioners.
[16.36.5.1 NMAC - Rp, 16.36.5.1 NMAC, 2/4/2016, A, 2/3/2022]

**REGULATION AND
LICENSING DEPARTMENT
BODY ART PRACTITIONERS**

This is an amendment to 16.36.6 NMAC, Section 1 effective 2/3/2022.

**16.36.6.1 ISSUING
AGENCY:** [Regulation and Licensing Department,] Board of Body Art Practitioners.
[16.36.6.1 NMAC - Rp, 16.36.6.1 NMAC, 02/04/2016, A, 2/3/2022]

REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS PART 3 PACKAGING, LABELING, ADVERTISING, AND MARKETING, AND COMMERCIAL DISPLAY REQUIREMENTS FOR CANNABIS PRODUCTS

16.8.3.1 ISSUING

AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.3.1 NMAC – N, 04/01/2022]

16.8.3.2 SCOPE: This rule applies to all licensees and applicant for licensure pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.
[16.8.3.2 NMAC - N, 04/01/2022]

16.8.3.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
[16.8.3.3 NMAC - N, 04/01/2022]

16.8.3.4 DURATION: Permanent.
[16.8.3.4 NMAC - N, 04/01/2022]

16.8.3.5 EFFECTIVE DATE: April 1, 2022, unless a later date is cited at the end of a section.
[16.8.3.5 NMAC - N, 04/01/2022]

16.8.3.6 OBJECTIVE: The objective of Part 3 is to establish standards for packaging, labeling, advertising, marketing, and commercial display requirements for cannabis products. Part 3 is not applicable to personal use of cannabis pursuant to the Cannabis Regulation Act or the Lynn and Erin

Compassionate Use Act.
[16.8.3.6 NMAC - N, 04/01/2022]

16.8.3.7 DEFINITIONS: [RESERVED]

16.8.3.8 ADVERTISING AND MARKETING:

A. Required

Practices. The following practices are required in all advertising and marketing activities:

(1)

Responsible persons. All advertisements and marketing for cannabis products shall accurately and legibly identify all licensees or organizations who are responsible for the proliferation of the advertisement or marketing activity.

(2)

Reasonable expectation of audience age. All advertisements in print and digital communications shall only be placed in areas where at least seventy percent of the audience is reasonably expected to be 21 years of age or older as determined by reliable, current audience composition data. For the purposes of this section, “reliable, current audience composition data” means data regarding the age and location demographics of the audience viewing a particular advertising or marketing medium. Immediately upon request, a licensee shall provide to the division audience composition data as required in this section for advertising or marketing placed by the licensee. If the audience composition data for advertising or marketing provided by a licensee does not comply with the requirements of this section, or the licensee fails to provide audience composition data to the division upon request, the licensee shall remove the advertising or marketing placement in question.

(3)

Statements and warnings: Any advertising or marketing materials created for viewing by the public shall include the statement “Please Consume Responsibly” in a conspicuous manner on the face of the advertisement and shall include the following warnings that must be

in type size at least ten percent of the largest type used in the advertisement:

(1)

for use only by adults 21 and older;

(2)

keep out of reach of children;

(3)

this product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality;

(4) do

not drive a motor vehicle or operate machinery while under the influence of cannabis; and

(5)

there may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding.

B. Prohibited

practices. Advertising and marketing activities of cannabis products shall not:

(1) occur on

radio, television or other broadcast media, internet pop-ups and mass transit vehicles. The division shall not prohibit advertising and marketing activities on these forums where:

(a)

subscribers of subscription-based radio, television or other broadcast media are 21 years of age or older; or

(b)

persons 21 years of age or older have solicited the advertising or marketing activities.

(2) be done

in such a manner that is deemed to be is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;

(3) shall not

make unproven health benefit claims and any health benefit claims must be supported by substantial evidence or substantial clinical data;

(4) be on

billboards, posters, handbills or other visual media that are located or can be viewed within 300 feet of a school, daycare center or church;

(5) contain symbols or images, including a celebrity or celebrity likeness, that are commonly used to market products to minors;

(6) use predatory marketing or advertising practices targeting minors; and

(7) be designed to mimic any other product brand;

(8) promote the over consumption of cannabis or cannabis products; or

(9) depict the actual consumption of cannabis or cannabis products.

C. Branding.

“Branding” means promotion of a cannabis establishment’s brand through publicizing the cannabis establishment’s name, logo, or distinct design feature of the brand.

(1) Branding shall not be designed to be appealing to a child and shall not contain:

(a) cartoons;

(b) a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;

(c) contain symbols or images, including a celebrity or celebrity likeness, that are commonly used to market products to minors.

(2) Branding is not considered a marketing or advertising activity.

(3) Branding is allowed without the required warnings and statements for advertising and marketing of cannabis establishments.

[16.8.3.8 NMAC – N, 04/01/2022]

16.8.3.9 CANNABIS FINISHED PRODUCT LABELING:

A. Unless otherwise provided, cannabis finished products shall meet the minimum labeling requirements of this section.

B. The label shall be printed on or affixed to the container and printed on or affixed to any outer

package or container that is used to display the edible or topical cannabis finished product for retail sale.

C. Font size used on a label shall be no smaller than 1/16 of an inch by measuring the height of a lower-case letter “o”.

D. Labels shall identify the intended use and directions for use. Products having more than one intended use shall identify every intended use on the label and shall comply with all labeling requirements for each intended use. If there is any conflict between the labeling requirements for multiple intended uses, the most restrictive labeling requirements shall be followed.

E. Labels shall be in English, though it can be in other languages.

F. Labels shall be unobstructed and conspicuous.

G. If the cannabis finished product’s target potency or potency value of the Total THC or CBD is less than one milligram per serving, the potency may be expressed as “<1 mg.” If “<1 mg” was used to display the Total THC or CBD per serving, then a corresponding statement regarding the Total THC or CBD content for the entire container shall be included on the container. For example, if there are five servings in the container, “<5 mg” should be displayed for the Total THC or CBD statement that was represented as “<1 mg” per serving.

H. The potency statement stated on an edible or topical cannabis finished product label shall not deviate by more than fifteen percent of what is stated on the label.

I. A label shall not:

(1) contain any untruthful or misleading statements including, but not limited to, health or benefit claims, and

(2) contain advertising or marketing; and

(3) contain words that refer to products that are commonly associated with minors or marketed by minors; including use of the word(s) “candy” or “candies” on the label of any container, unless the words identify the strain of cannabis in the cannabis finished product.

J. Cannabis finished product labels shall have a principal display panel.

K. The principal display panel shall include:

(1) the product identity or common name in bold type, in a size reasonably related to the most prominent printed matter on the principal display panel and shall be parallel to the base on which the package rests as it is designed and displayed.

(2) Net quantity, net weight, or volume in U.S. customary and metric units of contents displayed in bold type in the bottom thirty percent of the principal display panel in lines generally parallel with the base of the container; and shall be in terms of fluid measure if the item is liquid, or in terms of weight if the item is solid, semi-solid, or viscous.

(3) Potency, as confirmed by a cannabis testing laboratory, in bold font and including:

(a) for edible products, Total THC and CBD in milligrams per serving;

(b) percent of Total THC per container; and

(c) if detected, percent of CBD per container.

(4) A logo designed and provided by the division that notifies a reasonable person that the product contains cannabis that is no smaller than 1/2 inch by 1/2 inch.

(5) A logo designed and provided by the division that demonstrates a cannabis product is produced or manufactured by an integrated cannabis microbusinesses or cannabis producer microbusinesses or owned by representatives of communities that have been disproportionately harmed by rates of arrest through the enforcement of cannabis prohibitions in law and policy and underserved communities that include tribal, acequia, land grant-merced and other rural historic communities;

(6) for an edible or topical cannabis finished

product that is perishable or meets the definition of a time/temperature control for safety food, the label shall bear a statement that the product must be refrigerated; and

(7) the following warning statement in bold font “For use only by adults 21 and older. Keep out of reach of children. Do not drive a motor vehicle or operate machinery while under the influence of cannabis. BE CAUTIOUS. Cannabinoid edibles can take up to two hours or more to take effect.”

L. Except as provided in Subsections M and N of this section, cannabis finished product labels shall have an information panel or static quick response (QR) code that links the consumer to the required information that contains the following without intervening material:

- (1) cannabis manufacturer business or trade name;
- (2) unless the business or trade name placed on the package is the actual manufacturer, it must be accompanied by a qualifying phrase which states the firm’s relation to the product (e.g., “manufactured for” or “distributed by”);
- (3) cannabis manufacturer license number;
- (4) pesticide used in the product by the cannabis producer;
- (5) date product was manufactured;
- (6) ingredient list:

(a) using the common or usual name;

(b) sub-ingredients, as follows: any ingredient containing two or more sub-ingredients shall parenthetically list the component ingredients in descending order of predominance after the multi-component ingredient;

(c) identifying the cannabis extract/ concentrate and each isolated cannabinoid as an ingredient; and

(d) in descending order of predominance by weight or volume.

(7) if utilized, pharmacologically active ingredients;

(8) a “contains” statement identifying allergens at the end of or immediately adjacent to the ingredient list; or listing the allergen in parenthesis within the ingredient list after the common or usual name of the ingredient derived from that major food allergen;

(9) nutritional information meeting the requirements of 21 CFR 101.9;

(10) the following statement: “This product is not approved by the FDA to treat, cure, or prevent any disease. FDA has not evaluated this product for safety, effectiveness, and quality. There may be long term adverse health effects from consumption of cannabis, including additional risks for women who are or may become pregnant or are breastfeeding.”

(11) the New Mexico poison and drug information center phone number;

(12) the product expiration date. Persons shall not alter that expiration date or affix a new label with a later expiration date;

(13) the state track and trace system number or identifier associated with the product; and

(14) a list of any solvent(s), processing aids, and chemicals used to manufacture cannabis product, cannabis concentrate or extract, or isolated cannabinoid identified.

M. When, because of its container size, an edible cannabis finished product label does not have sufficient space for a label meeting the requirements of Subsections K-L of this section, labels shall, at a minimum, contain:

(1) a principal display panel containing the net weight or volume, product identity, and logos designed and provided by the division;

(2) cannabis manufacturer business or trade name;

(3) cannabis manufacturer license;

(4) potency, as specified in Paragraph (3) of Subsection K of this section;

(5) the warning statements, as specified in Paragraph (7) of Subsection K of this section;

(6) the state track and trace system number or identifier associated with the product; and

(7) all other required labeling as specified in Subsections K-L of this section through the use of a static quick response (QR) code that links the consumer to the required information or a peel-back or accordion label that can be easily identified by a consumer as containing important information.

N. When the surface area being labeled is less than two inches squared and does not have sufficient space for a label meeting the requirements of Subsections K-L of this section, labels shall, at a minimum, contain:

(1) a principal display panel containing the product identity and logo designed and provided by the division that notifies a reasonable person that the product contains cannabis that is no smaller than 1/2 inch by 1/2 inch;

(2) cannabis manufacturer business or trade name;

(3) cannabis manufacturer license number;

(4) potency, as specified in Paragraph (3) of Subsection K of this section;

(5) the warning statement “For use only by adults 21 and older. Keep out of reach of children.”

(6) the state track and trace system number or identifier associated with the product; and

(7) all other required labeling as specified in Subsections K-L of this through the use of a static quick response (QR) code that links the consumer to the required information or use a peel-back or accordion label that can be easily identified by a consumer as containing important information.

16.8.3.10 CANNABIS SEED AND IMMATURE CANNABIS PLANT LABELING:

A. Unless otherwise provided, cannabis seeds and immature cannabis plants sold to consumers, qualified patients, or reciprocal patients shall meet the minimum labeling requirements of this section.

B. The label shall be printed on or affixed to the container or receptacle and printed on or affixed to any outer package or container that is used to display the cannabis seed or immature cannabis plant for retail sale.

C. Font size used on a label shall be no smaller than 1/16 of an inch by measuring the height of a lower-case letter “o”.

D. The label shall be in English, though it can be in other languages.

E. The label shall be unobstructed and conspicuous.

F. The label shall not contain any untruthful or misleading statements including, but not limited to, health or benefit claims.

G. The principal display panel shall include:

(1) the product identity or common name in bold type, in a size reasonably related to the most prominent printed matter on the principal display panel;

(2) potential potency, as confirmed by a cannabis testing laboratory of the parent cannabis plant; and

(3) a logo designed and provided by the division that is no smaller than 1/2 inch by 1/2 inch.

H. For cannabis seeds the display panel shall also include net quantity of seeds.

I. Cannabis seed and immature cannabis plant labels shall have an information panel or static quick response (QR) code that links to or contains the following without intervening material:

(1) if applicable, the cannabis manufacturer business or trade name;

(2) if applicable, unless the business or trade name placed on the package is the actual manufacturer, a qualifying phrase which states the firm’s relation to the product (e.g., “manufactured for” or “distributed by”);

(3) if applicable, cannabis manufacturer license number;

(4) pesticide used in the product by the cannabis producer;

(5) if applicable, date product was manufactured;

(6) the following warning statement in bold font “For use only by adults 21 and older. Keep out of reach of children.” [16.8.3.10 NMAC - N, 04/01/2022]

16.8.3.11 CANNABIS FINISHED PRODUCT LABELING IN CANNABIS CONSUMPTION AREAS:

Packaging and labeling exemptions and minimum requirements. A licensed cannabis consumption area may sell cannabis products to a consumer, qualified patient, or reciprocal patient without packaging and labeling under the following conditions:

A. the consumer, qualified patient, or reciprocal patient intends to consume cannabis product on the licensed premises of the cannabis consumption area and will store unused product on the premises as required by cannabis consumption area licensing requirements in 16.8.2 NMAC;

B. at the time of transfer of the cannabis finished product to a consumer, the licensed cannabis consumption area provides the consumer with a written statement of the potency of the cannabis product’s THC or Total THC, and CBD, which shall be expressed as a percentage for inhaled cannabis finished products, and expressed in milligrams for edible cannabis finished products and topical cannabis finished products. If CBD is not detected in the inhaled cannabis finished product, then CBD potency is not required;

C. the licensed cannabis consumption area maintains and makes available to the consumer, qualified patient, or reciprocal patient upon request written or electronic documentation reflecting all relevant information required in cannabis consumption area licensing requirements 16.8.2 NMAC; and

D. for multiple-serving edible cannabis finished product, the licensed cannabis consumption area at the time of transfer to the consumer, qualified patient, or reciprocal patient shall provide a measurement device necessary for the purchaser to achieve accurate measurements of each serving in increments equal to or less than 10 milligrams of Total THC per serving. [16.8.3.10 NMAC - N, 04/01/2022]

16.8.3.12 CANNABIS FINISHED PRODUCT PACKAGING:

A. Unless otherwise specified, edible or topical cannabis finished products shall meet the following minimum packaging requirements:

(1) containers used for edible cannabis products or edible cannabis finished products shall be food-grade or GRAS and must not impart any toxic or deleterious substance to the packaged product;

(2) containers used for topical cannabis products and topical cannabis finished products must be suitable for the intended purpose and must not impart any toxic or deleterious substance to the packaged product;

(3) unless otherwise provided, containers shall be child-resistant. If the product is multiple use, or contains multiple servings, it shall also be packaged in a container that is resealable and continually child-resistant;

(4) cannabis finished products that contain only cannabis flower must be packaged in resealable containers and are not subject to the child resistant container requirement;

(5) containers shall be compostable and recyclable, or made from recycled materials;

(6) edible cannabis finished products shall not exceed 10 milligrams of Total THC per serving, or 100 milligrams of Total THC per container;

(7) single-serving edible cannabis finished products that are placed into a child-resistant container may be bundled into an exit package;

(8) edible cannabis finished products containing multiple servings in a single container shall:

(a) when in solid form, be:

(i) easily separable in order to allow an average person 21 years of age or older to physically separate, with minimal effort, individual servings of the product; and

(ii) easily and permanently scored to identify individual servings;

(b) be packaged in a single serving size; and

(c) be marked, stamped, or otherwise imprinted with a logo designed and provided by the division that notifies a reasonable person that the product contains cannabis that is no smaller than 1/2 inch by 1/2 inch for each single serving contained in a multi-serving package.

(9) Unless as otherwise specified in Paragraph (10) of this subsection, liquid cannabis finished products shall be single-serving only.

(10) Each liquid cannabis finished product that is a multiple-serving edible cannabis finished product shall be:

(a) packaged in a structure that uses a single mechanism to achieve both child-resistant properties and accurate pouring measurement of each liquid serving in increments; and

(b) the measurement component is within the child-resistant cap or closure of the bottle and is not a separate component.

(11) A cannabis manufacturer shall maintain a copy

of the certificate showing that each child-resistant container into which edible or topical cannabis finished product is placed is child-resistant and complies with the requirements of 16 C.F.R. 1700.15 and 16 C.F.R. 1700.20;

(12) Packaging containers shall not be designed to be appealing to a child and shall not use words that refer to products that are commonly associated with minors or marketed by minors, including use of the word(s) “candy” or “candies” on the label of any container.

(13) Once any remaining cannabis has been removed and destroyed pursuant to these rules, a cannabis establishment may reuse containers subject to the following requirements and restrictions:

(a) the containers have been sanitized and disinfected either by a cannabis establishment or by a third-party to ensure that they do not contain any harmful residue or contaminants, and

(b) if child resistant, the containers can be reused with new child resistant packaging that complies with 16 C.F.R. 1700.15 and 16 C.F.R. 1700.20; or if new child resistant packaging is not being used, based on a visual inspection, the existing child-resistant packaging appears to be in good working order and does not appear to pose a risk of unintended exposure or ingestion of cannabis. The visual inspection must ensure such containers are not brittle or have chips, cracks, or other imperfections that could compromise the child-resistant properties of the container or otherwise pose a threat of harm to a patient or consumer.
[16.8.3.12 NMAC - N, 04/01/2022]

16.8.3.13 EXIT PACKAGING: All finished cannabis products purchased by a customer, qualified patient, or reciprocal patient shall not leave the licensed retailer’s premises unless the cannabis products are placed in an opaque exit package.
[16.8.3.13 NMAC - N, 04/01/2022]

16.8.3.14 CANNABIS SEED AND IMMATURE PLANT PACKAGING: Unless otherwise specified, cannabis seeds sold shall meet the following minimum packaging requirements:

A. cannabis seeds and immature cannabis plants shall be placed into a container;

B. containers must be suitable for the intended purpose and must not impart any toxic or deleterious substance to the packaged product; and

C. containers shall be compostable and recyclable, or made from recycled materials.
[16.8.3.14 NMAC - N, 04/01/2022]

16.8.3.15 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.
[16.8.3.15 NMAC – N, 04/01/2022]

History of 16.8.3 NMAC:
[RESERVED]

**REGULATION AND LICENSING DEPARTMENT
CANNABIS CONTROL DIVISION**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 8 COMMERCIAL AND MEDICAL CANNABIS
PART 7 QUALITY CONTROL, INSPECTION, AND TESTING OF CANNABIS PRODUCTS**

16.8.7.1 ISSUING AGENCY: New Mexico Regulation and Licensing Department, Cannabis Control Division.
[16.8.7.1 NMAC – N, 03/01/2022]

16.8.7.2 SCOPE: This rule applies to all applicants for licensure pursuant to the Cannabis Regulation Act, the Lynn and Erin

Compassionate Use Act or division rules, and where applicable, the general public.
 [16.8.7.2 NMAC - N, 03/01/2022]

16.8.7.3 STATUTORY AUTHORITY: The requirements set forth herein are promulgated by the cannabis control division pursuant to the authority granted under the Cannabis Regulation Act and the licensing provisions of the Lynn and Erin Compassionate Use Act.
 [16.8.7.3 NMAC - N, 03/01/2022]

16.8.7.4 DURATION: Permanent.
 [16.8.7.4 NMAC - N, 03/01/2022]

16.8.7.5 EFFECTIVE DATE: March 1, 2022, unless a later date is cited at the end of a section.
 [16.8.7.5 NMAC - N, 03/01/2022]

16.8.7.6 OBJECTIVE: The objective of Part 7 is to set forth standards related to quality control of inspection, and testing of cannabis and cannabis products to ensure uniformity of cannabis and cannabis products and protect public safety. Part 7 is not applicable to personal use of cannabis pursuant to the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

[16.8.7.6 NMAC - N, 03/01/2022]

16.8.7.7 DEFINITIONS: [RESERVED]

16.8.7.8 REQUIRED TESTING OF CANNABIS PRODUCTS: A cannabis establishment shall segregate a batch of cannabis product and arrange for samples to be collected and tested by a cannabis testing laboratory if required by this section. The batch must pass all required tests prior to the sale or delivery to a qualified patient, primary caregiver or consumer.

A. Required testing:
 Unless an exception applies:
(1) A cannabis producer, cannabis producer microbusiness, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in Table 1, *Required Testing of Cannabis Products*, below, of any cannabis flower and trim that it harvests prior to:

(a) packaging for retail sale;
(b) transfer to another cannabis establishment for the purposes of retail sale;

(c) retail sale; or
(d) delivery to a patient or consumer.
(2) A cannabis manufacturer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in Table 1 of any cannabis product, including but not limited to a concentrate or extract, that it manufactures prior to:
(a) packaging for retail sale
(b) transfer to another cannabis establishment for the purposes or retail sale;
(c) retail sale; or
(d) delivery to a qualified patient, primary caregiver or consumer.
(3) A cannabis retailer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall not sell or deliver to a patient or consumer any cannabis product unless the cannabis product has undergone all testing required by this section.
(4) Testing for homogeneity will be required beginning April 1, 2024.

Table 1, Required Testing of Cannabis Products

Product category	Potency	Homogeneity of Batch	Visual Inspection	Microbiological	Residual Pesticides	Residual Solvents
Flower	X	X	X	X	X	
Trim	X	X	X	X	X	
Concentrate (volatile solvent)	X			X	X	X
Kief	X		X	X	X	
Pre-rolls	X			X	X	
Concentrate (non-volatile solvent)	X		X	X	X	
Extract – alcohol	X			X	X	
Extract – other liquid	X			X	X	
Topical	X			X		
Edible	X			X	*	
Other inhalable	X				*	X
Other	X			X	*	X

*Pesticide testing required unless exempted by paragraph E, below.

B. Staggered implementation:

(1) The division may within its discretion delay implementation of sample collection and testing requirements of this section, in whole or in part.

(2) In determining the start date of an individual testing requirement, the division shall consider whether a cannabis testing laboratory has validated a method for conducting the test.

(3) In determining the date on which a cannabis establishment must have its samples collected by an employee or contractor of a cannabis testing laboratory, the division shall consider the capacity of cannabis testing laboratories to collect and transport samples.

(4) The division may establish different implementation dates for sample collection requirements for:

(a) cannabis producer microbusinesses and integrated cannabis microbusinesses located up to 100 miles by automobile from the nearest licensed cannabis testing laboratory location;

(b) cannabis producers, cannabis manufacturers, and vertically integrated cannabis establishments located up to 200 miles by automobile from the nearest licensed cannabis testing laboratory location;

(c) cannabis producer microbusinesses and integrated cannabis microbusinesses located more than 100 miles by automobile from the nearest licensed cannabis testing laboratory location;

(d) cannabis producers, cannabis manufacturers, and vertically integrated cannabis establishments located more than 200 miles by automobile from the nearest licensed cannabis testing laboratory location; and

(e) cannabis establishments for which

travel to a licensed cannabis testing laboratory location requires passing through a United States border patrol checkpoint.

C. Collection and transportation of samples:

A cannabis testing laboratory is responsible for the collection of samples for the performance of any required test, re-test after a failing result, re-test after remediation, or test for the purposes of labeling.

(1) A cannabis testing laboratory may perform sample collection using:

(a) Laboratory employees with requisite training, as specified in 16.8.2.26 NMAC; or

(b) Contractors who have completed the sampling agent training offered by the U.S. department of agriculture’s domestic hemp production program and sign an affidavit that they have no ownership interest in, and are not employed by, any cannabis establishment that produces or manufactures cannabis. The contractor shall obtain necessary training to comply with the cannabis testing laboratory’s protocols, and the cannabis testing laboratory may reject any sample that it suspects was collected outside of its protocols.

(2) A cannabis testing laboratory may transport samples using:

(a) Laboratory employees with requisite training, as specified in 16.8.2.26 NMAC; or

(b) Contractors who sign an affidavit that they have no ownership interest in, and are not employed by, any cannabis establishment that produces or manufactures cannabis. Transporting cannabis for a cannabis establishment on a contractual basis does not preclude a person or entity from transporting samples in secure containers for cannabis testing laboratories.

(3) Nothing in these rules shall be interpreted to require a cannabis testing laboratory to collect samples from or transport

samples on behalf of any cannabis establishment.

(4) If the division has delayed implementation of the requirement that the cannabis testing laboratory collect the sample from a cannabis establishment, based on its distance from the nearest cannabis testing laboratory or location beyond a U.S. border patrol checkpoint, then any person collecting or transporting samples for required testing must receive training in sample collection and transportation protocols.

(a) Nothing in these rules shall be interpreted to require a cannabis testing laboratory to accept samples from a cannabis establishment.

(b) The cannabis testing laboratory may reject any sample that it suspects was collected outside of its protocols.

(5) A cannabis establishment may specify reasonable precautions prevent the contamination of batches of cannabis, except that the cannabis establishment must provide access to the entire batch of cannabis product. Precautions may include, but are not limited to:

(a) requiring the use of gloves and other personal protective equipment

(b) inspecting tools and containers prior to their use;

(c) specifying the location within the cannabis establishment at which the samples will be collected;

(d) specifying locations within the cannabis establishment to which laboratory employees or contractors do not have access; and

(e) the right to refuse entry to any laboratory employee or contractor not in compliance with the precautions

(6) Nothing in these rules shall be interpreted to require routine testing of cannabis products before the cannabis establishment segregates cannabis products into batches and places the batches into containers for storage while awaiting test results.

D. Compliance with all rules and applicable laws required: Passage of testing does not relieve an establishment of its obligation to comply with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, the Pesticide Control Act, division rules, or other local, state, and federal laws not in conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

(1) A cannabis establishment shall waste and dispose of any cannabis product to which a pesticide has been applied in violation of division rules or the Pesticide Control Act or any product manufactured using an unapproved solvent.

(2) Nothing in this rule shall be interpreted as precluding regulatory activities by other state agencies that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

E. Exceptions to required testing:

(1) A cannabis establishment shall not be required to have tested for pesticide residue any cannabis product made from cannabis concentrate or cannabis extract with verified pesticide residue test results, so long as the establishment can demonstrate that the resulting product will not exceed action levels for that type of cannabis product.

(2) A cannabis establishment shall not be required to have tested a cannabis product acquired from another cannabis establishment if the batch, in present form, was previously determined to have passed the testing requirements of this rule and is accompanied by a Certificate of Analysis issued by a licensed cannabis testing laboratory within the previous ninety days.

(3) If additional testing requirements take effect after a cannabis testing laboratory obtains a sample of a cannabis product for required testing, the laboratory is required to perform only those tests required at the time the sample was obtained.

F. Visual inspection: A sample shall pass visual inspection if, under a minimum of 40X magnification, laboratory personnel detect in a one gram sample:

(1) no living or dead insects, hair, eggs, or feces; and

(2) no more than two percent sand, soil, mold, or rocks.

G. Microbiological testing: A sample shall pass microbiological testing if the sample contains concentrations of target microbes not exceeding the action levels set forth in Table 2, *Microbiological Testing Requirements*, below.

(1) The division may require required testing for additional microbes if quality control or inspection testing conducted by cannabis testing laboratories, NMDA, the department of health, or the division identifies their presence, in a quantity or amount that poses a threat to public health, in a cannabis product produced, manufactured, or sold by any cannabis establishment. The division shall provide written notice to licensees 30 days before requiring required testing for additional pesticide residues, except that such notice is not required when human illness is linked to contaminated cannabis products.

(2) The cannabis testing laboratory may report a collective total of the four *Aspergillus* strains listed without distinguishing individual totals.

(3) The test results shall be reported as “Present,” “Absent,” or in colony forming units (CFU) per one gram sample.

Table 2. Microbiological Testing Requirements

Target Microbe	Action Level
*E. coli	100 CFU/gram
<i>Aspergillus flavus</i> , <i>Aspergillus fumigatus</i> , <i>Aspergillus niger</i> , or <i>Aspergillus terreus</i>	Present in 1 gram
<i>Salmonella</i> spp.	Present in 1 gram
†Shiga-toxin producing E. coli	Present in 1 gram
† <i>Clostridium botulinum</i>	Present in 1 gram
† <i>Pseudomonas aeruginosa</i>	Present in 1 gram
*Cannabis product may be tested for shiga-toxin producing E. coli, rather than generic E. coli. †Testing for shiga-toxin producing E. coli, <i>Clostridium botulinum</i> , and <i>Pseudomonas aeruginosa</i> is required only for edible cannabis products manufactured from fresh cannabis with a water activity of 0.65 or greater.	

H. Residual solvent testing: A sample shall pass residual solvent testing if the sample contains concentrations of residual solvents lower than the action levels set forth in Table 3, *Residual Solvent Testing Requirements*, below. The test results shall be reported as described in the notes to Table 3.

Table 3. Residual Solvent Testing Requirements

Target Compounds	Common Chemical Name	IUPAC Name	CAS Number	Action Level*
Propane	Propane	Propane	74-98-6	5000
Butanes	<i>n</i> -butane	Butane	106-97-8	5000
	Isobutane	2-methylpropane	75-28-5	5000
Pentane	<i>n</i> -pentane	Pentane	109-66-0	5000
Hexane	<i>n</i> -hexane	Hexane	110-54-3	290
Benzene	Benzene	Benzene	71-43-2	2.0
Toluene	Toluene	Methylbenzene	108-88-3	890
Heptane	<i>n</i> -heptane	Heptane	142-82-5	5000
Ethylbenzene and Xylenes	Ethylbenzene	Ethylbenzene	100-41-4	2170 Total
	<i>ortho</i> -xylene	1,2-dimethylbenzene	95-47-6	
	<i>meta</i> -xylene	1,3-dimethylbenzene	108-38-3	
	<i>para</i> -xylene	1,4-dimethylbenzene	106-42-3	
Ethanol†	ethyl alcohol	Ethanol	64-17-5	5000
Methanol	methyl alcohol	Methanol	67-56-1	3000
Isopropanol	Isopropyl alcohol	2-propanol	67-63-0	5000
Acetone	Acetone	2-propanone	67-64-1	5000

Use two significant digits when reporting residual solvent results.

Report levels less than the Limit of Quantitation for each solvent according to the following example::

"Benzene < 2.0 µg/g"

*Micrograms solvent per gram (µg/g) of sample/parts per million (ppm).

†Unless exempt from testing.

I. Potency and homogeneity testing:

(1) Potency testing requires determining the quantity of tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA) per gram of sample and the calculation of THC potency and CBD potency, according to Table 4, *Potency Testing Requirements*, below.

(2) Batch-level homogeneity testing is performed by testing for total THC potency. The number of samples to be tested shall be based on the size of the batch according to the method validated by the cannabis testing laboratory; however, the total number of samples tested shall be not less than three for any batch of material five pounds or less.

(3) Product-level homogeneity testing is performed by segregating a single retail package or an identical quantity of a solid or semi-solid and testing for total THC potency a minimum of three randomly selected increments of the product.

(4) A set of samples shall pass homogeneity testing if the relative standard deviation of total THC potency of the samples is no more than twenty percent.

Table 4. Potency Testing Requirements			
Cannabinoid	Abbreviation	CAS Number	Reporting Units
Tetrahydrocannabinolic Acid	THCA	23978-85-0	For solids: mg of analyte/gram of sample and percentage by weight
Tetrahydrocannabinol	THC	1972-08-3	
Cannabidiolic Acid	CBDA	1244-58-2	
Cannabidiol	CBD	13956-29-1	For liquids: mg/ml
Total THC Potency (solids)	THC Potency = (Percent THCA × 0.877) + Percent THC		Percentage by weight
Total CBD Potency (solids)	CBD Potency = (Percent CBDA × 0.877) + Percent CBD		
Total THC Potency (liquids)	THC Potency = (mg/ml THCA × 0.877) + mg/ml THC		mg/ml
Total CBD Potency (liquids)	CBD Potency = (mg/ml CBDA × 0.877) + mg/ml CBD		

J. Pesticide testing: A sample shall pass pesticide testing if concentrations of residues of pesticides are lower than the action levels listed in Table 5, *Pesticide Testing Requirements*, below.

(1) The division may adopt required testing for additional pesticide residues if quality control or inspection testing conducted by cannabis testing laboratories, NMDA, the Department of Health, or the division identifies their presence in a cannabis product produced or manufactured by any cannabis establishment. The division shall provide written notice to licensees 30 days before implementing required testing for additional pesticide residues.

(2) Nothing in this section shall be interpreted to waive or diminish any requirement of the Pesticide Control Act, §§76-4-1 et seq. NMSA 1978. The division, alone or in conjunction with NMDA, may investigate any suspected use of a pesticide not registered with NMDA for use on cannabis.

Table 5. Pesticide Testing Requirements			
Targeted Pesticide	CAS Number	Action Level: Inhalable*	Action Level: Non-Inhalable*
†Abamectin	71751-41-2	0.1	0.15
†Acequinocyl	57960-19-7	2.0	2.0
†Bifenazate	149877-41-8	0.2	0.2
†Bifenthrin	82657-04-3	0.1	0.1
†Etoxazole	153233-91-1	0.1	1.0
†Imazalil	35554-44-0	0.1	0.1
†Imidacloprid	138261-41-3	0.1	3.0
†Myclobutanil	88671-89-0	0.1	0.4
†Paclobutrazol	76738-62-0	0.04	0.04
Piperonyl butoxide	51-03-6	3.0	8.0
†Pyrethrins (cumulative total)	121-21-1 25402-06-6 4466-14-2	0.5	1.0
†Spinosyn A, D (cumulative total)	131929-60-7 131929-63-0	0.1	3.0
†Spiromesifen	283594-90-1	0.1	0.2
†Spirotetramat	203313-25-1	0.1	0.2

†Trifloxystrobin	141517-21-7	0.02	0.02
Other pesticide not registered with NMDA for use on cannabis	Varies	0.02	0.02

*Micrograms of pesticide per gram ($\mu\text{g/g}$) of sample/parts per million (ppm).
 Report levels less than the Limit of Quantitation for each pesticide residue according to the following example:
 "Paclobitrazol < 0.4 $\mu\text{g/g}$ "
 †Not registered with NMDA for use on cannabis.

K. Release of batch after testing: A cannabis establishment may release an entire batch of cannabis product for immediate manufacture, sale, or other use, provided that the sample taken from the batch passes the tests required in this section.

L. Procedures for testing: A cannabis establishment shall adhere to the following procedures:

(1) After collection of samples, a batch of cannabis product shall be segregated in a secure container and stored under controlled environmental conditions (temperature, humidity, light) designed to limit microbial growth or other spoilage until the cannabis establishment receives a certificate of analysis indicating the batch meets the testing requirements of this rule.

(2) The secured container shall be labeled with the identification number used in the track and trace system, the name of the cannabis testing laboratory, the date on which the samples were taken, and, in minimum 12-point font, all capital letters, "AWAITING TEST RESULTS. DO NOT TRANSFER."

(3) The cannabis testing laboratory and the cannabis establishment submitting samples each shall appropriately document in the track and trace system the sampling and testing of cannabis product.

(4) A cannabis establishment shall maintain all results of laboratory tests conducted on cannabis products produced or manufactured by the cannabis

establishment for a period of at least two years and shall make those results available to consumers or cannabis retailers upon request.

M. Re-testing: If a sample fails any test, the cannabis establishment may request re-testing by the same cannabis testing laboratory or another cannabis testing laboratory. If the repeated test is within acceptable limits, then the batch may be sold, transferred, or further manufactured.

N. Remediation: Within 120 days of a failed test, a cannabis establishment may remediate and retest the batch according to the procedures described in this subsection. A cannabis establishment shall adopt and maintain on the premises protocols regarding remediation consistent with this rule.

(1) A cannabis establishment may remediate dried cannabis or cannabis concentrates that fail microbiological testing by means of extraction using an approved volatile solvent. Other products that fail microbiological testing may not be remediated.

(2) A cannabis establishment may remediate any cannabis product that fails homogeneity testing through any approved manufacturing process, including extraction, chopping, melting, mixing, infusing, or otherwise combining the batch.

(3) A cannabis establishment may remediate any cannabis product that fails residual solvent testing by evaporating solvent using heat, vacuum pressure, or a combination of methods.

(4) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of mold by means of extraction using an approved volatile solvent.

(5) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of insects, hair, eggs, or feces by removing the contaminants, followed by extraction using an approved volatile solvent.

(6) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of soil or rocks by removing the contaminants.

(7) Cannabis product that has been remediated must undergo any test that was previously failed.

(8) Cannabis product that has been remediated with the use of volatile solvents must additionally undergo residual solvent testing.

O. Notice and destruction: Any cannabis product that fails a test and cannot be remediated, including any remediated cannabis product that fails any test after remediation, is subject to destruction in accordance with the wastage requirements of 16.8.2.15 NMAC. The cannabis establishment shall notify the division within 24 hours and shall confirm the wastage and disposal of the usable cannabis in accordance with this rule. The wasted product shall be removed from inventory, and the removal from inventory shall be noted in the track and trace system.

P. Interpretation of differing results: Results produced by a cannabis testing laboratory are valid only for the sample tested. A differing result produced by quality control or inspection testing of a different sample pursuant to 16.8.2.16 NMAC is not grounds for action against the cannabis testing laboratory that produced the original testing result.
[16.8.7.8 NMAC – N, 03/01/2022]

16.8.7.9 ADDITIONAL TESTING SERVICES OFFERED BY CANNABIS TESTING LABORATORIES:

A cannabis testing laboratory may offer cannabis establishments testing for quality improvement, research and development, or labeling purposes. A cannabis testing laboratory may also offer testing to persons other than cannabis establishments as provided in this section.

A. Research and Development Testing for Cannabis Establishments: A cannabis testing laboratory may offer to cannabis establishments any required test or any additional test for the purpose of research and development or for quality-control measures requested by a cannabis establishment.

(1) The cannabis establishment may collect the sample, or an agent of the cannabis testing laboratory may collect the sample.

(2) If a cannabis establishment requests testing for research and development purposes, the results may not be used to satisfy any required testing requirement, even if the sample passes all tests.

(3) The failure of a test for research and development purposes shall not constitute a failed test.

(4) The results of a test conducted for research and development purposes shall not be included on a product label or advertisement.

B. Testing for the Purposes of Labeling by Cannabis Establishments: A cannabis testing

laboratory may offer to cannabis establishments additional tests not included in required testing for the purposes of product labeling, including quantitation of specific pesticides, microbial contaminants, solvents, mycotoxins, or metals.

(1) An agent of the cannabis testing laboratory shall collect the samples according to the laboratory's protocols.

(2) A label may include a reference to concentrations of compounds not subject to required testing, including terpenes, terpenoids, or additional cannabinoids.

(3) A label may include a reference to the passage of cannabis screenings, including one or more of the following:

(a) naming the contaminants for which screening was performed;

(b) providing a link or QR code to the list of contaminants for which the cannabis product was screened; or

(c) a statement that the product has met third-party screening criteria, such as those established by an industry association, except that no label shall contain claims that a cannabis product is "pesticide free" or "organic" unless such labeling is specifically authorized under U.S. department of agriculture regulations.

C. Reporting of contamination: Nothing in this rule shall be interpreted to require a cannabis testing laboratory to offer testing for analytes not included in required testing. However, a cannabis testing facility shall report to the division, without naming the source of the sample, the detection of any of the following analytes in the course of testing for research and development or labeling purposes:

(1) aflatoxin B1, B2, G1, and G2 and ochratoxin A, at a total concentration of 20 µg/kg (parts per billion) or greater;

(2) arsenic, cadmium, lead, or mercury, at a concentration of 0.4 µg/g (parts per million) or greater;

(3) the residue of any pesticide not required to be tested or not registered in New Mexico for use on cannabis, at any level detectable by the cannabis testing laboratory's methodology; or

(4) any microorganism not required to be tested at a level that poses a significant threat to human health.

D. Research and Development Testing in Connection with Personal Use or Medical Use of Cannabis. A cannabis testing laboratory may perform any test on a sample of cannabis product for any resident of New Mexico who is at least 21 years of age and represents in writing that the cannabis product is for the personal use or medical use of the person submitting the sample or a person for whom the person submitting the sample is acting as a primary caregiver. The cannabis testing laboratory shall provide guidance on sample collection but shall not collect samples onsite.

E. Testing Services to Entities Operated or Licensed by a Tribal Government. A cannabis testing laboratory may perform any test on a sample of cannabis product for any entity located within New Mexico and operated or licensed by a tribal government with which the division has an intergovernmental agreement covering cannabis testing. If the intergovernmental agreement permits such entities to collect and submit samples, the cannabis testing laboratory shall provide guidance on sample collection. Otherwise, an agent of the laboratory shall collect samples.

F. Testing Services for the Division or Other Governmental Entities: A cannabis testing laboratory may, but is not required to, perform any test on behalf of the division, NMDA, another state agency, or a state or local law enforcement authority acting within its lawful jurisdiction.

[16.8.7.9 NMAC – N, 03/01/2022]

16.8.7.10 PREVENTION OF HEAVY METAL CONTAMINATION: A cannabis

establishment shall adhere to the following quality control standards for the production and manufacturing of cannabis:

- A. Growing media:** The cannabis establishment shall maintain, and make available for division inspection, records of all growing media purchased.
 - B. Water:** If using for irrigation water from a non-municipal source, a cannabis establishment shall maintain quarterly testing data indicating concentrations at or below the action levels in Table 1, *Heavy Metal Testing Requirements for Water and Soil*, below.
 - C. Soil:** If growing cannabis directly in the ground, the cannabis establishment shall submit at least annually representative soil samples to a laboratory for analysis of arsenic, cadmium, lead, and mercury levels and shall retain a certificate of analysis for inspection by the division. If the concentration of any heavy metal exceeds the action levels in Table 1, *Heavy Metal Testing Requirements for Water and Soil*, below, the cannabis establishment shall remediate the soil and shall not produce additional plants until soil concentrations are below the applicable action levels.
 - D. Choice of laboratories:** The cannabis establishment may submit water or soil samples to any laboratory in the United States offering water or soil analysis for the four required analytes.
- [16.8.7.10 NMAC – N, 03/01/2022]

Analyte	Symbol	CAS Number	Action Level: Soil*	Action Level: Water†
Arsenic	As	7440-38-2	4.25	10.0
Cadmium	Cd	7440-43-9	7.05	5.0
Lead	Pb	7439-92-1	400	15.0
Mercury	Hg	7439-97-6	2.38	2.0

*Reported in micrograms per gram (µg/g) of sample/parts per million (ppm). Based on New Mexico Environment Department’s *Risk Assessment Guidance for Site Investigations and Remediation*.
 †Reported in micrograms per liter (µg/L) of sample. Based on U.S. Environmental Protection Agency’s maximum contaminant levels.

16.8.7.11 SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.
 [16.8.7.11 NMAC – N, 03/01/2022]

History of 16.8.7 NMAC: [RESERVED]

<p style="text-align: center;">REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION</p> <p>This is an amendment to 16.8.1 NMAC, Section 7, effective 01/11/2021.</p> <p>16.8.1.7 DEFINITIONS: Unless otherwise defined below, terms used in Title 16, Chapter 8, have the same meanings as set forth in the Cannabis Regulation Act and the Lynn and Erin Compassionate Use Act.</p> <p>A. Definitions beginning with “A”: (1) “Advisory committee” means the cannabis regulatory advisory committee.</p>	<p style="text-align: center;">(2)</p> <p>“Applicant” means any person who is seeking to become licensed pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.</p> <p>B. Definitions beginning with “B”: “Batch” means, with regard to cannabis, an identified quantity of cannabis no greater than 15 pounds that is of the same strain of cannabis, that is harvested during the same specified time period from the same specified cultivation area, and with respect to which the same agricultural practices were utilized, including the use of any pesticides; and with regard to concentrated and cannabis product, means an identified quantity</p>	<p>that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged, and labeled during a specified time period according to a single manufacturing, packaging, and labeling protocol.</p> <p>C. Definitions beginning with “C”: (1) “Cannabis Regulation Act” means the Cannabis Regulation Act, as enacted in Chapter 4, Sections 1 through 42 of New Mexico Laws of 2021, and as may be amended thereafter. (2) “Cannabis Waste” means all parts of the plant genus Cannabis which may or may not contain a delta-9-tetrahydrocannabinol concentration</p>
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of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; or the sterilized seed of the plant that is incapable of germination which has been designated as no longer usable cannabis.

(3) **“Carbon dioxide solvent”** means carbon dioxide in a liquid or supercritical state.

(4) **“CBD”** means cannabidiol, a cannabinoid and a non-psychoactive ingredient found in cannabis.

(5) **“CBDA”** means cannabidiolic acid, a non-psychoactive ingredient found in cannabis and an acid precursor to CBD.

(6) **“Closed loop extraction system”** means a commercially manufactured extraction system that is sealed during operation and designed to recover all solvents used during the extraction process through a feedback loop.

(7) **“Concentrated cannabis product (“concentrate”)** means a cannabis product that is manufactured by a division approved mechanical or chemical process that separates any cannabinoid from the cannabis plant, and that contains or that is intended to contain at the time of sale or distribution, no less than thirty-percent THC by weight.

D. Definitions beginning with “D”:

(1) **“Delivery agreement”** means a contract between a licensed cannabis establishment and a licensed cannabis courier to deliver cannabis or cannabis products from the cannabis establishment directly to consumers as permitted under the

provisions of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rule.

(2) **“Division”** means the cannabis control division.

(3) **“Diversion”** means the unlawful transfer of a cannabis plant, plant material, or cannabis product.

(4) **“Dried cannabis”** means the dried leaves, flowers, and trim of the female cannabis plant, but does not include the seeds, stalks, or roots of the cannabis plant.

E. Definitions beginning with “E”: **“Extraction area”** means the area of a licensed manufacturer’s processing facility that is designed for solvent-based extraction, which the division has inspected and approved for the area’s designated use.

F. Definitions beginning with “F”: [RESERVED]

G. Definitions beginning with “G”: [RESERVED]

H. Definitions beginning with “H”:

(1) **“Homogeneity”** means the reasonably equal dispersion of cannabinoids throughout a batch of cannabis product and within the cannabis product as packaged or as intended for sale.

(2) **“Hydrocarbon solvent”** means N-butane, isobutene, propane, pentane, heptane, or any isomer or combination thereof.

I. Definitions beginning with “I”: **“Independent professional engineer”** means an engineer licensed pursuant to the Engineering and Surveying Practice Act, Section 61-23-1 *et seq.*, NMSA 1978, that is not an employee, owner, officer, controlling person, board member, or manager of the cannabis establishment licensee.

J. Definitions beginning with “J”: [RESERVED]

K. Definitions beginning with “K”: [RESERVED]

L. Definitions beginning with “L”:

(1) **“Licensee”** means any person who holds a license issued by the division pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules.

(2) **“Limited-access area”** means an indoor or outdoor area on the premises of a licensed cannabis establishment where cannabis or cannabis products are cultivated, stored or held, weighed, packaged, manufactured, disposed or wasted, all point-of-sale (POS) areas, and any room or area storing a digital video surveillance system storage device.

(3) **“Limit of detection”** means an estimate of the minimum amount of an analyte in a given matrix that an analytical process can reliably detect.

(4) **“Limit of quantitation”** means the minimum level, concentration, or quantity of a target analyte in a given matrix that an analytical process can reliably quantitate.

(5) **“Liquor Control Act”** mean the Liquor Control Act, Chapter 60, Articles 3A, 5A, 6A, 6B, 6C, 6E, 7A, 7B and 8A, NMSA 1978.

(6) **“Lot”** means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or, in the case of a cannabis product or concentrate, an identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.

(7) **“Lynn and Erin Compassionate Use Act”** means the Lynn and Erin Compassionate Use Act, Section 26-2B-1 *et seq.*, NMSA 1978.

M. Definitions beginning with “M”: **“Minor”** means an individual who is less than 18 years of age.

N. Definitions beginning with “N”: [RESERVED]

O. Definitions beginning with “O”: [RESERVED]

P. Definitions
beginning with “P”:
 (1) **“Pesticide”** means a pesticide as defined by the New Mexico Pesticide Control Act, Section 76-4-1 *et seq.*, NMSA 1978.
 (2) **“Plant”** means any cannabis plant, cutting, or clone that has roots or that is cultivated with the intention of growing roots.
 (3) **“Plant material”** means leaves, stalks, stems, roots, and any other part of the cannabis plant.
 (4) **“Pressure vessel”** means a component of a closed loop system containing cannabis plant material and solvents used during solvent-based extraction and designed to withstand pressure greater than 15 psi.
 (5) **“Policy”** means a written statement of principles that guides and determines present and future decisions and actions of the licensed person.
 (6) **“POS”** means point of sale system.
 (7) **“Person”** means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity.
 (8) **“Produce”** means to engage in any activity related to the planting or cultivation of cannabis.
(9) **“Proficiency testing”** means a standardized test administered by an ISO 17043 accredited laboratory to evaluate the ability of a laboratory to measure, within acceptable limits, the presence, quantity, or other factors pertaining to a given analyte.
Q. Definitions
beginning with “Q”: [RESERVED]
R. Definitions
beginning with “R”:
 (1) **“Recall”** means to request the return of a product after the discovery of a safety issue or product defect.
 (2) **“RLD”** means the regulation and licensing department.

S. Definitions
beginning with “S”:
 (1) **“Safe moisture level”** means a level of moisture low enough to prevent the growth of undesirable microorganisms in the finished produce.
 (2) **“Security alarm system”** means any device or series of devices capable of alerting law enforcement, including, but not limited to, a signal system interconnected with a radio frequency method such as cellular, private radio signals, or other mechanical or electronic device used to detect or report an emergency or unauthorized intrusion.
 (3) **“Segregate”** means to separate and withhold from use or sale batches, lots, cannabis, usable cannabis, or cannabis products in order to first determine its suitability for use through testing by an approved laboratory.
 (4) **“Solvent”** means a hydrocarbon solvent, carbon dioxide solvent, or organic solvent, which is used to dissolve or disperse chemical compounds from cannabis plant material in a closed loop system.
 (5) **“Solvent-based extraction”** means the process of dissolving or dispersing specific chemical compounds from the cannabis plant material using a solvent in a closed loop system.
T. Definitions
beginning with “T”:
 (1) **“THC”** means tetrahydrocannabinol, a cannabinoid that is the primary psychoactive ingredient in cannabis.
(2) **“THCA”** means tetrahydrocannabinolic acid, a non-psychoactive ingredient in cannabis and an acid precursor to THC.
 (3) **“Testing”** means testing of cannabis and cannabis products consistent with division rules.
 (4) **“Track and trace system”** means the electronic system designated by the division to track and trace the production, transportation, sale, and wastage of cannabis and cannabis products.

U. Definitions
beginning with “U”: [RESERVED]
V. Definitions
beginning with “V”:
 (1) **“Vault”** means a limited access storage room that is within a licensed cannabis establishment and is outfitted with adequate security features for the purposes of storing cannabis, cannabis products, or cash.
(2) **“Volatile solvent”** means a hydrocarbon solvent, alcohol, or acetone.
W. Definitions
beginning with “W”:
 (1) **“Waste” or “wastage”** means the process of rendering cannabis or cannabis products unusable and unrecognizable, including the destruction of cannabis or cannabis products.
 (2) **“Water activity”** means the measure of the free moisture in a manufactured cannabis product and is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature.
X. Definitions
beginning with “X”: [RESERVED]
Y. Definitions
beginning with “Y”: [RESERVED]
Z. Definitions
beginning with “Z”: [RESERVED]
 [16.8.1.7 NMAC - N, 08/24/2021; A, 12/28/2021; A, 01/11/2022]

REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION

This is an amendment to 16.8.2 NMAC, renumbering Section 43 to Section 49 and adding new Sections 43 through 48, effective 01/11/2022.

16.8.2.43 CANNABIS TESTING LABORATORY LICENSE: GENERAL PROVISIONS:

A. Testing categories:
 The division may license cannabis testing laboratories to perform analytical testing of cannabis products

in one or more of the following categories:

- (1) visual inspection;
- (2) microbiological;
- (3) residual solvents;
- (4) potency and homogeneity;
- (5) heavy metals;
- (6) pesticides; and
- (7) such other testing categories as the department may identify.

B. License not required for internal testing: A cannabis establishment may conduct analytical testing using validated methods for internal quality control purposes without obtaining a cannabis testing laboratory license but may not offer testing services to another person or entity.

C. Division application forms: All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal.

D. Other activities prohibited: No person with a direct or indirect interest in any cannabis establishment other than a cannabis research laboratory may hold an interest in a cannabis testing laboratory.

[16.8.2.43 NMAC – Rp, 16.8.2.43 NMAC, 01/11/2022]

16.8.2.44 APPLICATION REQUIREMENTS FOR CANNABIS TESTING LABORATORY LICENSE:

A. Contents of application:

- (1) for any initial or renewal application, contact information for the applicant and the cannabis establishment, to include:
- (a) applicant's full legal name;
- (b) applicant's mailing address;

(c) applicant's contact telephone number;

(d) applicant's contact email address;

(e) applicant's business physical address and mailing address, if different;

(f) applicant's business legal name, including a DBA name, if applicable;

(g) applicant's business web address, if applicable;

(2) for any initial application, information about controlling persons, to include:

(a) name and contact information;

(b) documentation of legal name change, if applicable;

(c) criminal history screening documents, as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

(d) a detailed description of any criminal convictions, including for each: the date of the conviction; dates of incarceration, probation, or parole; description of the offense; and any evidence of rehabilitation, including court documents, personal or professional references, completion of treatment, employment records, and other relevant information;

(e) demographic data pursuant to the Cannabis Regulation Act; and

(f) A copy of identification issued by a federal or state government, including name, date of birth, and picture and indicating the person is at least 21 years of age;

(3) for any renewal application, certifications that the applicant:

(a) attests to the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued;

(b) will adhere to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules, including:

(i) testing requirements;

(ii) transport requirements;

(iii) security requirements;

(iv) quality assurance requirements; and

(v) the prohibition on any person holding an interest in one or more cannabis testing laboratories from holding an interest in any other cannabis license other than a cannabis research laboratory;

(c) will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, fire safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge;

(d) has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application; and

(e) is not licensed at the same location under the Liquor Control Act;

(f) has obtained a current local jurisdiction business license, or will prior to operation of the cannabis establishment, and the applicant shall adhere to local zoning ordinance

(4) for any initial application, and, unless a statement is included that no material changes exist, for any renewal application:

(a) a list of categories of testing for which licensure is sought;

(b) legible and accurate premises diagram containing information required by 16.8.2.46 NMAC, in a portable document format (.pdf), and if requested by the division, digital photographs;

(c) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees, or premises are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities; and

(5) for any initial or renewal application, payment of any required fees as set forth in 16.8.11 NMAC.

B. Initial

demonstration of capability: The division requires the submission of an initial demonstration of capability (IDC) for every test a cannabis testing laboratory intends to conduct, except tests for research and development purposes only. The IDC must identify a limit of quantitation that is equal to or lower than the action level for the specified test.

(1) An IDC is required whenever:

(a) an initial application is submitted, except that an applicant may instead submit evidence of prior completion of an IDC as a requirement of licensing under the Lynn and Erin Compassionate Use Act;

(b) the cannabis testing laboratory proposes to use a new analytical instrument to test for an analyte; or

(c) the cannabis testing laboratory proposes material changes to testing methods.

(2) Every IDC shall include the following elements:

(a) **Demonstration of method calibration:** The calibration range shall use at least five calibration points consisting of five different concentration levels of target compounds. The calibration range shall include a low calibration point equal to, or less than, the action level for each targeted compound. The cannabis testing laboratory shall provide the equation and the type of curve fit used for the calibration range, and the percent relative standard deviation or the goodness of fit. The percent relative standard deviation shall be less than twenty percent, or the goodness of fit (correlation coefficient) shall be 0.995 or better.

(b) **Demonstration of method accuracy and precision:** A cannabis testing laboratory shall supply the quantitation data for five positive control samples analyzed by its testing method utilizing median or mid-level calibration concentration. The cannabis testing laboratory shall identify and justify acceptance criteria and shall calculate and provide the calculated mean (average) result and the standard deviation. Any standard deviations greater than twenty percent shall be noted and explained.

(c) **Demonstration of method detection limit:** A cannabis testing laboratory shall calculate its method detection limit using a generally accepted method.

(d) **Demonstration of low system background:** A cannabis testing laboratory shall supply the analytical data of at least three negative control samples that do not contain any target analytes.

(e) **Demonstration of analyte identification:** A cannabis testing laboratory that uses, high performance liquid chromatography (HPLC) or

gas chromatography with flame ionization detector or photoionization detector (GC-FID or GC-PID/FID) instrumentation shall supply analytical data where each targeted compound is analyzed as a single compound giving it its characteristic retention time. A cannabis testing laboratory that uses gas chromatography-mass spectrometry (GCMS), liquid chromatography-mass spectrometry (LCMS), or liquid chromatography-tandem mass spectrometry (LCMSMS) instrumentation shall supply analytical data with the characteristic mass spectrum of each targeted compound.

C. Continuing demonstration of capability: A cannabis testing laboratory shall submit a continuing demonstration of capability (CDC) for each test performed annually as part of the laboratory's application for renewal of licensure. A CDC may consist of:

(1) Evidence that the cannabis testing laboratory has the test within its current scope of accreditation to the current standards of ISO/IEC 17025, *Testing and Calibration Laboratories*;

(2) Evidence that each analyst performing the test has successfully completed, within the previous year, relevant proficiency testing administered by a provider accredited to the standards of ISO/IEC 17043, *Conformity Assessment—General Requirements for Proficiency Testing*; or

(3) The re-performance of the IDC.

D. Verification of information: The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments.

E. Trade secrets:

Any applicant submitting operating procedures and protocols to the division pursuant to the Lynn and Erin Compassionate Use Act, the Cannabis Regulation Act, or division rules, may claim such information as a trade secret by clearly identifying such information as “confidential trade secrets” on the document at the time of submission. Any claim of confidentiality by an applicant must be based on the applicant’s good faith belief that the information marked as confidential constitutes a trade secret as defined in the Uniform Trade Secrets Act, Sections 57-3A-1 to -7, NMSA 1978. In the event the division receives a request to inspect such documents, the division will notify the applicant or licensee, via the current email of record. If the division does not receive an injunction pursuant to the Uniform Trade Secrets Act within five days of the request to inspect, the division will make the documents marked confidential available for inspection as required pursuant to the Inspection of Public Records Act. [16.8.2.44 NMAC – N, 01/11/2022]

16.8.2.45 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS TESTING LABORATORY LICENSE:

A. Application:

A cannabis testing laboratory shall submit to the division an application form for an amended license and obtain approval from the division, prior to implementing any of the following:

- (1) material or substantial change of the size of the premises;
- (2) change of licensee’s legal or business name;
- (3) material or substantial change in testing methods or equipment;
- (4) addition or elimination of a controlling person;
- (5) material or substantial change to a licensee’s security system; or
- (6) material or substantial modification of the premises.

B. Requirements

and processing of application for amended license: The application for amended license shall:

- (1) be clearly designated as one for an amended license;
- (2) supply any information representing a material change from the most recent application; and
- (3) include an initial demonstration of capability for any new or materially different method for performing a required test, including testing for an additional analyte or testing for an analyte using a different type of instrument.

C. Approval or

denial: The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

D. Material or

substantial change: Material or substantial changes requiring approval include:

- (1) increase or decrease in the size of the premises, including the sale of property used for the cannabis establishment, the purchase of additional property for the use of the cannabis establishment, or a change in the location of the cannabis establishment;
- (2) testing for an analyte required in required testing using a different type of instrument; or
- (3) change to a licensee’s security system, including relocation of security points or installation of a new security system.

E. Amended license

not required: Other changes to standard operating policies and procedures, unless material or substantial, may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

[16.8.2.45 NMAC – N, 01/11/2022]

16.8.2.46 PREMISES**DIAGRAM:****A. Detailed diagram**

required: An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state, or local laws.

B. Contents of

diagram: The diagram shall show:

- (1) the boundaries of the property and the proposed premises to be licensed;
- (2) if applicable, the uses of any portion of the property not included in the premises;
- (3) a brief statement or description of the principal activity to be conducted in each area on the premises;
- (4) the dimensions of each area where testing of cannabis products will take place;
- (5) the location and identity of equipment; and
- (6) entrances and exits;

C. Format of

diagram: The diagram shall:

- (1) be drawn to scale;
- (2) be rendered in black and white print; and
- (3) contain no highlighting.

[16.8.2.46 NMAC – N, 01/11/2022]

16.8.2.47 CANNABIS**TESTING LABORATORY POLICIES AND PROCEDURES:****A. Minimum policy**

and procedure requirements: A cannabis testing laboratory shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

- (1) sample collection procedures, including:

(a)
specifications for sampling tools and containers;

(b)
use of gloves and other personal protective equipment to prevent contamination of batches;

(c)
access to complete batches of cannabis products;

(d)
determination of the number of sample increments required, based on batch size; and

(e)
random selection of sample increments;

(2) chain of custody;

(3) data recording;

(4) sample storage and integrity, including sealing of sample containers and, if applicable, the use of preservatives, inert gas, or other measures;

(5)
transportation, including protection from light, heat, and humidity;

(6) sample preparation of each matrix for each test;

(7)
methodology for each test, including:

(a)
sample preparation;

(b)
reagent, solution, and reference standard preparation;

(c)
instrument setup, as applicable;

(d)
standardization of volumetric reagent solutions, as applicable;

(e)
data acquisition; and

(f)
calculation of results

(8) data quality parameters for each test, including:

(a)
specificity;

(b)
limit of detection; and

(c)
limit of quantitation;

(9) reporting of results;

(10) quality assurance;

(11) employee policies and procedures, including but not limited to:

(a)
adherence to state and federal laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act;

(b)
responding to an emergency, including robbery or a serious accident or incident;

(c)
alcohol and drug-free workplace policies and procedures;

(d)
safety and security procedures;

(e)
occupational health and safety;

(f)
crime prevention techniques; and

(g)
if applicable, confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996;

(12) equipment cleaning, maintenance, and inspection standards and schedules;

(13) standards for labeling, storage, expiration, and re-qualification dates and records relating to reagents, solutions, and reference standards;

(14) sample analysis procedures, including but not limited to procedures for the use of only primary or secondary standards for quantitative analyses;

(15) standards for data recording, review, storage, and reporting that include, but are not limited to, standards to ensure:

(a)
that data is recorded in a manner consistent with this rule, and that it is reviewed to verify that applicable standards of practice, equipment calibration, and reference standards were applied before reporting;

(b)
that all data, including raw data, documentation, protocols, and reports are retained in accordance with the requirements of this rule; and

(c)
that reports are the property of the business or individual who provided the sample, and reports meet the requirements of this rule; and

(16) creation of chain of custody documentation for each sample.

B. Training program:

(1) Licensee shall implement a training program, approved by the division, to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

(a)
employee health and safety;

(b)
health and safety hazards;

(c)
hazard communication;

(d)
security procedures; and

(e)
record keeping/track and trace.

(2) A cannabis testing laboratory must provide and document training on the following subjects before permitting any authorized person to independently collect samples of cannabis products:

(a)
an overview of the process and standard operating procedures of the laboratory;

(b)
quality control procedures, including sterile collection of samples and storage;

(c)
chain of custody, recordkeeping, and tracking requirements;

(d)
calibration, use, and maintenance of measuring devices;

(e)
transportation procedures; and

(f)
any additional information reasonably related to sample collection.

(3) A cannabis testing laboratory must provide and document training on the following subjects before an agent or employee independently performs any cannabis testing process:

(a) an overview of the process and standard operating procedure(s);

(b) quality control procedures;

(c) chain of custody and tracking requirements;

(d) proper and safe usage of equipment or machinery;

(e) safe work practices applicable to an employee's job tasks, including appropriate use of any necessary safety or sanitary equipment;

(f) cleaning and maintenance requirements;

(g) emergency operations, including shutdown; and

(h) any additional information reasonably related to an employee's job duties.

C. Training documentation:

(1) Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. The licensee shall maintain a record which contains at minimum:

(a) a list of all personnel at the premises, including at minimum, name and job duties of each;

(b) documentation of training topics and dates of training completion for all personnel;

(c) dates of refresher training completion for all personnel; and

(d) the signature of each employee verifying receipt and understanding of each training or refresher training completed.

(2) Licensee may assign responsibility for ensuring compliance by individual personnel with the requirements of this section to supervisory personnel.

(3) Licensees shall maintain documentation of an employee's training for a period of two years for current employees

and at least six months after the termination of an employee's employment.

D. Materials to be maintained on premises: A cannabis testing laboratory shall maintain on its premises, and shall promptly present to the department upon request:

(1) all results of laboratory tests conducted on cannabis or cannabis derived products for a period of at least two years;

(2) operating manuals and other documentation for each piece of equipment;

(3) records of required inspection, calibration, and maintenance for each piece of equipment, including:

(a) the date of the operation;

(b) the person who performed it;

(c) the written procedure used; and

(d) any deviations from the written procedure;

(4) records of non-routine repairs performed on equipment as a result of failure and malfunction, including:

(a) the nature of the repair;

(b) how and when the need for the repair was discovered; and

(c) any remedial action taken in response to the repair;

(5) the certificate of analysis for all reference standards, whether acquired or internally produced.

(6) current material safety data sheets for all chemicals used;

(7) documentation of proficiency training. [16.8.2.47 NMAC – N, 01/11/2022]

16.8.2.48 MINIMUM STANDARDS FOR THE TESTING OF CANNABIS PRODUCTS:

A. General requirements: Cannabis testing laboratories shall ensure the following:

(1) testing is done in premises that are in compliance with state and local laws that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act; and

(2) weighting or measuring devices that are used in testing are appropriately documented as having undergone certified registration and calibration that is in accordance with requirements of the New Mexico department of agriculture applicable to commercial transactions.

B. Sample collection:

For all required testing or testing for the purposes of labeling claims, a person authorized by this rule shall collect the required samples according to the following guidelines:

(1) Only the quantity of cannabis product specified in the cannabis testing laboratory's operating procedures as necessary for all tests to be performed and to ensure the proper number of representative samples shall be collected.

(2) The number of sample increments per batch, as specified in the cannabis testing laboratory's operating procedures as necessary for all tests to be performed, shall be collected.

(a) The number of sample increments shall not be less than the minimum quantity specified in Table 2.

(b) Samples shall be taken randomly throughout the length, width, and depth of the batch.

(c) The standard sample increment size shall be 0.5 grams, unless specified otherwise in the cannabis testing laboratory's operating procedures.

(3) Samples from the same batch shall be secured in a single use, tamper-evident container that meets the specifications of the laboratory's policies and procedures.

(4) Samples shall be labeled according to the laboratory's policies and procedures, with, at minimum:

- (a) the license number of the establishment from which the sample was collected;
 - (b) the batch number assigned by the establishment;
 - (c) the date the sample was taken;
 - (d) the name of the person collecting the sample; and
 - (e) the tests to be performed;
- (5) If homogeneity testing is required, each sample increment necessary for homogeneity testing shall be collected and transported in individual sealed containers.

Table 1. Minimum quantity of sample increments

Matrix Type	Batch Size	Minimum Sample Increments
Dried cannabis	<5.0 lbs.	10
	>5.0 lbs.; <15.0 lbs.	10 + 5 per pound or fraction thereof above 5 pounds
Other products	<2.0 lbs.	10
	>2.0 lbs.	5 per pound

C. Transportation:
 All samples shall be transported according to the general requirements of 16.8.2.13 NMAC and the specifications found in the cannabis testing laboratory’s policies and procedures.

D. Receipt of test samples: A cannabis testing laboratory may receive test samples of cannabis products from any cannabis establishment, adult 21 years of age or older, qualified patient, or primary caregiver as authorized by this rule.

E. Storage: A cannabis testing laboratory shall segregate and store cannabis samples in a manner that prevents contamination or degradations and shall safeguard any cannabis products and cannabis waste against diversion.

(1) A cannabis testing laboratory shall provide one or more secure cabinets or vaults for the storage of cannabis samples, reference standards, and cannabis waste, and access shall be limited to persons authorized to conduct tests or dispose of cannabis waste.

(2) Cannabis samples shall be stored in environmental conditions that minimize physical or chemical degradation and microbial contamination, including protection from light, heat, and humidity. Any cannabis product that requires refrigeration shall be kept at a temperature no greater than 40

degrees Fahrenheit (4 degrees Celsius) prior to sample preparation.

F. Sample retention and disposal:

(1) Samples testing positive for a prohibited pesticide must be retained for a minimum of 30 days. All other samples must be retained for a minimum of 15 days. Upon notification from the division that samples are needed for an investigation by the division, a law enforcement agency, or another department, the cannabis testing laboratory shall retain the sample until further directed by the division.

(2) Any portion of a cannabis or cannabis-derived test sample that is not destroyed during analysis shall be:

(a) returned to the person who provided the sample;

(b) provided to the division, the state chemist laboratory (department of agriculture), or state laboratory division for additional testing;

(c) upon written notification to the department, used to make for internal quality control purposes; or

(d) destroyed in accordance with the wastage requirements of this rule.

G. Laboratory premises: A cannabis testing laboratory shall maintain the premises of the laboratory in a clean and

orderly condition; shall equip the premises with such utensils and equipment as necessary to conduct the operations of the laboratory; and shall ensure adequate space for laboratory operations, sample storage, and document storage.

H. Equipment:

(1) Equipment used for the analysis of test samples shall be adequately inspected, cleaned, and maintained by laboratory staff, the manufacturer, or other trained persons according to manufacturer recommendations. Equipment used for the generation or measurement of data shall be adequately tested and calibrated on an appropriate schedule, as applicable.

(2) Laboratory operations shall document procedures setting forth in sufficient detail the methods and schedules to be used in the routine inspection, cleaning, maintenance, testing, and calibration of equipment, and shall specify, as appropriate, remedial action to be taken in the event of failure or malfunction of equipment. The procedures shall designate the personnel responsible for the performance of each operation.

(3) Computer systems used for the analysis of samples, retention of data, sample tracking, calibration scheduling, management of reference standards, or other critical laboratory management functions shall ensure that electronic records, electronic

signatures, and handwritten signatures executed to electronic records are trustworthy, reliable, and generally equivalent to paper records and handwritten signatures executed on paper.

I. Reagents,

solutions, and reference standards:

(1) A cannabis testing laboratory is authorized to possess reagents, solutions, and reference standards. Such items shall be:

(a)

secured in accordance with the approved laboratory's storage policies;

(b)

labeled to indicate identity, date received or prepared, and expiration or requalification date; and, where applicable, concentration or purity, storage requirements, and date opened;

(c)

stored under appropriate conditions to minimize degradation or deterioration of the material; and

(d)

used only within the item's expiration or requalification date.

(2)

Deteriorated or outdated reagents and solutions shall be properly destroyed.

(3)

A cannabis testing laboratory may:

(a)

acquire commercial reference standards for cannabinoids and other chemicals or contaminants, for the exclusive purpose of conducting testing for which the laboratory is approved;

(b)

internally produce reference standards, using standard analytical techniques to document the purity and concentration of the internally produced reference standards;

(c)

obtain cannabis products from a cannabis establishment for the purpose of producing reference standards.

J. Recording of

analytical data:

(1) A cannabis testing laboratory shall ensure that all

data generated during the testing of a test sample, except data generated by automated data collection systems, is recorded directly, promptly, and legibly in ink.

(2) When

automated data collection systems are used, the cannabis testing laboratory shall log the name of the individual performing the test.

(3) All data

shall be annotated with the date of entry and signed or initialed by the person recording the data. Any change in entries shall be made so as not to obscure the original entry, shall indicate the reason for such change, and shall be dated and signed or initialed at the time of the change.

(4) Any

change in an entry shall:

(a) be

made so as not to obscure the original entry;

(b)

indicate the reason for such change;

(c)

be dated and signed or initialed at the time of the change; and

(d)

be accompanied by a corrective action report to be made available to the division or the cannabis establishment that submitted the sample upon request for up to two years after the analysis is completed.

(5) For each

final result reported, a cannabis testing laboratory shall verify that:

(a)

any calculations or other data processing steps were performed correctly;

(b)

the data meet any data quality requirements such as for accuracy, precision, linearity, etc.;

(c)

any reference standards used were of the appropriate purity and within their expiration or requalification dates;

(d)

any volumetric solutions were properly standardized before use; and

(e)

any test or measuring equipment used has been properly tested, verified,

and calibrated, and is within its verification or calibration period.

K. Data storage:

(1) A cannabis testing laboratory shall ensure that all raw data, documentation, protocols, and certificates of analysis associated with analysis of a test sample are retained for two years from the date of the completion of analysis.

(2) A cannabis

testing laboratory shall designate an individual as responsible for records maintenance;

(3) A cannabis

testing laboratory shall maintain the records identified in this section. Such records must be maintained:

(a)

in a manner that allows retrieval as needed;

(b)

under conditions of storage that minimize deterioration throughout the retention period; and

(c)

in a manner that prevents unauthorized alteration.

(4) Only

authorized personnel may access the records.

L. Data reporting:

(1) A certificate of analysis shall contain the following information:

(a)

the date of receipt of the test sample;

(b)

the description of the type or form of the test sample (leaf, flower, powder, oil, specific edible product, etc.);

(c)

the batch number or code that is associated with the product batch and that is recorded in the track and trace system;

(d)

the identity of the person who collected the sample;

(e)

the date on which analysis occurred;

(f)

the analytical method used, including at a minimum identification of the type of analytical equipment used (e.g., GC, HPLC, etc.);

(g)

the analytical results, including units of measure where applicable;

(h)

the identity of the supervisory or management personnel who reviewed and verified the data and results and ensured that data quality, calibration, and other applicable requirements were met; and

(i)

the name, address, and contact information of the cannabis testing laboratory that conducted the test.

(2) The

certificate of analysis shall state that reported analytical results apply only to the test sample received.

(3) The

certificate of analysis shall contain in minimum 12-point type, all capital letters, the disclaimer, “UNOFFICIAL TEST RESULTS. NOT VALID FOR TRANSFER OR SALE” whenever:

(a)

The person submitting the test sample is not a licensed cannabis establishment;

(b)

The test sample was not collected by a person authorized to collect samples for required testing under this rule; or

(c)

The person submitting the test sample requested that the analysis be performed for research and development purposes.

[16.8.2.48 NMAC – N, 01/11/2022]

[16.8.2.43] 16.8.2.49

SEVERABILITY: If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.2.49 NMAC – Rn, 16.8.2.43 NMAC, 01/11/2022]

History of 16.8.2 NMAC:
[RESERVED]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.1 NMAC, Section 7 effective 02/10/2022.

16.22.1.7 DEFINITIONS:

As used in these regulations, the following words and phrases have the following meanings, unless the context or intent clearly indicates a different meaning:

A. “Accredited

by a nationally recognized accreditation body” means accredited by an organization that is listed as a programmatic accrediting organization for doctoral psychology in the most recent Directory of CHEA-Recognized Organizations promulgated by the council for higher education accreditation.

[A] B. “Act” means the Professional Psychologist Act, Section 61-9-1 through 61-9-19 NMSA 1978.

[B] C. “Administrator” or **“board administrator”** means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulations or as required to carry out the provisions of the act.

[C] D. “Adult” means all persons 18 years of age or older.

[D] E. “Applicant” means a person who has completed all educational requirements of the eligibility requirements for licensure and has submitted a complete application to the board. An applicant is seeking approval of his or her application by the board to advance him or her to candidacy for licensure.

[E] F. “Approved supervision program” means a formal internship or program of postdoctoral supervised experience in New Mexico that is designed to prepare an applicant for licensure and that has been accredited by a nationally recognized accreditation body, or a program of training for licensure in New Mexico that has been formally approved in advance and in writing by the board as meeting the requirements for internship or postdoctoral supervised experience.

[F] G. “Board administrator” or **“administrator”** means the staff person assigned certain express or implied executive and administrative functions of the board as defined by board regulations or as required to carry out the provisions of the act.

[G] H. “Board certified psychiatrist” means a physician licensed in New Mexico who has been certified by the American board of psychiatry and neurology in the specialty of psychiatry or the subspecialty of child and adolescent psychiatry.

[H] I. “Board regulations” or **“regulations”** means any part adopted by the board pursuant to authority under the act and includes any superseding regulation.

[I] J. “Candidate” is an applicant whose application has been approved by the board and is eligible to take the online jurisprudence examination.

[J] K. “Children/adolescents” mean all persons through 17 years of age (children two-12 years; adolescents 13-17 years).

[K] L. “Client” means a person, corporate entity, patient or organization that is a recipient of psychological services. A corporate entity or other organization is a client when the purpose of the professional contract is to provide services of benefit primarily to the organization rather than to the individuals. In the case of individuals with legal guardians, including minors and legally incompetent adults, the legal guardian shall be the client for decision-making purposes, except that the individual receiving services shall be the client for:

(1) issues directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships; and

(2) issues specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship;

(3) all matters specifically designated to individuals in the Mental Health Code and Children's Code, NMSA 1978.

[E] M. **“Confidential information”** means information revealed by a patient or clients or otherwise obtained by a psychologist, as a result of a confidential relationship where there is reasonable expectation that the information is not to be disclosed by the psychologist without the informed written consent of the patient or client in accordance with the Public Health Act, Section 24-1-20 NMSA 1978. A confidential relationship, as used here, results from:

(1) the relationship between the patient(s) or client(s) and the psychologist, or

(2) the circumstances under which the information was revealed or obtained; when such information is revealed or obtained through the psychologist's interaction with an individual from within a client corporation or organization, and that interaction is the result of the professional contract between the psychologist and the client corporation or organization, the confidential relationship is between the psychologist and that client corporation or organization, not between the psychologist and a patient or other individual within the corporation or organization; in this instance, information obtained by the psychologist from a patient or other individual shall be available to the organization unless such information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements in itself.

[M] N. **“Conditional prescribing psychologist”** means a licensed psychologist who holds a valid conditional prescription certificate.

[N] O. **“Conflict of interest”** means any situation or relationship that compromises or impairs, or appears to compromise or impair, the neutrality, independence or objectivity of a psychologist, psychologist associate, supervising

physician, or board member, including relationships or situations that arise from past or present familial, social, fiduciary, business, financial, health care provider-patient relationship, agency, or other personal relationship. Paying or receiving an appropriate fee for supervisory services is not a conflict of interest. Conflict of interest includes dual relationships as provided herein at 16.22.2.9 NMAC.

[O] P. **“Consultant”** means a licensed psychologist who provides professional advice or opinion to another licensed psychologist and who has no professional relationship with the patient or client, has no authority over the case, or has no responsibility for the services performed for the patient or client or the welfare of the patient or client.

[P] Q. **“Continuing professional education”** means educational opportunities beyond doctoral education and initial entry level training as a psychologist or psychologist associate for which hourly credit is earned. It is the process through which professional licensees review psychological concepts and techniques, acquire new knowledge or skills relevant to their work, and improve their competence in current skills. These activities are intended to supplement what has already been attained in training and practice. It is an ongoing process consisting of formal learning activities at the postgraduate level that are:

(1) relevant to psychological practice, education, and science;

(2) enable psychologists to keep pace with emerging issues and technologies; and

(3) allow psychologists to maintain, develop and increase competencies in order to improve services to the public and enhance contributions to the profession.

[Q] R. **“Controlled substance”** means any drug, substance or immediate precursor enumerated in schedules I through

V of the U.S. Drug Enforcement Administration, Controlled Substance Act and in Sections 30-31-6 thru 30-31-10 NMSA 1978, of the act.

[R] S. **“Court order”** means the written communication of a member of the judiciary, or other court magistrate or administrator, if such authority has been lawfully delegated to such magistrate or administrator that is under the authority of law.

[S] T. **“Criminal Offender Employment Act”**, Sections 28-2-1 thru 28-2-6 NMSA 1978 is the statutory provision regulating the relevance and weight to be given an applicant, candidate, or licensee's criminal record, by the board, during the licensure or renewal process.

[F] U. **“Cultural competence”** means the ability and the will to respond to the unique needs of an individual patient that arise from the patient's culture, and the ability to use aspects of the person's culture as a resource or tool to assist with the intervention. Cultural competence includes being able to:

(1) recognize and respond to health related beliefs and cultural values;

(2) incorporate research about disease incidence and prevalence, and treatment efficacy; and

(3) know when to seek consultation about the patient's culture.

[H] V. **“Currently enrolled”** means enrolled as a student in a college or university.

[V] W. **“Custodian”** means the board administrator.

[W] X. **“Designated as a doctoral program in psychology by a nationally recognized designation system”** means listed as an approved doctoral program by the Association of State and Provincial Psychology Boards/National Register Designation Project prior to the termination of that project on June 1, 2018.

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

[X] Z. “**Drug or substance**” means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories.

[Y] AA. “**Electronic signatures**” 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.

[Z] BB. “**Electronic transmission**” means the sending of information through the telephone lines, cable or internet, as in e-mail or facsimile (fax).

[AA] CC. “**Ethno-pharmacology**” means the basic and clinical sciences of treatment of specific mental illness with ethnically or culturally appropriate drugs.

[BB] DD. “**Filed with the board**” means [~~hand-delivered or postal mail received during normal business hours by the board office in Santa Fe, New Mexico~~] electronic submission through the board’s online portal.

[CC] EE. “**Geriatric**” means all persons 65 years of age and over.

[DD] FF. “**Good cause**” means the inability to comply because of illness, undue hardship, or extenuating circumstances that are not willful and are beyond the control of the person asserting good cause. The person asserting good cause shall have the burden to demonstrate good cause.

[EE] GG. “**Governmental Conduct Act**” 10-16-1 thru 10-16-18 NMSA 1978 is the statutory provision which sets forth standards of conduct and ethical principles for public service.

[FF] HH. “**Inactive status**” means a procedure of the board to affirm that a licensee is not engaged in active practice.

II. “Independently licensed prescribing clinician” means a licensed physician.

osteopathic physician, nurse practitioner, psychiatric nurse practitioner, or clinical nurse specialist.

[GG] JJ. “**Initial application**” means the initial application for licensure filed with the board by an applicant not previously or currently licensed in any jurisdiction.

[HH] KK. “**In-person supervision**” is supervision of psychological services where the supervisor is physically present in the same room as the trainee.

[H] LL. “**Inspection of Public Records Act**”, Sections 14-2-1 thru 14-2-12 NMSA 1978 is the statutory provision acknowledging the fundamental right of access to public records afforded citizens and media in a democracy, and governing the administration of that right.

[JJ] MM. “**Licensed**” means licensed or certified, registered, or any other term including temporary, provisional, emergency, unrestricted, active or inactive license or licensure, when such term identifies a person whose professional behavior is subject to regulation by the board by authority of the act.

[KK] NN. “**Licensee**” means a psychologist licensed pursuant to the provisions of the act and board regulations.

[LL] OO. “**Licensee in good standing**” means a licensed psychologist who is not the subject of a pending investigation, adjudicatory proceeding, or petition on appeal or review, or whose license is not restricted, suspended, or revoked in New Mexico or any other state or licensing jurisdiction.

[MM] PP. “**Medical supervision**” means direct oversight of the psychologist trainee’s psychopharmacological practice by a qualified supervising physician approved by the board. Supervision may be on-site or off-site as specified in the rule.

[NN] QQ. “**Medical supervisor**” means a qualified supervising physician approved by the board.

[OO] RR. “**Member of the family**” means a parent, spouse, child, stepchild, grandchild, grandparent, sibling, uncle, aunt, niece or nephew, or other relative by blood, marriage, or legal process with whom the supervisor or physician supervisor has or has had a close familial relationship.

[PP] SS. “**Member of the household**” means residing within the same dwelling unit, either continuously or intermittently, regardless of whether fee or rent is paid or received.

[QQ] TT. “**Military service member**” means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

[RR] UU. “**National certification exam**” means an examination that evaluates the psychopharmacological knowledge base of the applicant, is developed with the intention to administer it to psychologists seeking certificates or licenses to prescribe psychotropic medication in any state with prescriptive authority for psychologists, and meets standards acceptable to the board and the medical board.

[SS] VV. “**Nationwide criminal history record**” means information concerning a person’s arrests, indictments, or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information in other states.”

[TT] WW. “**Nationwide criminal history screening**” means a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed

by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.”

[UU] XX. “New

Mexico administrative code” or “NMAC”, Section 14-4-7.2 NMSA 1978 is the official compilation of current rules filed by state agencies in accordance with New Mexico statutes.

[VV] YY. “New

Mexico statutes annotated 1978 or NMSA 1978” is the official compilation of state laws.

[WW] ZZ. “Non-

licensed person” means a student, an applicant or postdoctoral person working under supervision in order to satisfy licensure requirements in psychology, and employees or staff of a licensed psychologist

[XX] AAA. “Open

Meetings Act”, 10-15 NMSA 1978 is the statutory provision requiring that public business be conducted in full public view; providing guidelines governing both public and closed meetings, and regulating the notice, agenda and minutes of such meetings.

[YY] BBB. “Outdated

test” means a test for which a revision has been available for three or more years.

[ZZ] CCC. “Out-

of-state psychologist” means a psychologist licensed in another state, a territorial possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, the U.S. Virgin Islands, or a Canadian province who is in good standing in his or her licensing jurisdiction(s).

[AAA] DDD. “Patient”

means a person who is treated, examined, assessed, or interviewed by a licensed psychologist or licensed psychologist associate or a non-licensed person working under supervision as provided in these regulations. In the case of minor patients or adult patients who are legally incompetent, the legal guardian shall represent the patient for decision-making purposes, except that the patient shall be directly consulted by the psychologist or psychologist associate for:

(1) issues

directly affecting the physical or emotional safety of the individual, such as sexual or other exploitative dual relationships;

(2) issues

specifically reserved to the individual, and agreed to by the guardian prior to rendering of services, such as confidential communication in a therapy relationship, and

(3) all

matters specifically designated to individuals in the Mental Health and Developmental Disabilities Code (MHDDC), Section 43-1-19 NMSA 1978, and the Children’s Code, Section 32A-1-1 thru 32A-1-20 NMSA 1978.

[BBB] EEE.

“**Physician**” means an allopathic or osteopathic physician.

[CCC] FFF.

“**Practicum**” means a period of supervised clinical training and practice in which specific scientific and clinical techniques and diagnoses are learned.

[DDD] GGG.

“**Prescribing applicant**” means a licensed psychologist who has made application to the board for a conditional prescribing or prescribing certificate.

[EEE] HHH.

“**Prescription**” means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue. No person other than a prescriber shall prescribe or write a prescription.

[FFF] III. “Primary

treating health care practitioner” means the health care practitioner who is directly responsible for treating a specific illness or condition of a patient. The primary treating health care practitioner may be a primary care practitioner, or may be a medical specialist.

[GGG] JJJ.

“**Professional relationship**” means a mutually agreed-upon relationship between a psychologist and a patient(s) or client(s) for the purpose of the patient(s) or client(s) obtaining the psychologist’s professional services.

[HHH] KKK.

“**Professional service**” means all actions of the psychologist in the context of a professional relationship with a client or patient.

[HH] LLL.

“**Properly made application**” means a completed form for a psychologist or psychologist associate license filed with the board that is complete in all particulars and appears on its face to satisfy all minimum age, educational, supervision, payment, and other requirements except examination requirements for licensure as required by the act and these regulations.

[JJJ] MMM.

“**Psychopharmacology**” means the basic and clinical science of drugs used to treat mental illnesses.

[KKK] NNN.

“**Psychopharmacotherapy**” means the application of pharmacotherapeutics to psychological problems.

[LLL] OOO.

“**Recent Veteran**” means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[MMM] PPP.

“**Reciprocity**” means facilitation of licensure for individuals holding a license as a psychologist in another jurisdiction; reciprocity does not mean that other states accept New Mexico licensees on an equal basis but is an invitation that they do so.

[NNN] OOO.

“**Public Health Act**”, Sections 24-1-1 thru 24-1-30 NMSA 1978, governs the confidentiality of patient or client record.

[OOO] RRR.

“**Restricted license**” means a psychologist who holds a temporary, provisional, emergency or inactive license.

[PPP] SSS. “Rule” means board regulations.

[QQQ] TTT. “Socio-cultural” means aspects of mental illness related to social and cultural mores and traditions of varied social and cultural groups.

[RRR] UUU. “State Rules Act”, Sections 14-4-1 thru 14-4-5 NMSA 1978, is the statutory provision that ensures that state agencies file with the state records center and archives all rules and regulations including amendments or repeals.

[SSS] VVV. “Statute” means a law that governs conduct within its scope. A bill passed by the legislature becomes a statute; and “statutory authority” means the boundaries of the board’s lawful responsibility as laid out by the statute that created it.

[FFF] WWW. “Supervisee” means any person who functions under the authority of a licensed psychologist to provide psychological services as provided in the act or board regulations.

[UUU] XXX. “Supervisor” means a licensed psychologist who agrees to provide adequate supervision over a student, applicant, employee, staff, or other non-licensed person and who remains ultimately responsible for the professional conduct of the non-licensed person and the welfare of the patient.

[VVV] YYY. “Supervisory plan” means a written document signed by an applicant for psychology license or a conditional prescribing certificate and the supervisor of the applicant that describes the nature of the supervisory relationship including but not limited to the number of hours of supervision, population served, and credentials of supervisor, and is presented to the board for approval.

[WWW] ZZZ. “Telephonic supervision” means the supervision of psychological services through telephone or other audio format where the supervisor is not in the same physical facility as the trainee.

[XXX] AAAA. “Telesupervision” means the supervision of psychological services through synchronous audio and video format where the supervisor is not in the same physical facility as the trainee.

[YYY] BBBB. “Unrestricted license” means a license in psychology with full privileges and responsibilities as described in these regulations but is renewed annually or biennially. It does not have a limitation of a provisional license, temporary license, emergency license or inactive license as described herein.

[ZZZ] CCCC. “Year of supervised experience” means 1500 hours of psychological work conducted under supervision satisfactory to the board. The 1500 hours may be accumulated in one or two consecutive calendar years in the case of an internship, three consecutive years in the case of postdoctoral experience, or over the course of graduate training in the case of doctoral experience.

[AAAA] DDDD. “Doctoral training program” means the program from which the applicant received his or her doctoral degree to fulfill the educational requirements for licensure (NMAC) [16.22.1.7 NMAC - Rp, 16.22.1.7 NMAC, 11/15/2006; A, 03/21/2009; A, 9/16/2010; A, 4/11/2012; A, 04/30/2015; A, 7/1/2018; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.2 NMAC, Section 2, and Section 20 effective 02/10/2022.

16.22.2.2 SCOPE: The psychologist shall be governed by this code of conduct while providing psychological services in any context or whenever he is functioning in a professional capacity as a psychologist. This code

shall not supersede state, federal, or provincial statutes. This code shall apply to the conduct of all licensees and applicants, including the applicant’s conduct during the period of education, supervision, training, and employment, which is required for licensure. This conduct includes, but is not limited to the list of disqualifying criminal convictions referenced in 16.22.2.20 NMAC. The term “psychologist,” as used within this code, shall apply to both licensee and applicant.

[16.22.2.2 NMAC - Rp, 16.22.2.2 NMAC, 11/15/2006; A, 02/10/2022]

16.22.2.20 DISQUALIFYING FELONY CRIMINAL CONVICTIONS:

A. Felony 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 a licensee from retaining a license issued by the board.

(1) homicide, voluntary manslaughter, involuntary manslaughter, vehicular homicide;

(2) trafficking in controlled substances, manufacturing of controlled substances or distribution of controlled substances, possession of controlled substances;

(3) human trafficking, kidnapping, false imprisonment, assault or battery;

(4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, or other related felony sexual offenses, failure to register or report as a sex offender;

(5) crimes involving abuse, neglect; or exploitation of an incapacitated adult, abuse or neglect of a care facility resident;

(6) crimes involving child abuse or neglect, child endangerment, child solicitation; sexual exploitation of children, delivering of drug paraphernalia to minors, selling or giving alcohol to minors, contributing to the delinquency of a minor;

(7) crimes involving robbery, larceny, extortion, burglary, unlawful or dangerous use of explosives, arson, making a bomb scare, tampering with evidence or receiving stolen property.

(8) financial crimes involving fraud, forgery, embezzlement, or credit card fraud. Fraud involving governmental or private insurance;

(9) aggravated driving while under the influence of intoxicating liquor or drugs, 2nd or subsequent DWI offense;

(10) crimes involving perjury, fraudulent misrepresentation, deceit or collusion.

(a) This includes a felony conviction of an offense which if committed in this state, would be deemed a felony under either state or federal law, without regard to its designation elsewhere.

(b) The term "felony conviction" shall include a finding or verdict of guilt, a plea of guilty, or a plea of nolo contendere in a criminal proceeding, regardless of whether the adjudication of guilt or sentence is withheld or not entered thereon, or an appeal of the conviction has been sought.

B. The board shall not consider the fact of a felony criminal conviction as part of an application for licensure or licensure renewal 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 felony 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 Professional Psychologist Act or the rules of the board, 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 felony criminal convictions listed in subsection A of this rule.

E. In connection with an application for licensure for licensure renewal, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal record 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 felony conviction for any crime other than the disqualifying criminal convictions listed in subsection a of this rule

F. If the board defers a decision regarding a specific applicant based on a disqualifying felony criminal conviction, that applicant is entitled to notice of the board's decision and an opportunity for a hearing.

[16.22.2.20 NMAC – N, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.5 NMAC, Section 8, 9, 10, 11 and Section 13 effective 02/10/2022.

16.22.5.8 APPLICATION; EXAMINATION; PROCESS:

A. A non-refundable application fee set by the board is due at the time of each initial application. Additional fees may be charged and will be collected by the board, as necessary, for the administration of examinations.

B. The applicant may be considered for licensure if the applicant fulfills conditions of 16.22.4 NMAC, 16.22.6 NMAC, and 16.22.7 NMAC. The board will develop, approve and maintain a list of American and Canadian jurisdictions whose requirements of education,

supervised experience and EPPP passing score meet or exceed those of 16.22.4 NMAC, 16.22.6 NMAC and Paragraph (1) of Subsection A of 16.22.7.8 NMAC. The only exceptions to these requirements apply to [reciprocity for licensure in another state as defined in 16.22.5.10 NMAC and 16.22.5.11 NMAC, and] foreign trained individuals as defined in 16.22.5.15 NMAC.

C. Nationwide criminal history screening: All applicants for initial licensure in any category in New Mexico are subject to a national criminal history screening at their expense. All applicants must [submit two full sets of fingerprints, completed fingerprint certificate form, signed authorization for criminal background screening and fee at the time of application] register with the New Mexico Department of public safety's fingerprinting vendor, pay the fingerprint processing fee and submit fingerprints in accordance with the vendor's established process. Background check results will be sent directly to the board office electronically.

(1)

Applications for licensure will not be [processed] approved without submission of fingerprints [completed fingerprint certificate form, signed authorization for] criminal background screening and fee.

(2)

Applications will be processed pending the completion of the nationwide criminal background screening.

(3)

If the criminal background screening reveals a [felony or a violation] disqualifying criminal conviction [of the Psychologist Examiners-Practice Act], the applicant/licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

(4)

Applications not completed and approved within 24 months from the date application is received in the

board office shall become null and void and the applicant shall submit a new application.

[16.22.5.8 NMAC - Rp, 16.22.5.9 NMAC, 11/15/06; A, 9/16/10; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

16.22.5.9 APPLICATION FOR LICENSURE:

A. All applicants shall submit the following to the satisfaction of the board or an agency designated by the board:

- (1) a completed and signed application;
- (2) the application fee as required by the board;
- (3) verification of educational requirements as described in 16.22.4 NMAC by official transcripts directly from the institution's office of the registrar;
- (4) verification of pre-doctoral and post-doctoral supervision as defined in 16.22.6 NMAC.

(5) three letters of reference; dated within the last two years and two of the letters must be from a licensed practicing psychologist familiar with their clinical work, and can attest to their competency ~~[and moral character];~~

(6) completion ~~[or]~~ of application to complete examination requirements; either

(a) for applicants licensed in another jurisdiction, verification of a passing score on the Examination for Professional Practice in Psychology (EPPP) as defined in 16.22.7 NMAC; or

(b) for applicants who have not passed the EPPP, a request to be permitted to take the EPPP.

(7) for individuals holding a certificate of professional qualification or national register health service provider in psychology credential, a verified or certified copy of the applicant's CPQ or national register HSPP credential as defined in 16.22.5.11 NMAC.

(8) for applicants who are licensed in another jurisdiction ~~[and who are eligible for reciprocity as defined in 16.22.5.10 NMAC]~~, verification of ~~[the documentation defined in that section]~~ license issued by the appropriate examining board. The applicant shall have no pending disciplinary actions, no formal disciplinary actions issued against the license in the last two years and no past suspensions or revocations.

B. Applicants who have not taken and passed the EPPP must complete all requirements of Paragraphs (1) through (6) of Subsection A of 16.22.5.10 NMAC at least 60 days prior to taking the EPPP.

C. Complete applications will be reviewed by the board or its designee and a notification of approval, denial or need for additional information will be issued to the applicant.

D. The applicant shall take and pass a jurisprudence examination as defined in 16.22.7 NMAC.

E. During the first year of licensure an applicant shall furnish evidence to the board that demonstrates an awareness and knowledge of New Mexico cultures.

F. When the applicant fulfills all the requirements of this section, a license will be issued. [16.22.5.9 NMAC - Rp, 16.22.5.10 NMAC, 11/15/2006; A, 3/21/2009; A, 9/16/2010; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

16.22.5.10 APPLICANTS HOLDING A VALID LICENSE IN ANOTHER STATE FOR ~~[TEN]~~ TWO YEARS OR MORE SEEKING LICENSURE UNDER SECTION 61-9-10 ~~[RECIPROcity]~~ NMSA 1978:

A. An applicant seeking licensure under this section may obtain a license pursuant to Section 61-9-10 of the act if the applicant fulfills the following conditions.

(1) At the time of application, the applicant shall possess a current license to

practice psychology in another state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or Canadian Province whose requirements of education, supervised experience and EPPP passing score meet or exceed those of 16.22.4 NMAC, 16.22.6 NMAC and Paragraph (1) of Subsection A of 16.22.7.8 NMAC.

(2) The applicant shall possess a doctoral degree in psychology or a degree that is substantially equivalent and is acceptable by the board.

(3) The applicant shall have no pending disciplinary actions, no formal disciplinary actions issued against the license in the last ~~[five]~~ two years and no past suspensions or revocations.

(4) The applicant shall have been licensed for ~~[a minimum of 10]~~ two years.

(5) The applicant shall have obtained a passing score on the EPPP as defined in 16.22.7 NMAC.

B. Application under this board regulation shall be made on a form approved by the board. The applicant shall apply as specified in 16.22.5.9 NMAC.

[16.22.5.10 NMAC - Rp, 16.22.5.11 NMAC, 11/15/2006, A, 3/21/2009; A, 4/11/2012; A, 2/22/2013; A, 7/1/2018; A, 02/10/2022]

16.22.5.11 APPLICANTS HOLDING AN ASPPB CERTIFICATION OF PROFESSIONAL QUALIFICATION, ~~[OR]~~ A NATIONAL REGISTER HEALTH SERVICE PROVIDER IN PSYCHOLOGY CREDENTIAL ~~[RECIPROcity]~~ OR AMERICAN BOARD OF PROFESSIONAL PSYCHOLOGY:

A. Eligibility. A licensee in good standing for ~~[a minimum of five]~~ two years in another jurisdiction is eligible for licensure pursuant to Section 61-9-10 NMSA 1978, of the act if the applicant holds current certification of professional qualification (CPQ),

[or] holds a current national register (HSPP) credential at the doctoral level or holds a current American board of professional psychology (ABPP) credential at the doctoral level pursuant to Subsection A of 16.22.4.8 NMAC. In addition, the applicant shall have passed the EPPP with a minimum score required for licensure as set forth in Paragraph (6) of Subsection A of Section 61-9-11 NMSA 1978, of the act, have no disciplinary actions within ~~five~~ two years immediately preceding the date of application, and shall have no prior license suspensions or revocations in any jurisdiction in which the applicant is or has been licensed.

B. Application

procedure. The applicant shall apply as specified in 16.22.5.9 NMAC.

[16.22.5.11 NMAC - Rp, 16.22.5.13 NMAC, 11/15/06; A, 3/21/09; A, 4/11/12; A, 7/1/2018; A, 02/10/2022]

16.22.5.13 APPLICANTS SEEKING A TEMPORARY LICENSE

A. A temporary six month license may be issued to a psychologist who meets the following conditions:

(1) the applicant is licensed as a psychologist in another jurisdiction and is in good standing;

(2) the applicant completes a form approved by the board that includes required information and states the reason for seeking a temporary license, including court-ordered evaluation or providing services during a federally declared natural disaster;

(3) the board will set the appropriate fees for obtaining a temporary license;

(4) the temporary license will expire in six months; and

~~(5) the temporary license may be extended at the discretion of the board with a written request thirty days prior to the expiration, stating the reason for extension.~~

~~(6)~~ (5) the board shall expedite the licensure process

for obtaining a temporary license under this section but may not waive the specific licensing requirements.

B. Nothing in this section should be construed to prevent an applicant with a temporary license from applying for an unrestricted license. The applicant may apply for an unrestricted license by completing a form approved by the board, remitting appropriate fees, and taking and passing the online jurisprudence examination.

[16.22.5.13 NMAC - N, 11/15/2006; A, 9/16/2010; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.6 NMAC, Section 8, and Section 9 effective 02/10/2022.

16.22.6.8 PRACTICUM, DOCTORAL INTERNSHIP, AND POSTDOCTORAL SUPERVISED EXPERIENCE:

A. Supervised experience leading toward licensure:

(1) two years (3,000 hours) of supervised experience are required for licensure;

(a) up to one year (1500 hours) of the supervised experience may be obtained in practicum hours overseen by the doctoral training program and consistent with the guidelines on practicum experience for licensure promulgated by the association of state and provincial psychology board; and

(b) up to one year (1500 hours) of the supervised experience may be obtained in a doctoral internship approved by the American psychological association; or

(c) up to one-half year (750 hours) of the supervised experience may be obtained in a doctoral internship not approved by the American

psychological association; and

(d)

after totaling approved doctoral practicum hours and allowed hours for doctoral internship, the remainder of the (3000 hours) supervised experience must be obtained in supervised postdoctoral psychological work.

(2) doctoral and postdoctoral experience from all supervisors shall be documented on forms provided by the board.

B. Practicum

experience. Practicum training is an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and partially meeting the requirements for licensure. Training experiences shall follow appropriate academic preparation and shall be overseen by the doctoral training program. Not all supervised experience accumulated during graduate training may count toward licensure. The board requires that all practicum experiences counting toward licensure be of high quality and carefully approved and monitored by the doctoral training program. In particular, these experiences should advance the doctoral student's role and identity as a psychologist. All experiences counting toward licensure must be supervised one hour per week by a licensed psychologist or clinical faculty member who is allowed to practice psychology under the laws of the state. The director of clinical training of the doctoral training program, or designee of that program's chair, shall certify, in a form satisfactory to the board, that the hours meet the following specifications of type of clinical activity and supervision:

(1) The practicum setting was approved by, integrated with and monitored by the doctoral training program;

(2) The hours were obtained in the course of an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and partially

meeting the requirements for licensure.

(3) Supervised practicum experience occurred in psychological service settings that had, as part of the organizational mission, a goal of training professional psychologists.

(4) Each practicum setting had an identified, licensed psychologist who was responsible for maintaining the integrity and quality of the experience for each trainee. The doctoral training program shall assign a licensed psychologist to serve in this role if none is available on site.

(5) — Telesupervision or telephonic supervision did not account for more than fifty percent of the total supervision at a given practicum site. The doctoral training program shall have a formal policy addressing its utilization of telesupervision or telephonic supervision that includes:

- (a) an explicit rationale for using telesupervision or telephonic supervision;
- (b) how and when telesupervision or telephonic supervision is utilized in clinical training;
- (c) how it is determined which trainees can participate in telesupervision or telephonic supervision;
- (d) how an off-site supervisor maintains full professional responsibility of clinical cases;
- (e) how non-scheduled consultation and crisis coverage are managed; and
- (f) how privacy and confidentiality of the client and trainees are assured.

(6) (5) All supervisors were qualified by education, licensure and experience to provide supervision of doctoral students.

(7) (6) Where experiences counted for licensure were obtained in various settings, each setting was an appropriate experience in itself, the particular

student was academically prepared for that experience and the combination of experiences was appropriate to the student's training needs.

(8) (7) The following clinical experiences and supervision were present across settings:

(a) At least fifty percent of the total hours of supervised experience were in service-related activities, defined as treatment/intervention, assessment, interviews, report-writing, case presentations, and consultations.

(b) At least twenty-five percent of the total hours were face-to-face patient/client contact.

(c) Supervision by a licensed psychologist or clinical faculty member who is allowed to practice psychology under the laws of the state was at least one hour for each day (eight hours including the supervision; 12 and a half percent of total) of supervised experience for experienced students. Telesupervision is equivalent to face to face supervision. The doctoral training program shall assure that higher levels of supervision are provided for less experienced students. All supervision time, whether individual or group, including additional supervision beyond that may be counted as part of the total supervised experience.

(9) (8) The board requires that all predoctoral practicum experiences counting toward licensure be of high quality and carefully approved and monitored by the doctoral training program. In particular, these experiences should advance the doctoral student's role and identity as a psychologist.

(10) (9) The board may, at its discretion, require documentation that above system of training was in place for the applicant. Possible forms of documentation include but are not limited to:

(a) individual written training plans between the doctoral training program and each practicum training cite;

(b) policies and procedures of the doctoral training program designating the expectations for practicum training sequences;

(c) program descriptions or self-study documents submitted for program approval to the American psychological association or the American association of state and provincial psychology boards.

C. Internship or fellowship accredited by a nationally recognized accreditation body. If the doctoral or postdoctoral experience is obtained in an internship or fellowship accredited by a nationally recognized accreditation body, a board form completed by the director of training will satisfy the requirement of certifying all supervision received during the internship or fellowship.

D. Internship not accredited by a nationally recognized accreditation body. If the predoctoral experience is obtained in an internship that is not accredited by a nationally recognized accreditation body, it will be counted for 750 hours of the required 3,000 hours if it meets the following criteria:

(1) the agency or institution offers internship education and training in psychology, one goal of which is to prepare applicants for the practice of professional psychology;

(2) the internship program is sponsored by an institution or agency, which has among its primary functions the provision of service to a population of recipients sufficient in number and variability to provide interns with adequate experiential exposure to meet its training purposes, goals, and objectives;

(3) the internship is completed within 24 consecutive months at a minimum of 20 hours per week;

(a) an internship that involves more than one agency, organization, or institution will be accepted if the

primary supervisor and the applicant can demonstrate that the internship program is organized under a unifying or coordinating structure (e.g. a consortium with a core clinical faculty) and central leadership (e.g., one director of training or central supervisor overseeing the entire internship program and the supervision of the intern);

(b)

internships consisting of less than 20 hours per week will not be accepted;

(4)

the director of clinical training of the applicant's doctoral training program certifies in a manner acceptable to the board that the internship was approved as part of the degree requirements for obtaining the doctoral degree.

E. Postdoctoral supervised practice leading toward licensure.

(1)

The applicant may complete a doctoral supervised practicum up to 1500 hours and a doctoral internship up to 1500 hours before completing the doctorate. Depending on the number of hours of doctoral supervised experience, the applicant shall complete the remainder of the required 3,000 hours through postdoctoral supervision.

(2)

If the applicant is completing postdoctoral hours in New Mexico, the applicant shall submit a postdoctoral supervisory plan to the board for review before beginning supervised practice. Once a plan for supervision is submitted to the board, the board or a designated board member will respond in writing to the acceptability of such a plan within 60 days. If the plan is found unacceptable, the board or a designated board member will specify the areas of deficiency based on the guidelines specified in Part 3. If the board approves the plan, the applicant will be assured that postdoctoral experience, if completed according to the plan, will meet the postdoctoral requirements and the applicant will be registered as participating in an approved supervision program.

(3)

If the applicant is completing postdoctoral hours outside New Mexico, a supervisory plan is optional.

(4)

If the applicant does not obtain a board-approved postdoctoral supervisory plan, the applicant shall submit documentation of the postdoctoral supervised practice after its completion. However, if the board does not approve this experience, part or all of the postdoctoral supervised experience shall be repeated. In this case, the board will require the applicant to submit a supervisory plan, and the supervisory plan must be approved by the board before the applicant's supervised practice begins. [16.22.6.8 NMAC - Rp, 16.22.6.8 NMAC, 11/15/2006; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

16.22.6.9 CONDITIONS OF POSTDOCTORAL SUPERVISION:

A. Primary supervisors.

(1)

One licensed psychologist who serves as a primary supervisor shall be responsible for the overall supervision of the supervisee's professional growth. Specific skill training may be assigned to other licensed specialists, under the authority of the supervising psychologist. The other licensed specialists shall have clearly established practice and teaching skills demonstrable to the satisfaction of both the primary supervisor and the supervisee.

(2)

The primary supervisor shall limit the number of applicants supervised to the number that the supervisor's work position and clinical responsibilities reasonably permit, so as to maintain a level of supervision and practice consistent with professional standards and ensure the welfare of the supervisees and their clients or patients.

(3)

The supervisor shall not be a member of the supervisee's immediate family or in a dual relationship that would compromise the supervisor's objectivity.

B. Supervisory

contact.

~~**(1)**~~

~~In-person supervision must account for at least fifty percent of any postdoctoral supervision used toward the required 3,000 hours of supervised experience for licensure. Telesupervision or telephonic supervision may account for no more than fifty percent of postdoctoral supervision hours. The supervisor must have a formal policy addressing the utilization of telesupervision or telephonic supervision as specified in Paragraph 5 of Subsection B of 16.22.6.8 NMAC.~~

~~**(2)**~~

~~At a minimum, supervision by the primary supervisor shall be provided on a one-to-one basis for one hour per week for a total at least 46 hours of one-to-one supervision per year. Telesupervision is equivalent to face to face supervision.~~

C. Conduct of supervision.

(1)

The board recognizes that variability in preparation for practice of the applicant will require individually tailored supervision. The specific content of the supervision procedures shall be worked out between the primary supervisor and the applicant.

(2)

The primary supervisor who provides supervision for the applicant for licensure shall have clinical and professional responsibility for the work of the applicant.

(3)

A supervisor, either primary or designated, shall be available to the applicant whenever decisions about clients or patients are made.

(4)

The primary supervisor shall be responsible for the delivery of services, the representation to the public of services, and the supervisor/applicant relationship. This responsibility includes, but is not limited to, the following requirements.

(a)

All clients or patients shall be informed of the availability or possible necessity of meetings with

the primary supervisor at the request of the client or patient, the applicant, or the psychologist. The supervisor shall be available for emergency consultation or intervention.

(b)

All written communication shall clearly identify the primary supervisor as clinically and professionally responsible for all psychological services provided. Public announcement of services and fees and contact with the public or professional community shall be offered in the name of the primary supervisor, business, or agency. Both the primary supervisor and the applicant shall inform the client or patient, to whatever extent is necessary for the client or patient to understand, of the supervisory status and other specific information as to the applicant's qualifications and functions.

(c)

The primary supervisor shall oversee the maintenance of information and files relevant to the client or patient during the supervisory period.

(d)

The primary supervisor shall not be a member of the applicant's extended or immediate family or be involved in a dual relationship.

(e)

The supervision shall not be delivered in an agency or business in which the applicant has a financial interest.

D. Inappropriate representation. In the event applicants publicly represent themselves inappropriately, or supervision is not conducted according to Subsection C of 16.22.6.9 NMAC, conduct of supervision, any experience gained under such circumstances does not comply with these rules and regulations and will not be accepted as experience toward licensure. Any psychologist providing supervision under such circumstances is in violation of these rules and regulations and may be subject to disciplinary action.

[16.22.6.9 NMAC - Rp, 16.22.6.9 NMAC, 11/15/2006; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.8 NMAC, Section 8, and Section 11 effective 02/10/2022.

16.22.8.8 LICENSE RENEWAL: Licensees shall renew their licenses to practice psychology biennially on or before July 1 of alternate years by remitting to the board office the biennial renewal active status fee specified in Paragraph 2 of Subsection C of 16.22.13.8 NMAC with the renewal application form provided by the board. Continuing education hours shall be documented every two years at the time of license renewal as described in Part 9. [~~Background fees shall be the amount established by the department of public safety for the processing of criminal history background checks:~~

~~_____A._____ All renewal applications will be subject to a one-time nationwide criminal history screening. Renewal applications will be processed pending the completion of the criminal history screening.~~
~~_____B._____ If the nationwide criminal background screening reveals a felony or a violation of the Psychologist Examiners Act, the licensee will be notified to submit copies of legal documents and other related information to the board which will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.]~~

[16.22.8.8 NMAC - Rp, 16.22.8.8 NMAC, 11/15/2006; A, 9/16/2010; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

16.22.8.11 LICENSEE RESPONSIBILITY: Renewal application notices will be delivered to the last known electronic mail address on file with the board. It is the responsibility of the licensee to keep the board informed of any changes in electronic address, mailing address and phone numbers. Failure to receive the renewal application

notice shall not relieve the licensee of the responsibility of renewing his license before the expiration date.

[16.22.8.11 NMAC - Rp, 16.22.8.11 NMAC, 11/15/2006; A, 7/1/2018; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.9 NMAC, Section 8, and Section 9 effective 02/10/2022.

16.22.9.8 REQUIRED HOURS:

A. Purpose. The purpose of continuing professional education (CPE) requirements for psychologists is to ensure that licensees update and advance their skills such that the public shall benefit from the most current and effective standards of professional practice. To further the goal of public benefit, all psychologists are required to fulfill a portion of their CPE in the areas of ethics and cultural diversity as related to the profession of psychology.

B. Required hours. The board requires 40 hours of CPE for licensed psychologists and psychologist associates during every two years. For conditional prescribing and unrestricted prescribing psychologists the board requires 60 hours of CPE every two years.

C. Program types. CPE credits are divided into two categories depending on the design and approval process for the experience and on the monitoring of the psychologist. Psychologists must obtain at least 15 of their 40 hours every two years in category I, which is the most stringent in terms of presentation standards and monitoring. Any additional hours to complete the 40 hour requirement may be from category I or category II.

(1) Cultural Diversity: a minimum of two hours every two years from either category must be in the area of cultural

diversity [and/or] or health disparities as described in 16.22.9.9 NMAC. [At least two hours of cultural diversity CPE must be in the area of ethnic diversity.]

(2) Equity and inclusion: a minimum of four hours every two years from either category I or II must be on the topic of race, ethnicity, systemic racism, structural inequality, poverty or the intersection of variables that impact marginalized communities as described in 16.22.9.9 NMAC.

(3) Ethics: a minimum of four hours every two years from either category must be in the area of ethics as described in 16.22.9.9 NMAC.

(4) Psychopharmacology or psychopharmacotherapy: for conditional prescribing or unrestricted prescribing psychologists, 40 hours every two years out of the 60 hour CPE requirement must be in the area of psychopharmacology or psychopharmacotherapy.

D. Criteria. The board accepts the criteria of the national professional organizations listed in 16.22.9.9 NMAC in accrediting continuing education hours. The following criteria adapted from *Standards and Criteria for Approval of Sponsors of Continuing Education for Psychologists* (American Psychological Association, 2009) shall apply [to the board and] to New Mexico accrediting organizations when approving continuing education requests.

(1) Sponsors must be prepared to demonstrate that information and programs presented are based on methodical, theoretical, research, or practice knowledge base. This requirement must be met by at least one of the following:

(a) Program content has obtained credibility, as demonstrated by the involvement of the broader psychological practice, education, and science communities in studying or applying the findings, procedures, practices, or theoretical concepts.

(b) Program content has been supported using established research procedures and scientific scrutiny.

(c) Program content has peer reviewed, published support beyond those publications and other types of communications devoted primarily to the promotion of the approach.

(d) Program content is related to ethical, legal, statutory or regulatory policies, guidelines, and standards that impact psychology.

(2) Sponsors must select instructors with expertise in the program content and who are competent to teach this program content at a level that builds upon a completed doctoral program in psychology.

(3) Sponsors are required to ensure that instructors, during each CE presentation, include statements that describe the accuracy and utility of the materials presented, the basis of such statements, the limitations of the content being taught and the severe and the most common risks.

(4) Sponsors must offer program content that builds upon the foundation of a completed doctoral program in psychology.

(5) Sponsors must be prepared to demonstrate that content is relevant to psychological practice, education, or science.

(6) Sponsors must clearly describe any commercial support for the CE program, presentation. Or instructor to program participants at the time the CE program begins. Any other relationship that could be reasonably construed as a conflict of interest also must be disclosed.

[16.22.9.8 NMAC - Rp, 16.22.9.9 NMAC, 9/16/2010; A, 04/30/2015; A, 02/10/2022]

16.22.9.9 CPE PROGRAM CATEGORIES:

A. Category I shall consist of formally designed programs presented in a group setting with

monitored attendance. The following types of programs qualify as category I:

(1) Formally organized workshops, seminars, grand rounds or classes aimed at the graduate or professional level which maintain an attendance roster and are approved by or under the auspices of an accredited institution of higher education offering graduate instruction.

(2) Workshops, seminars, or classes which maintain an attendance roster and are certified or recognized by one of the following organizations:

- (a) the American psychological association;
- (b) the American psychiatric association;
- (c) the American medical association;
- (d) the American association for marriage and family therapy;
- (e) the American counseling association;
- (f) the international congress of psychology;
- (g) the national association of social workers;
- (h) the New Mexico psychological association;
- (i) the national association of school psychologists; or
- (j) the New Mexico state board of psychologist examiners.

(3) Formal graduate level college or university courses relevant to scientific or professional psychological activities, including but not limited to neuropsychology, forensic psychology, development, language skills, statistics, and cultural knowledge, as deemed satisfactory to the board. Five CPE credits will be granted for each university semester credit listed for the course. Documentation may be provided by college transcript showing credit

obtained or letter from the instructor documenting hours of attendance for audited courses.

(4)

Participation in the board will be granted hour-for-hour CPE credit up to 20 hours. These hours satisfy the ethics CPE requirement.

(5) Achieving

advanced certification, diplomate status or specialization in a field of psychology or psychopharmacology may be granted up to 15 CPE credits if approved by one of the organizations designated in Paragraph (2) of Subsection A of 16.22.9.9 NMAC using their own criteria or the criteria of Paragraph (2) of Subsection D of 16.22.9.8 NMAC.

(6) Online

education qualifies as category I if:

(a) it

meets the above criteria;

(b)

attendance is verified by the instructor's organization, e.g., electronically monitoring when the learner is online;

(c) —

~~a limit of 11 CPE credits come from online coursework, that is that at least four CPE credits be face-to-face interactions.]~~

B. Category II shall

consist of high quality and relevant experiences outside the format of formal presentations and classes. The following types of programs qualify as category II:

(1) Non-

supervised independent study or home study programs, including online programs, conducted by accrediting agencies listed in Paragraph (2) of Subsection A of 16.22.9.9 [NMSA] NMAC will be granted hour-for-hour CPE credit.

(2) Symposia

or presentations at annual conventions of national or regional professional organizations in psychology (for example, American psychological association, and Rocky Mountain psychological association) or a closely related discipline may be claimed for CPE credit. Four hours may be claimed for the first time each scientific or professional presentation

was made; two hours may be claimed for a poster session.

(3)

Publications related to the practice of psychology: CPE hours may be claimed for each publication of an article in a professional journal or book chapter authored by the licensee according to author listing:

(a)

eight hours for the first author;

(b)

six hours for the second author;

(c)

four hours for the third author; and

(d)

two hours for any subsequent author.

(4) Books

related to the practice of psychology: Authoring or editing a book may be claimed for fifteen hours.

(5) A presenter

providing continuing education or teacher of a graduate course that qualifies as a category I program may claim hour per hour credit up to eight CPE credit hours for the first time the presentation is made or the course is taught. New material in an existing course or program may be claimed hour per hour up to eight hours the first time it is presented.

(6)

Participation in the New Mexico psychological association executive board, or formal offices or committees established by the board, the New Mexico psychological association, the American psychological association, or other professional organizations, if the tasks are clearly related to issues of ethics, professional standards, or practice-related skills shall be granted CPE credit of one hour for every two hours of participation up to 20 hours.

C. Cultural diversity

shall consist of the following types of programs: A course containing attention to cultural diversity ~~and/or~~ or health disparities, as specifically noted in the title, description of objectives, or curriculum of the presentation, symposium, workshop, seminar, or course. A course in cultural diversity focuses on increasing scientific understanding and training in regard to those aspects that pertain to but are not limited

to culture, class, race/ethnicity, gender, sexual orientation, aging and disability. The aim of such courses is the promotion of culturally responsive/competent models for the delivery of psychological services. The topic of the presentation, symposium, workshop, seminar, or course need not be on cultural diversity; however one of the objectives or the description of topics covered must clearly indicate attention to health disparities, race, ethnicity, systemic racism, structural inequality, poverty ~~and/or~~ or cultural diversity, as deemed satisfactory to the board. ~~Four~~ Two hours of cultural diversity CPE from either category I or II are required for each two year reporting period.

D. Equity and

Inclusion shall consist of the following types of programs: A course containing attention to the topic of race, ethnicity, systemic racism, structural inequality, poverty, or the intersection with other variables that impact marginalized communities. A course on these topics must be more than a history course, and should focus on increasing scientific understanding and training that improves clinical understanding of those aspects that pertain to but are not limited to systemic racism, structural inequality, poverty or the intersection with variables that impact marginalized communities. The aim of such courses is the promotion of culturally responsive/competent models for the delivery of psychological services. In recognition of the unique racial/ethnic demographic composition of the population of New ~~Mexico~~ Mexico, four hours of equity and inclusion CPE from either category I or II are required each two year reporting period.

E. Ethics shall consist

of the following types of programs: A course containing attention to the ethics of practice related to psychology. The topic of the presentation, symposium, workshop, seminar, or course need be on ethics and the objectives or the description of topics covered must clearly

indicate attention to ethics, as deemed satisfactory to the board. Four hours of ethics CPE from either category I or II are required for each two year period.

F. Health disparities are preventable differences in the burden of disease, injury, violence, or opportunities to achieve optimal health that are experienced by socially disadvantaged populations. Populations can be defined by factors such as race or ethnicity, gender, education or income, disability, geographic location (e.g., rural or urban), or sexual orientation. Health disparities are inequitable and are directly related to the historical and current unequal distribution of social, political, economic, and environmental resources.

[16.22.9.9 NMAC - Rp, 16.22.9.8 NMAC, 9/16/2010; A, 4/30/2015; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.10 NMAC, Section 9 effective 02/10/2022.

16.22.10.9 REINSTATEMENT FROM INACTIVE STATUS:

A. If the inactive licensee requests reinstatement to active status within three years, he shall:

- (1) complete an application for reinstatement form provided by the board;
- (2) provide satisfactory proof of completion of the continuing education requirements described in Part 9;
- (3) not have violated any rule of the Professional Psychologist Act or the rules and regulations of the board;
- (4) pay the appropriate [renewal] reinstatement fee established by the board.

B. If the inactive licensee requests reinstatement to

active status after three years, he shall:

- (1) complete an application for reinstatement form provided by the board;
- (2) provide satisfactory proof of completion of the continuing education requirements described in Part 9;
- (3) take and pass the online jurisprudence examination;
- (4) not have violated any rule of the Professional Psychologist Act or the rules and regulations of the board;
- (5) pay the appropriate [renewal] reinstatement fee established by the board.

C. A licensee on inactive status shall not render or offer to render psychological services or otherwise engage in the practice of psychology until he receives a new license issued by the board.
[16.22.10.9 NMAC - Rp, 16.22.10.9 NMAC, 11/15/2006; A, 03/21/09; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.11 NMAC, Section 8, and Section 9 effective 02/10/2022.

16.22.11.8 COMPLAINT PROCEDURES:

- A. Inquiries regarding filing of complaints.**
- (1) Inquiries made to the board or to a board member regarding a potential complaint will be referred to the board administrator or compliance liaison for a response.
 - (2) Upon receipt of an inquiry, the board administrator or compliance liaison shall forward to the potential complainant a complaint form with instructions on how to file the complaint. Complaints shall be submitted in writing on the prescribed form, signed [and notarized], and state

the facts upon which the complaint is based. Anonymous complaints will not be investigated, unless the board determines an exception is valid due to unusual circumstances.

(3) Once a complaint, is made, it will come under the provisions of this section and cannot be withdrawn.

B. Procedures for processing complaints. The board administrator or compliance liaison shall:

- (1) log in the date the complaint is received;
- (2) determine if the subject of the complaint is a licensed psychologist, psychologist associate or an applicant or person otherwise within the jurisdiction of the board;
- (3) assign an individual file with a complaint number, which numbering sequence shall begin each new calendar year;
- (4) send a letter to the complainant confirming receipt of the complaint;

(5) forward the complaint to respondent with a letter requesting a response to the allegations and any documents or materials relevant to the complaint, unless it will impede an investigation or interfere with the acquisition of documents or relevant papers or the development of the case; and

(6) forward the complaint file to the chair of the complaint committee.

C. Review by the complaint committee.

(1) The chair of the complaint committee is appointed by the board chair and shall consist of a board member and may include the board administrator and compliance liaison.

(2) The complaint committee shall review the entire complaint file to determine if the allegations in the complaint are substantiated and constitute grounds for disciplinary action.

(3) The complaint committee or its designee may employ experts, consultants, or private investigators to assist in investigations of complaints.

(4) The complaint committee, or its designee, on behalf of the board, may issue investigative subpoenas, pursuant to Subsection A of Section 61-1-4 NMSA 1978.

(5) Upon completion of an investigation and review, the complaint committee shall submit to the full board a case summary containing alleged violations of the code, board regulations or the act and recommendations for disposition. Throughout this process, confidentiality of interested parties will be maintained.

D. Review by the full board.

(1) Any board member or any member of the complaint committee who is partial or who believes he is not capable of judging a particular controversy fairly on the basis of [it] its own circumstances shall not participate in the decision whether to issue a notice of contemplated action and shall not participate in the hearing, deliberation, or decision of the board.

(2) The board shall review the case summary presented by the complaint committee, relevant documents, witness statements, and other pertinent information regarding the complaint. If the board has sufficient evidence that a violation may have occurred, the board shall forward the evidence to the administrative prosecutor for issuance of a [an] notice of contemplated action.

(3) Following the issuance of a notice of contemplated action, the board may at its option authorize a board member, or the administrative prosecutor to confer with the applicant or the licensee for the purpose of settlement of the complaint. Such settlement must be approved by the board, must be with the consent of the applicant or licensee, and shall include a knowing and intentional waiver by the applicant or the licensee of his rights to hearing under the Uniform Licensing Act.

(4) The board may refer a complaint to the attorney general for injunctive proceedings or to the district attorney for criminal prosecution.

[16.22.11.8 NMAC - Rp, 16.22.11.8 NMAC, 11/15/2006; A, 2/22/2013; A, 02/10/2022]

16.22.11.9 ADJUDICATORY PROCEEDINGS:

A. General provisions and pre-hearing and preliminary matters.

(1) All hearings shall be conducted either by the board or, at the election of the board, by a hearing officer.

(2) If the board appoints a hearing officer, the hearing officer shall have authority to decide pre-hearing matters, preside over the hearing, and direct post-hearing matters in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case.

Except as otherwise limited in this part, the hearing officer shall have the authority to rule on all non-dispositive motions. If the board does not appoint a hearing officer or if the hearing officer is unavailable or unable to proceed, the board chair or other board member designated by the board shall have the authority to decide pre-hearing or preliminary matters on behalf of the board. This authority shall be in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case, including, without limitation.

(a) Unopposed or stipulated motions to change venue.

(b) Motions for continuance of a hearing date. A motion to vacate the hearing must contain an affirmative statement that the licensee or applicant waives his right to a hearing held not more than 60 days from the date of service of the notice hearing.

(c) The granting of one notice of pre-

emptory excusal to each party if the notice is timely and if the pre-emptory excusal does not result in a loss of a quorum of the board.

(d) Motions regarding discovery.

(3) The original of any papers and pleadings shall be filed with the board. Copies shall be sent to the hearing officer and attorneys or parties of record.

(4) The hearing officer or designated board member shall issue appropriate orders to control the course of the proceedings.

(5) Consistent with provisions of the Uniform Licensing Act and to the extent practicable, the rules of civil procedure for the district courts shall apply unless the hearing officer or designated board member orders otherwise.

(6) A request for an order shall be made by a motion filed with the board. Except for motions made during the course of the hearing, a motion shall be in writing. A motion shall state with particularity the grounds for the motion and shall set forth the relief and order sought.

(7) A motion shall be accompanied by a memorandum brief in support of the motion. The brief shall state with particularity the grounds for the motion and shall contain citation to authorities, statutes, and references to the pleadings on file. If matters outside of the pleadings are considered, a copy of the referenced material shall be attached to the brief. Responsive briefs shall be permitted in accordance with the rules of civil procedure for the district courts to the extent practicable unless the hearing officer or designated board member orders otherwise.

(8) The hearing officer or the designated board member may order the filing of briefs or other documents and may set oral argument on any matter.

(9) No more than two continuances of the hearing date will be granted without the

approval of the board for good cause shown.

(10) All dispositive motions shall be decided by the board.

(11) No proposed settlement, consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall be effective unless approved by the board and executed by the board and the licensee or applicant. The board or hearing officer may seek information from the administrative prosecutor and the licensee or applicant concerning circumstances of the case relevant to a consideration of the proposed settlement or clarification of the proposed terms and conditions. No board member is presumed to be biased and shall not be excused based solely on the reason that the member considered a proposed settlement, consent agreement, or other proposal for the resolution of a pending disciplinary case. The board may submit a counterproposal for the settlement or resolution of the case.

(12) Any proposed settlement, consent agreement, voluntary surrender of a license in lieu of prosecution, or other proposal for the resolution of a pending disciplinary case shall contain at least the following:

(a) an admission of all jurisdictional facts; an acknowledgment of the rights contained in the Uniform Licensing Act and an express waiver of those rights and of all rights to hearing and judicial review or any other opportunity to contest the validity of the board order in any other proceeding or forum;

(b) a statement that the proposal resolves only the violations alleged in the notice of contemplated action and a statement that the board reserves the right to initiate other proceedings for any other violations of the act or board regulations;

(c) a general nature of the evidence underlying each alleged violation;

(d) if appropriate, a list of provisions of the acts or practices from which the licensee or applicant will refrain in the future;

(e) a statement of the type, terms, and conditions of the proposed disciplinary action of the board;

(f) a statement that the licensee will be responsible for all costs of disciplinary proceedings or a statement setting forth the reason why the licensee should be excused from paying costs; the affidavit of the board administrator concerning the costs incurred to date shall accompany the proposal;

(g) a statement that the decision and order of the board shall be a public record and reported, as required by law. If the proposed settlement involves an action of the type specified in the Uniform Licensing Act Section 61.1.1-3 NMSA 1978 [~~Subsections D-(i) thru 61-1-3 K(n), NMSA 1978~~] or voluntary surrender of a license in lieu of prosecution, the decision and order shall be reported by the board to the ASPPB disciplinary data report, healthcare integrity and protection data bank (HIPDB), and to other appropriate entities;

(h) other provisions necessary to ensure the complete and final resolution of the proceedings.

(13) A proposal to settle a matter shall not stay the proceedings or vacate the hearing date unless otherwise ordered by the hearing officer or presiding officer upon the filing of a timely motion.

B. Duties of the board administrator. The board administrator shall:

(1) after consultation with the board or hearing officer, issue a notice of hearing stating the date, time, and place of the hearing;

(2) execute on behalf of the hearing officer or board notices, scheduling orders, subpoenas, and subpoenas duces tecum, and other routine procedural documents

that facilitate the efficient conduct of adjudicatory proceedings;

(3) maintain the official record of all papers and pleadings filed with the board in any matter;

(4) prepare an affidavit as to costs of any disciplinary proceeding at the conclusion of any hearing or upon request by a party submitting a proposed settlement, consent agreement, or voluntary surrender of a license in lieu of prosecution;

(5) prepare, certify, and file with the district court the record of the case on appeal or review;

(6) unless the board orders otherwise, have the authority to sign the decision of the board to grant or refuse a request to reopen the case.

C. Conduct of hearings.

(1) The hearing officer, or presiding officer if the case is heard by the board, shall ensure the fair, efficient, and orderly conduct of the hearing in accordance with the Uniform Licensing Act.

(2) Unless the board orders otherwise, a board member hearing officer, the board chair, or presiding officer shall have the authority to sign the written decision of the board.

(3) The board administrator shall serve the decision of the board on the licensee or applicant in accordance with law.

(4) A motion for an order staying the operation of a board decision shall be decided by the board.

[16.22.11.9 NMAC - Rp, 16.22.11.9 NMAC, 11/15/2006; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

**This is an amendment to 16.22.12
NMAC, Section 8 effective
02/10/2022.**

16.22.12.8 CONDITIONS OF PRACTICE FOR PSYCHOLOGIST ASSOCIATES:

A. Supervision by a licensed psychologist or board-certified psychiatrist.

(1)

Psychologist associates who engage in the practice of psychology shall be supervised by a licensed psychologist or a board-certified psychiatrist, except in the area of psychological or cognitive testing. The supervising psychologist must be licensed in New Mexico as a psychologist with the New Mexico board of psychologist examiners, be in good standing and have no history of rule violations. If the psychologist associate conducts psychological, [and/or] cognitive testing, the psychologist associate shall be supervised in this area of practice by a licensed psychologist. The psychologist shall explicitly agree to supervise the psychologist associate.

(2) The supervisor shall assume professional and ethical responsibility for the work of the psychologist associate performed in the course of their professional relationship.

(3) The supervisor shall provide supervision only in those areas of practice in which [he/she] the supervisor is qualified to render services.

(4) The supervisor shall not provide supervision to one who is [his/her] their administrative superior(s) or is a member of his or her family.

(5) The supervisor shall keep records of supervision. Such records shall be kept separately from the client's records and shall include dates of supervision, without reference to the client's name. Such records shall be submitted to the board on an [annual] biennial basis as a condition of the renewal process.

(6) The supervisor shall not exploit the psychologist associate for financial gain or with excessive work demands. The supervisor shall make every effort to avoid exploitation of the

psychologist associate by an agency with which the supervisor and psychologist associate are affiliated.

(7) Financial arrangements between the supervisor and the psychologist associate shall be clear and shall not interfere with or compromise the ethical, professional, and legal responsibilities each party has to the client or patient and to each other. Psychologist associates may bill clients or patients independently from the supervisor, provided that this arrangement does not interfere with or compromise those responsibilities.

B. Nature of supervision from licensed supervisor.

(1)

Supervision of a psychologist associate shall cover all aspects of the psychologist associate's work and shall include at least two hours a month of one-to-one supervision between the psychologist associate and the supervisor. If the psychologist associate who is supervised by a board-certified psychiatrist also conducts psychological or cognitive testing in his practice, the psychologist associate must be supervised by a licensed psychologist at least two additional hours per month in this area of practice.

(2) The client or patient shall always be informed about the nature of the professional relationship that exists between the supervisor and the psychologist associate. The client shall be informed of his/her right to meet with the supervisor upon request and that the supervision of the psychologist associate by the supervisor may involve a review of the content of the evaluation documents and intervention plans.

C. Supervisory agreement with licensed supervision.

(1) The psychologist associate and his supervisor shall file a [notarized] letter of agreement signed by all parties setting forth the terms of the supervisory arrangements. This agreement shall be updated and

provided to the board as a condition of the [yearly] biennial renewal of the psychologist associate's license. If there is no change in the agreement, a letter informing the board that there is no change, signed by both parties, shall accompany the [yearly] biennial renewal of the psychologist associate's license.

(2) Both the supervisor and the psychologist associate shall notify the board in writing within 30 days of termination if the supervisory agreement is terminated or the supervisory relationship ends for any reason. Most importantly, termination of the supervisory relationship shall be accomplished in a context of primary concern for the clients receiving care.

D. Ethical responsibilities of psychologist associates.

(1) The psychologist associate shall assume legal, ethical, and professional responsibility for the welfare of the client or patient, including client or patient diagnosis, intervention, and outcome of intervention.

(2) The psychologist associate shall provide services only in those areas of practice for which he is qualified.

E. Disclosure requirements. Any person licensed as a psychologist associate who advertises or solicits services to the general public shall specifically state: "Licensed psychologist associate - supervised practice."

[16.22.12.8 NMAC - Rp, 16.22.12.8 NMAC, 11/15/2006; A, 7/1/2018; A, 02/10/2022]

**REGULATION AND LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.13 NMAC, Section 8 effective 02/10/2022.

16.22.13.8 FEE SCHEDULE:
A. All fees payable to the board are non-refundable.

The fees for the (EPPP), and the (PEP) are in addition to the fees described below, and determined by the professional examination service offering the examination on behalf of the board. Background fees shall be the amount established by the department of public safety for the processing of criminal history background checks.

B. Application fees. (psychologists, psychologist associates, conditional prescribing and prescribing psychologists):

(1) initial application fee- (initial application fee expires 24 months from the date application is received in the board office) \$125.

(2) jurisprudence examination: \$75.

(3) re-examination fee for jurisprudence exam: \$75.

~~(4) application for an out of state psychologist to conduct court-ordered independent examination (per case): \$150.]~~

~~(5) (4) [initial] conditional prescription certificate: [\$75] \$150.~~

~~(6) (5) 60 day extension of conditional prescription: \$100.~~

~~(7) second-year conditional prescription certificate: \$75.~~

~~(8) (6) prescription certificate: \$75.~~

~~(9) (7) temporary license fee: \$300.~~

C. Biennial/annual renewal fees psychologists, psychologist associates, conditional prescribing and prescribing psychologists:

(1) one-time annual renewal by psychologists and psychologist associates meeting first-year New Mexico licensure requirements: \$250.

(2) biennial renewal active status psychologists and psychologist associates: \$500.

(3) biennial renewal active status [~~conditional prescribing and~~] (prescribing

psychologists): \$125.

(4) annual renewal inactive status psychologists, psychologist associates and prescription certificate: \$50.

(5) late fee (received after July 1 and within 1 year of suspension): active status (psychologists, psychologist associates, [~~conditional prescribing and~~] prescribing psychologist): \$100.

(6) reinstatement fee from inactive to active status psychologists and psychologist associates: \$300.

(7) reinstatement fee from inactive to active status prescription certificate: \$100.

D. Other miscellaneous charges

(1) duplicate/replacement wall certificate: \$25.

(2) licensee lists: \$100.

(3) licensee labels: \$150.

(4) per page copy fee for public information request: \$.25 cents.

(5) license verification fee: \$15.

[16.22.13.8 NMAC - Rp, 16.22.13.8 NMAC, 11/15/2006; A, 3/21/2009; A, 9/16/2010; A, 4/11/2012; A, 7/1/2018; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.14 NMAC, Sections 2, 6, 7, 8 and 10 effective 02/10/2022.

16.22.14.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, their spouses, their dependent children and for veterans pursuant to Section 61-1-34 NMSA 1978.

[16.22.14.2 NMAC - N, 04/30/2015; A, 02/10/2022]

16.22.14.6 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.

[16.22.14.6 NMAC - N, 04/30/2015; A, 02/10/2022]

16.22.14.7 DEFINITIONS:

[RESERVED]

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 Professional Psychology Act, NMSA 1978.

[16.22.14.7 NMAC - N, 04/30/15; Repealed 7/1/2018; N, 02/10/2022]

16.22.14.8 APPLICATION REQUIREMENTS:

A. Applications for registration shall be completed on a form provided by the [~~department~~] board.

B. The applicant shall [~~include~~] provide a complete application that includes the following information:

(1) [Completed application and fee] applicant's full name;

(2) [Satisfactory evidence that the applicant holds a license as a doctoral-level psychologist that is current and in good standing, issued by another jurisdiction, provided that the educational requirements and

supervised experience requirements of that jurisdiction meet or exceed those of 16.22.4 NMAC and 16.22.6 NMAC and that the requirement for examination includes a passing score on the examination for professional practice in psychology (EPPP) that meets or exceeds the requirements set in Paragraph 1 of Subsection A of 16.22.7.8 NMAC. Other requirements for licensure are waived until the first license renewal] current mailing address:

(3) [The board will develop, approve and maintain a list of American and Canadian jurisdictions whose requirements of education, supervised experience and EPPP passing score meet or exceed those of 16.22.4 NMAC, 16.22.6 NMAC and Paragraph 1 of Subsection A of 16.22.7.8 NMAC.] current electronic mail address:

(4) date of birth;

(5) background check; and

(6) proof as described in Subsection C below.

C. [Electronic signatures will be acceptable for applications submitted pursuant to Section 14-16-1 through Section 14-16-19 NMSA 1978.] 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 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 decedent's DD214 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 DD214 showing proof of honorable discharge.

(4) The applicant shall take and pass a jurisprudence examination as defined in 16.22.7 NMAC.

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 Professional Psychology Act, NMSA 1978.

[16.22.14.8 NMAC - N, 4/30/2015; A, 7/1/2018; A, 02/10/2022]

16.22.14.10 RENEWAL REQUIREMENTS:

A. A license issued pursuant to this section shall not be renewed unless the license holder satisfies the requirements for the issuance and for the renewal of a license set forth in 16.22.8 NMAC pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.

B. [The licensee must submit the following documents at the time of renewal:

(1) official doctoral degree transcripts sent directly from the institution's office of the registrar;

(2) license verification from all jurisdictions in which the applicant is or has been granted a psychologist license;

(3) three letters of reference dated within the last two years and two of the letters must be from a licensed practicing psychologist familiar with their clinical work, and can attest to their competency and moral character;

(4) verification of doctoral and post-doctoral supervised experience as defined in 16.22.6 NMAC; and

(5) verification of passing the examination for professional practice in psychology (EPPP) as defined in 16.22.7.8 NMAC.] 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.

[C. Licensee must take and pass a jurisprudence examination with a score of seventy-five percent.

D. Prior to the expiration of the license, all licensed psychologists shall apply for registration renewal and shall pay the renewal fee as set forth in 16.22.13 NMAC.]

[16.22.14.10 NMAC - N, 4/30/2015; A, 7/1/2018; A, 02/10/2022]

**REGULATION AND LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.20 NMAC, Section 8 effective 02/10/2022.

16.22.20.8 CONDITIONAL PRESCRIPTION CERTIFICATE

**OR PRESCRIPTION
CERTIFICATE HEALTH
CARE PRACTITIONER
COLLABORATION
GUIDELINES:**

A. A conditional prescribing or prescribing psychologist shall obtain a release of information from the patient or the patient's legal guardian authorizing the psychologist to contact the patient's primary treating health care practitioner, as required by law.

B. If a patient or the patient's legal guardian refuses to sign a release of information for the patient's primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall inform the patient or the patient's legal guardian that the psychologist cannot treat the patient pharmacologically without an ongoing collaborative relationship with the primary treating health care practitioner. The psychologist shall refer the patient to another mental health care provider who is not required to maintain an ongoing collaborative relationship with a health care practitioner.

C. A conditional prescribing or prescribing psychologist ~~[shall contact]~~ must provide written notice to the primary treating health care practitioner ~~[prior to prescribing medication]~~ within 24 hours of issuance of a prescription to the patient.

~~[(1) The conditional prescribing or prescribing psychologist shall inform the primary treating health care practitioner the medications the psychologist intends to prescribe for mental illness and any laboratory tests that the psychologist ordered or reviewed and shall discuss the relevant indications and contraindications to the patient of prescribing these medications.~~

~~[(2) The conditional prescribing or prescribing psychologist shall document the date and time of contacts with the primary treating health care practitioner, a summary of what was discussed, and the outcome of the discussions or decisions reached.~~

~~[(3) If the primary treating health care practitioner and the conditional prescribing or prescribing psychologist do not agree about a particular psychopharmacological treatment strategy, the psychologist shall document the reasons for recommending the psychopharmacological treatment strategy that is in disagreement and shall inform the primary treating health care practitioner of that recommendation. If the primary treating health care practitioner believes the medication is contraindicated because of a patient's medical condition, the conditional prescribing or prescribing psychologist shall defer to the judgment of the primary treating health care practitioner and shall not prescribe.~~

~~[(4) If a conditional prescribing or prescribing psychologist determines that an emergency exists that may jeopardize the health or well-being of the patient, the psychologist may, without prior consultation with the patient's primary treating health care practitioner, prescribe psychotropic medications or modify an existing prescription for psychotropic medication previously written for that patient by that psychologist. The conditional prescribing or prescribing psychologist shall consult with the primary treating health care practitioner as required herein as soon as possible. The conditional prescribing or prescribing psychologist shall document in the patient's psychological evaluation/ treatment file the nature and extent of the emergency and the attempt(s) made to contact the primary treating health care practitioner prior to prescribing or other reason why contact could not be made.~~

~~[(5) If a conditional prescribing psychologist or prescribing psychologist is working in a declared emergency/disaster area, the on-site medical staff can serve as the evaluating primary care physician.~~

D. If a patient does not have a primary treating health

care practitioner, the conditional prescribing or prescribing psychologist shall refer the patient to a health care practitioner prior to psychopharmacological treatment. The psychologist must receive the results of the health care practitioner's assessment and shall contact the health care practitioner as required herein prior to prescribing.

E. Once the collaborative relationship is established with the primary treating health care practitioner, the conditional prescribing or prescribing psychologist shall maintain and document the collaborative relationship to ensure that relevant information is exchanged accurately and in a timely manner. The ongoing collaborative relationship shall be maintained pursuant to the following guidelines.

~~[(1) A conditional prescribing or prescribing psychologist shall contact the primary treating health care practitioner for any changes in medication not previously discussed with the primary treating health care practitioner.~~

~~[(2) (1) A conditional prescribing or prescribing psychologist shall [contact] notify the primary treating health care practitioner if and when the patient experiences adverse effects from medications prescribed by the psychologist that may be related to the patient's medical condition for which he or she is being treated by a health care practitioner.~~

~~[(3) (2) A conditional prescribing or prescribing psychologist shall [contact] notify the primary treating health care practitioner regarding results of laboratory tests related to the medical care of the patient that have been ordered by the psychologist in conjunction with psychopharmacological treatment.~~

~~[(4) The patient's treating health care practitioner shall inform a conditional prescribing or prescribing psychologist of any new medical diagnosis or changes in the patient's medical condition that may affect~~

the treatment being provided by the psychologist.

~~(5)~~ **(3)** A conditional prescribing or prescribing psychologist shall [inform] **notify** a treating health care practitioner as soon as possible of any change in the patient's psychological condition that may affect the medical treatment being provided by the health care practitioner.

~~[(6) The patient's primary treating or other health care practitioner shall inform the conditional prescribing or prescribing psychologist of any psychotropic medications prescribed or discontinued by the primary or other treating health care practitioner, the dates of any subsequent changes in psychotropic medications prescribed by the primary or other treating health care practitioner, and the efforts to coordinate the mental health care of the patient as soon as possible.]~~

[16.22.20.8 NMAC - Rp, 16.22.20.8 NMAC, 11/15/2006; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.21 NMAC, Section 8 effective 02/10/2022.

16.22.21.8 LIMITS OF PRACTICE:

A. A conditional prescribing/prescribing psychologist shall limit practice and supervision to the areas of competence in which proficiency has been gained through education, training and experience.

~~[B. As defined in the collaboration guidelines of 16.22.20.8 NMAC, unless specifically agreed to by the primary treating health care practitioner, a conditional prescribing or prescribing psychologist shall not prescribe medications for patients with the following conditions:~~

~~(1) patients with a serious co-morbid disease of the central nervous system;~~

~~(2) patients with cardiac arrhythmia;~~

~~(3) patients who are being pharmacologically treated for coronary vascular disease;~~

~~(4) patients with blood dyscrasia;~~

~~(5) patients who are hospitalized for an acute medical condition; or~~

~~(6) women who are pregnant or breast feeding.~~

[E] B. A conditional prescribing or prescribing psychologist shall not prescribe a drug, substance or controlled substance that is not contained in the formulary described in 16.22.27 NMAC, of these regulations.

[D] C. A conditional prescribing or prescribing psychologist may order and review laboratory tests that are necessary to maximize the psychopharmacological effectiveness and to minimize the potential untoward effects of medications that are prescribed. In consultation with the PCP, the psychologist may also order neurovascular imaging procedures that use contrast media; neuro imaging that require the use of radioactive material; roentgenological procedures (x-rays) or other appropriate tests. The psychologist shall not:

(1) perform medical procedures such as spinal taps, intramuscular or intravenous administration of medication, or phlebotomy; or

(2) perform amytal interviews.

[E] D. A conditional prescribing or prescribing psychologist shall not self-prescribe medication and shall not prescribe medication to any person who is a member of the psychologist's family or household, or with whom the psychologist has a conflict of interest, including a prohibited dual relationship, as defined in 16.22.1 NMAC, of these regulations and the code of conduct adopted by the board.

[F] E. A conditional prescribing or prescribing psychologist is subject to provisions

of the Professional Psychologist Act and board regulations. A psychologist who violates the Professional Psychologist Act or board regulations is subject to disciplinary action by the board, which may include denial, suspension, or revocation of a conditional prescription certificate or prescription certificate or suspension or revocation of a license to practice psychology.

[G] E. A conditional prescribing or prescribing psychologist must comply with all other state and federal laws regulating the administrating and prescribing of controlled substances.

[16.22.21.8 NMAC - Rp, 16.22.21.8 NMAC, 11/15/2006; A, 02/10/2022]

REGULATION AND LICENSING DEPARTMENT PSYCHOLOGIST EXAMINERS, BOARD OF

This is an amendment to 16.22.23 NMAC, Section 8 effective 02/10/2022.

16.22.23.8 QUALIFICATIONS AND EDUCATION REQUIREMENTS FOR CONDITIONAL PRESCRIPTIVE CERTIFICATE:

A. Qualifications of applicant. The board shall issue a conditional prescription certificate pursuant to 16.22.24.8 NMAC, of these regulations to each applicant who submits evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in psychology from an accredited institution of higher education or professional school or, if the program was not accredited at the time of the applicant graduation, that the program meets professional standards determined acceptable by the board;

(2) holds an active unrestricted license to practice psychology in New Mexico;

(3) has successfully completed psychopharmacological training that meets the standards set forth in Subsection B below from either:

(a) an institution of higher education that has a postdoctoral program of psychopharmacology education for psychologists and that is accredited by a regional body recognized by the U.S. department of education or the council for higher education accreditation; or

(b) a continuing education provider approved by the American psychological association that offers a program of psychopharmacology education for psychologists; or

(c) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school and that is a formal and organized program of study leading to a credential in psychopharmacology from that school; or

(d) a continuing education program of professional development in psychopharmacology for psychologists that is administered in collaboration with a school if the applicant successfully completed the 450 classroom hours of didactic study referred to in 16.22.23.8 NMAC, of these regulations below prior to January 1, 2004.

B. RxP training

program. The psychopharmacology training program referred in Subparagraph (c) above, shall meet the following criteria.

(1) The program shall be an integrated and organized program of study.

(2) The program shall have an identifiable body of students at different levels of matriculation.

(3) The program shall be clearly identified and labeled as a psychopharmacology program and shall specify in pertinent institutional catalogues and brochures its intent to educate and train psychologists to prescribe psychotropic medication.

(4) The program shall have a formally

designated training director who is a psychiatrist or a doctoral psychologist, trained in the area of psychopharmacology, and licensed to practice in the jurisdiction in which the program resides.

(5) The training director shall be primarily responsible for directing the training program and shall have administrative authority commensurate with those responsibilities.

(6) The training director's credentials and expertise shall be consistent with the program's mission and goals to train psychologists to prescribe psychotropic medication.

(7) The program shall provide information regarding the minimal level of achievement required for postdoctoral trainees to satisfactorily progress through and complete the psychopharmacological training program, as well as evidence that it adheres to the minimum levels of achievement.

(8) The program shall have formally designated instructors and supervisors in sufficient number to accomplish the program's education and training.

(9) Supervisors shall hold an active, unrestricted license in their field of practice in the jurisdiction in which the program resides or where the supervision is being provided.

(10) The program instructors and supervisors shall have sufficient expertise, competence, and credentials in the areas in which they teach or supervise.

(11) The program instructors and supervisors shall participate actively in the program's planning, implementation and evaluation.

(12) The program, with appropriate involvement from its training supervisors, instructors, and trainees, shall engage in a self-study process that addresses:

(a) expectations for the quality and

quantity of the trainees' preparation and performance in the program;

(b) training goals and objectives for the trainees and the trainees' views regarding the quality of the training experiences and the program;

(c) procedures to maintain current achievements or to make changes as necessary; and

(d) goals, objectives, and outcomes in relation to local, regional, and national changes in the knowledge base of psychopharmacology training.

(13) The program shall follow the guidelines for psychopharmacology training of post-doctoral psychologists established by the American psychological association.

(14) As part of the admission and training process, the training program shall evaluate and assure that every student completes necessary prerequisite training in basic science (e.g. physiology, chemistry, and biochemistry), the biological bases of behavior, and psychopharmacology.

(15) When students are not in residence, the program provides on-line access to a library of sufficient diversity and level to support the advanced study of the psychopharmacological treatment of mental disorders from wherever the student resides. This access shall remain available throughout all didactic and clinical phases of the training program. Frequent face-to-face evaluation and discussions shall be included in the didactic training.

(16) The program provides formal, written measurement of the mastery of course content.

(17) The program demonstrates in its written materials or course syllabi that it integrates into the training the following areas; socio-cultural issues in psychopharmacological treatment, ethno-pharmacology, use of translators, the cultural context of compliance and noncompliance with prescribed medication, creating

a culturally appropriate environment to meet patient care treatment and language needs, and working collaboratively with traditional healers.

C. Didactic instruction.

(1) Within the five years immediately preceding the date of application for a conditional prescription certificate, the applicant shall have successfully completed didactic instruction of no fewer than 450 classroom hours in at least the following core areas of instruction:

- (a) neuroscience;
- (b) pharmacology;
- (c) psychopharmacology;
- (d) physiology;
- (e) pathophysiology;
- (f) appropriate and relevant physical and laboratory assessment;
- (g) clinical pharmaco-therapeutics; and
- (h) cultural competence.

(2) At least three-fourths of the 450 classroom hours of didactic instruction shall be awarded by one certification or degree-granting institution or continuing education program.

D. Eighty hour practicum in clinical assessment and pathophysiology.

(1) The 80 hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification or degree.

(2) The 80 hour practicum shall provide the opportunity for the applicant to observe and demonstrate competence in physical and health assessment techniques within a medical setting under the supervision of a physician.

(3) The 80 hour practicum shall be completed in a timeframe of full-time over two weeks to 30 weeks.

(4) If the applicant cannot complete the 80 hour practicum within the time frame designated in Paragraph (3) of Subsection D of 16.22.20.8 NMAC, because of illness or other extenuating circumstances, the applicant may request an extension from the board explaining in writing the extenuating circumstances and the additional time requested.

(5) The supervising physician and the training director of the psychopharmacology training program shall certify in writing that the applicant:

- (a) assessed a diverse and significantly medically ill patient population;
- (b) observed the progression of illness and continuity of care of individual patients;
- (c) adequately assessed vital signs;
- (d) demonstrated competent laboratory assessment; and
- (e) successfully completed the 80-hour practicum.

E. Four-hundred hour practicum. Requirements for the general 400 hour practicum treating a minimum of 100 patients with mental disorders include:

(1) The 400 hour practicum shall be part of the psychopharmacology training program from which the applicant obtains the certification, degree or certification of completion.

(2) One-hundred patients shall mean 100 separate patients.

(3) The four-hundred hours shall refer to 400 face-to-face hours. The 400 face-to-face hours shall include only time spent with patients to provide evaluation and treatment for medical psychopharmacotherapy of patients and time spent in collaboration with the patient's treating health care practitioner(s).

(4) The applicant must have supervised experience in the evaluation and

treatment of 100 patients, representing as diverse a patient population as possible, including diversity in the patients:

- (a) gender;
- (b) different ages throughout the life cycle, including adults, children/ adolescents, and geriatrics; as possible and appropriate;
- (c) range of disorders listed in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and acute and chronic disorders;
- (d) ethnicity;
- (e) socio-cultural background; and
- (f) economic background.

(5) The applicant and the training program shall maintain a log on patient seen, which shall include: a coded identification number for the patient, patient's age, gender, diagnosis, date and time seen, amount of time seen for psychopharmacotherapy. The log shall be available to the RxP application committee or the board upon request. The log shall contain the name and signature of the supervisor.

(6) The applicant and the training program shall keep records of the time spent during this practicum. The records shall be available to the psychopharmacology application committee or the board upon request. The records shall not contain patient identifying information.

(7) A psychiatrist or other appropriately trained physician, licensed in good standing in the jurisdiction in which the psychiatrist or other physician rendered supervision shall be the primary supervising physician of the practicum. The primary supervising physician shall be responsible for the overall supervision of the applicant; however, training may be assigned to other licensed physicians, i.e.,

secondary supervisors, as designated by the primary supervising physician and the training director of the program.

(8) ~~[The primary or secondary supervisor shall be on-site.]~~ One to one supervision will be provided either face to face or by video conference. The applicant shall consult with the primary or secondary supervising physician ~~[as appropriate],~~ before ~~[the applicant makes]~~ a decision ~~[about]~~ is made regarding the psychopharmacological treatment of the patient.

(9) The primary or secondary supervising physician shall review the charts and records of any patient seen by the applicant during the practicum while under the supervision of the primary or secondary supervising physician.

(10) The practicum shall be completed in a period of time of not less than six months and not more than three years.

(11) If the applicant cannot complete the 400 hour practicum within the timeframe designated in Subsection E of 16.22.23.8 because of illness or other extenuating circumstances, the applicant may request an extension from the board explaining in writing the extenuating circumstances and the additional time requested. The applicant shall receive a minimum of one hour of supervision for every eight hours of patient time. The applicant is responsible to keep a log of the dates and time of supervision. The supervisor may meet with the applicant for additional education at his or her discretion.

(12) The practicum shall be completed within the five years immediately preceding the date of application for a conditional prescription certificate.

(13) Upon request of the RxP application committee or the board, the primary supervising physician shall provide an affidavit stating that:

(a) the supervisor does not have conflict of interest and is not a member of the applicant's family or household as

defined in 16.22.26 NMAC, of these regulations;

(b) the supervisor or a designated secondary supervisor reviewed and discussed with the applicant the charts and records of patients seen by the applicant during the practicum;

(c) the practicum included a diverse group of patients, as defined in these regulations; and

(d) the applicant did not write any prescriptions without the primary or secondary supervisor's supervision and signature or authorization.

(14) The primary supervising physician shall conduct a formal, written evaluation on at least two occasions, at the midpoint and at the end of the practicum. The evaluation shall assess the applicant's progress and competencies and shall describe any deficiencies or areas where competency has not been achieved. The primary supervisor shall submit copies of the evaluations to the applicant and the training director.

(15) In the event of documented deficiencies the training director of the psychopharmacology program shall specify in writing:

(a) the areas in need of remediation;

(b) the process and procedures by which these areas are to be re-mediated; and

(c) the method by which the training director and supervisor shall determine that the applicant has achieved the competencies necessary to successfully complete the practicum.

(16) The psychologist in practicum training or the conditional prescribing psychologist is responsible for informing the patient or the patient's legal guardian, when appropriate, or explain to the patient through the recommendation system at an institution if the institution itself generally handles such informed consent. The name and role of the

supervisor and sufficient information of the expectation and requirements of the practicum shall be provided to the patient or the patient's legal guardian at the initial contact necessary to obtain informed consent and appropriate releases. The applicant shall provide additional information requested by the patient or the patient's legal guardian concerning the applicant's education, training and experience.

(17) The primary supervising physician and the training director of the psychopharmacology program from which the applicant obtained a certification of successful completion or a degree in psychopharmacology shall certify to the board in writing that the applicant has successfully completed the practicum.

F. National examination. To qualify for a conditional prescription or prescription certificate, the applicant must demonstrate competency by passing a national examination.

(1) Applicant must pass the Psychopharmacology Examination for Psychologists (PEP), ~~[developed by the American psychological association practice organization's college of professional psychology and its contractor, the professional examination service.]~~ administered and maintained by the Association of State and Provincial Psychology Boards (ASPPB).

(2) Applicant must be eligible to take the PEP after the applicant successfully completes the didactic portion of the postdoctoral program of education in psychopharmacology.

(3) The passing score shall be the passing score recommended by the ~~[American psychological association's practice organization college of professional psychology for the occasion.]~~ association of state and provincial psychology boards (ASPPB).

(4) If the applicant fails the examination, the applicant may take the examination a second time after a mandatory 90-day waiting period.

(5) If the applicant fails the examination on the second attempt, the applicant will be required to wait one year before repeating the examination.

(6) If the applicant fails the examination on the third attempt, the applicant is required to take the remedial didactic program recommended by the psychopharmacology application committee and approved by the board before the applicant is allowed to repeat the examination.

G. An applicant who has successfully completed a psychopharmacology educational program, an 80 hour practicum in clinical assessment and pathophysiology, a 400 hour/100 patient practicum treating patients with mental disorders or the national certification examination prior to the effective date of these regulations may include the completed portion(s) of the training in the application for a conditional prescription certificate. The applicant who has completed the 400 hour practicum shall include certification in writing from the primary supervising physician that the applicant has successfully completed the practicum and is trained to competently treat a diverse patient population as defined in these regulations. The board shall approve the prior training program(s) that satisfy the requirements as listed in 16.22.23 NMAC, of these regulations. [16.22.23.8 NMAC - Rp, 16.22.23.8 NMAC, 11/15/2006; A, 3/21/2009; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.24 NMAC, Section 8, 10, and 11 effective 02/10/2022.

**16.22.24.8 APPLICATION
PROCEDURES AND
PRESCRIBING PRACTICES FOR
CONDITIONAL PRESCRIPTION**

**CERTIFICATE; TWO-YEAR
SUPERVISED PRACTICE:**

A. An applicant for a conditional prescription certificate shall submit a completed application on the form provided by the board. The applicant is responsible to ensure that the application is complete and that all application fees are paid.

B. Application procedure, the applicant shall submit the following:

(1) a copy of the degree, certificate or certification of completion of a post-doctoral psychopharmacology training program;

(2) certification by the supervising [physician] independently licensed prescribing clinician and program training director of successful completion of the 80 hour practicum in clinical assessment and pathophysiology;

(3) certification by the primary supervising [physician] independently licensed prescribing clinician and the program-training director of successful completion of the general 400 hour practicum treating a minimum of 100 patients with mental disorders;

(4) evidence of passing the psychopharmacology examination for psychologists (PEP);

(5) a proposed supervisory plan; on a form provided by the board that is signed by the [psychologist] applicant and the supervising [physician] independently licensed prescribing clinician;

(6) evidence of proof of insurance or insurance binder as described in 16.22.24.9 NMAC, of these regulations; and

(7) a non-refundable application fee-;

(8) evidence of completion of a three-hour training in New Mexico rules and laws applicable to prescribing psychologists, as offered by the State Psychologist Association of New Mexico (SPA), or the New Mexico Psychological Association (NMPA).

C. Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information contained in the application.

D. The applicant will be notified in writing within 60 days whether the application, including the supervisory plan, is accepted or rejected. If the application is rejected, the notice shall state the reason for rejection.

[16.22.24.8 NMAC - Rp, 16.22.24.8 NMAC, 11/15/2006; A, 02/10/2022]

**16.22.24.10 TWO YEAR
SUPERVISED PRACTICE:**

A. The conditional prescribing psychologist shall be supervised by ~~a licensed physician(s)~~ an independently licensed prescribing clinician knowledgeable of the administration of psychotropic medication. If more than one supervisor is selected, one supervisor shall be designated the primary supervising [physician.] independently licensed prescribing clinician.

B. The board shall approve the supervisory plan before the conditional prescription certificate is issued. The proposed supervisory plan shall include the information contained in 16.22.24 NMAC, and shall be signed by the primary supervising [physician.] independently licensed prescribing clinician.

C. After the board approves the supervisory plan, the conditional prescribing psychologist shall within 30 days submit to the New Mexico medical board the name, address and phone number of the conditional prescribing psychologist and the name(s), address(s) and phone number(s) of the primary supervising [physician] independently licensed prescribing clinician and secondary supervising [physicians] independently licensed prescribing clinician, if any. During the period of supervised practice, the conditional prescribing psychologist shall provide to the New Mexico medical board the name(s), address(s) and

phone number(s) of any supervising [physician] independently licensed prescribing clinician or [physician] independently licensed prescribing clinician serving as a substitute or replacement for primary or secondary supervisor(s).

D. Each supervisor shall have clinical expertise or training with the patient population that the psychologist with a conditional prescription certificate is evaluating and treating.

E. During the initial contact between the patient or the patient's legal guardian, if any, and the conditional prescribing psychologist, the patient or the patient's legal guardian shall be informed that the psychologist has received specialized training in the prescription of psychotropic medication, that the psychologist is transitioning to independent psychopharmacological practice, and that the psychologist is practicing under supervision with respect to the prescribing of psychotropic medication. The name and role of the supervisor shall be provided to the patient or the patient's legal guardian and informed consent and appropriate releases shall be obtained. The conditional prescribing psychologist shall provide additional information requested by the patient or the patient's legal guardian concerning the psychologist's education, training, and experience.

F. Supervision by the primary supervising [physician] independently licensed prescribing clinician shall be provided on a one-to-one basis for at least four hours a month and should total at least 46 hours of one-to-one supervision per year, unless altered, in accordance with Subsection K of 16.22.24.10 NMAC of these regulations.

G. Each supervising [physician] independently licensed prescribing clinician is responsible to review only the cases he or she is supervising. The supervising [physician] independently licensed prescribing clinician at all times shall have access to and shall review records relating to the treatment of

patients under his or her supervision. The supervising [physician] independently licensed prescribing clinician may require face-to-face consultation(s) with the conditional prescribing psychologist.

H. If there is more than one supervisor, each supervisor shall inform the other supervisor of any concerns about a conditional prescribing psychologist whom he or she is supervising.

I. The primary supervising [physician] independently licensed prescribing clinician shall contact any secondary supervisor(s) at least every six months to obtain written or verbal progress reports concerning how the conditional prescribing psychologist is performing.

J. One-to-one supervision must be provided either face-to-face, telephonically, or by tele-video live communication.

K. At any time during the two-year conditional prescribing periods the supervising [physician] independently licensed prescribing clinician, after consultation with the conditional prescribing psychologist, may amend the supervisory plan, to increase or decrease the hours of supervision. The board shall approve amendments to the supervisory plan set forth in Subsection M below.

L. At any time during the two-year conditional prescribing period a primary supervising [physician] independently licensed prescribing clinician shall not supervise more than three conditional prescribing psychologists.

M. The supervisory plan described in Paragraph (5) of Subsection B of 16.22.24.8 NMAC shall include the following information and shall be signed by the primary supervising [physician] independently licensed prescribing clinician:

(1) name of the applicant;

(2) name, address, license number, and area of specialization of the primary supervising [physician] independently licensed prescribing clinician and the secondary supervisor(s), if any;

(3) beginning and ending dates of the two-year supervised practice covered by the plan;

(4) number of one-on-one supervisory hours per month and by whom;

(5) setting(s) where supervision will occur and with whom;

(6) duties and clinical responsibilities of the conditional prescribing psychologist;

(7) location(s) where supervision will occur and with whom;

(8) areas in which the primary and secondary supervisor(s), if any, have specialized skills to render competent supervision;

(9) number of psychologists with conditional prescription certificates that the primary supervising [physician] independently licensed prescribing clinician will supervise during this time period;

(10) the manner in which the conditional prescribing psychologist will be represented to the public including, all written communications and public announcements;

(11) any direct or indirect financial agreements between or among the conditional prescribing psychologist and the primary and secondary supervisor(s), if any;

(12) other information necessary to clarify the nature and scope of supervision; and

(13) a statement specifying the manner in which supervision and clinical and professional responsibility will be provided during the supervisor's absence (during vacations or unexpected events that require the supervisor to be absent for any period of time),

N. The board or its designee shall notify the applicant in writing within 60 days of application date, whether the application and the proposed supervisory plan are accepted or rejected. The board or

its designee shall notify a conditional prescribing psychologist within 30 days whether a proposed amendment to an approved supervisory plan is accepted or rejected. If rejected, the notice shall state the reasons for rejection.

O. Each supervising [physician] independently licensed prescribing clinician shall maintain a supervision log containing the dates, duration, and place or method of supervision, the same identification code for patients as used by the psychologist with a conditional prescribing certificate in the summary reports, and a brief description of the content of supervision. The log shall be submitted to the board upon request.

P. The primary supervising [physician] independently licensed prescribing clinician shall also maintain a log of the contacts with the secondary supervisor(s) that includes the dates of contact, and a brief description of the outcome of this contact, including a statement stating whether the conditional prescribing psychologist is progressing satisfactorily.

Q. The supervisor shall review the results of laboratory tests as appropriate and shall be skilled and experienced in such interpretation.

R. The supervising [physician(s)] independently licensed prescribing clinician(s) shall hold an active unrestricted license in good standing and appropriate drug enforcement administration certificate and shall be experienced and skilled in the prescription of psychopharmacological drugs.

S. The conditional prescribing psychologist shall see a minimum of 50 separate patients within the two-year period who are seen for the purpose of evaluation and treatment with psychotropic medication. The duration of the two-year supervisory period shall not be accelerated or reduced.

T. At the end of the two-year period, the primary supervising [physician] independently licensed prescribing clinician shall

provide an affidavit on a form provided by the board certifying that:

(1) the supervising [physician] independently licensed prescribing clinician has not received any financial payments from the applicant except appropriate fees for supervisory services, the supervising [physician] independently licensed prescribing clinician is not a member of the applicant's family or household, the supervising [physician] independently licensed prescribing clinician is not in a prohibited dual relationship with the applicant or a member of the applicant's family or household, and that the supervising [physician] independently licensed prescribing clinician has not had an interest that conflicts with the supervising [physician's] independently licensed prescribing clinician's duties as supervisor;

(2) each supervising [physician] independently licensed prescribing clinician discussed with the psychologist the charts and records of patients seen by the psychologist under that [physician's] independently licensed prescribing clinician's supervision during the two-year period or any extension; and

(3) the psychologist has successfully completed two years of evaluating for or prescribing psychotropic medication to at least 50 patients.

U. The primary supervising [physician] independently licensed prescribing clinician in consultation with any secondary supervisor shall evaluate and describe any deficiencies at the end of the two-year period. In the event of documented deficiencies, the primary supervising [physician(s)] independently licensed prescribing clinician(s) shall specify in writing the areas in need of remediation and the process and procedures by which these areas are to be remediated.

V. The supervisory period and the conditional prescriptive certificate may be extended with approval of the board if the conditional prescribing psychologist does not successfully

complete the two-year conditional period of supervision. A supervisory plan shall be submitted to the board for the proposed extended period of practice under supervision. The conditional prescribing psychologist shall continue to maintain malpractice insurance.

W. At the end of the extended two-year period, the primary supervising [physician] independently licensed prescribing clinician shall provide to the board an affidavit on a form provided by the board certifying: the method by which the supervisor(s) determined that the conditional prescribing psychologist obtained the competencies necessary to prescribe psychotropic medication, supported by a written evaluation addressing areas of remediation.

[16.22.24.10 NMAC - Rp, 16.22.24.8 NMAC, 11/15/2006; A, 3/21/2009; A, 02/10/2022]

16.22.24.11 EXPIRED PRACTICE OR CERTIFICATE:

A. The conditional prescribing psychologist shall notify the board in writing if a supervising [physician] independently licensed prescribing clinician fails to meet any of the supervisory requirements as set forth in this section and the supervisory plan approved by the board. The notification shall include a clear and detailed description of the supervisor's failure(s) to perform.

B. The conditional prescribing psychologist shall notify the board within 14 days of discovery of any event or circumstance that requires the psychologist to interrupt or cease prescribing practices for any period of time that exceeds 60 days. In no event shall the conditional prescribing psychologist continue prescribing psychotropic medications without an active, responsible supervising [physician] independently licensed prescribing clinician and valid malpractice insurance.

C. The conditional prescribing certificate shall expire two years after issuance, unless extended in writing as provided in 16.22.24.8 NMAC. A psychologist shall not administer or prescribe drugs or

medicines unless the psychologist holds a valid conditional prescription certificate or prescription certificate issued by the board. The board may extend the conditional prescribing certificate up to 60 days pending peer review if the board has received at the board office a complete application for a prescription certificate no later than 10 days before the expiration of the conditional prescription certificate.

D. The psychologist shall not administer or prescribe drugs or medicines after the expiration of the conditional prescription certificate. The psychologist shall notify the board in writing if the psychologist decides not to immediately apply for a prescription certificate upon expiration of the conditional prescription certificate. A psychologist who successfully completes all of the requirements of conditional prescription certificate may apply for a prescription certificate after the expiration of the conditional prescription certificate, so long as the psychologist satisfies all the education, training, and supervision criteria within the time limits established by Section 61-9-17.1 NMSA 1978 and 16.22.23.8 NMAC, of these regulations. The psychologist is solely responsible to obtain patient records for peer review and all other evidence of satisfactory completion of practice under supervision, including supervising [physician] independently licensed prescribing clinician affidavit(s). [16.22.24.11 NMAC - Rp, 16.22.24.8 NMAC 11/15/2006; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.25 NMAC, Section 8, and new Section 11 effective 02/10/2022.

**16.22.25.8 APPLICATION
FOR PRESCRIPTION
CERTIFICATE:**

A. An applicant for a prescription certificate shall submit a complete application on a form approved by the board. The applicant is responsible to ensure that the application is complete and timely and that all application fees are paid.

B. The application procedure, shall commence no sooner than 60 days and no later than 10 days prior to expiration of the conditional prescription certificate, whereby the applicant shall submit a non-refundable fee (see fee schedule at 16.22.13.8 of these regulations) established by the board and shall submit evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed or anticipates successfully completing two years of prescribing psychotropic medication, as certified by the primary supervising [physician] independently licensed prescribing clinician pursuant to 16.22.24 NMAC of these regulations;

(2) holds an active and unrestricted license to practice psychology in New Mexico;

(3) has malpractice insurance as required in 16.22.24 NMAC, of these regulations; the psychologist shall submit to the board a copy of the declaration page of his malpractice insurance policy with the application.

C. Only a complete application will be considered. The board may request additional information from the applicant to verify or confirm the information in the application.

[16.22.25.8 NMAC - Rp, 16.22.25.8 NMAC, 11/15/2006; A, 02/10/2022]

**16.22.25.11 APPLICATION
FOR CONDITIONAL
PRESCRIPTION CERTIFICATE
BY APPLICANTS LICENSED TO
PRESCRIBE IN OTHER AREAS:**

A person who has been licensed or certified as a prescribing psychologist by another state, territorial possession of the United States, District of Columbia, or another country, for a minimum of two years, may apply for

a conditional prescription certificate and shall meet these requirements:

A. Psychology licensure. Applicant shall hold an active, unrestricted New Mexico license as a psychologist.

B. Psychopharmacology education. The applicant shall demonstrate completion of the required academic coursework to the satisfaction of the board.

C. New Mexico jurisprudence examination. The applicant shall demonstrate evidence of completion of a three-hour training in New Mexico rules and laws applicable to prescribing psychologists, as offered by the state psychologist association of New Mexico (SPA), or the New Mexico psychological association (NMPA).

D. Additional supervision training. The RxP application committee shall make recommendations to the board concerning additional supervision and training that may be required. The board shall review the committee recommendations and determine the additional supervision and training required of the applicant in order to qualify for a conditional prescription certificate.

E. Supervision plan. The period of conditional supervised practice shall be determined by the board based on the applicant's education, training, and experience and shall not be less than three months or more than two years. The applicant shall submit to the psychopharmacology application committee a supervisory plan as outlined in Subsection H of 16.22.24.10 NMAC, of these regulations. The same requirements set forth in 16.22.24.10 NMAC, shall apply to the supervisory period.

F. Issuance of prescription certificate. The RxP application committee shall recommend to the board issuance of a conditional prescription certificate to the applicant who qualifies in accordance with these regulations.

[16.22.25.11 NMAC – N, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

**This is an amendment to 16.22.26
NMAC, Section 8 effective
02/10/2022.**

**16.22.26.8 GRADUATES OF
THE DEPARTMENT OF DEFENSE
PSYCHOPHARMACOLOGY
DEMONSTRATION PROJECT:
REQUIREMENTS:**

**A. Conditional
prescription certificate.** Graduates of the department of defense psychopharmacology demonstration project who have been actively engaged in prescribing psychotropic medication for at least two of the last five years immediately preceding the date of application may apply for a conditional prescription certificate and shall meet these requirements:

(1) Additional supervision training. The RxP application committee shall make recommendations to the board concerning additional supervision and training that may be required. The board shall review the committee recommendations and determine the additional supervision and training required of the applicant in order to qualify for a prescription certificate.

(2) Supervision plan. The period of supervised practice shall be determined by the board based on the applicant's education, training, and experience and shall not be less than three months or more than two years. The applicant shall submit to the psychopharmacology application committee a supervisory plan as outlined in Subsection H of 16.22.24.10 NMAC, of these regulations. The same requirements set forth in 16.22.24.10 NMAC, shall apply to the supervisory period.

(3) Evidence of completion of a three-hour training in New Mexico rules and laws applicable to prescribing psychologists, as offered by the State Psychologist Association of New

Mexico (SPA), or the New Mexico Psychological Association (NMPA).

~~(3)~~ (4) Issuance of prescription certificate. The RxP application committee shall recommend to the board issuance of a prescription certificate to a graduate of the department of defense psychopharmacology demonstration project who qualifies in accordance with these regulations.

B. Prescription certificate. Graduates of the department of defense psychopharmacology demonstration project shall be issued a prescription certificate if they hold an active unrestricted New Mexico license as a psychologist and present to the board evidence that they hold a valid certificate as a department of defense prescribing psychologist.

[16.22.26.8 NMAC - Rp, 16.22.26.8 NMAC, 11/15/2006; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

**This is an amendment to 16.22.27
NMAC, Section 8 effective
02/10/2022.**

16.22.27.8 FORMULARY:

A. Conditional prescribing or prescribing psychologists shall exercise prescriptive authority using psychotropic medications, as defined in ~~[16.22.1 NMAC, of these regulations]~~ Section 61-9-3 NMSA 1978, within the recognized scope of practice for the treatment of mental disorders and for which the psychologist has been properly educated and trained.

B. As provided by ~~[Section 61-9-17.2 NMSA 1978, of the act,]~~ Section 61-9-3 NMSA 1978, of the Act when prescribing psychotropic medication for a patient, a conditional prescribing psychologist or a psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with a health care

practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed. The collaborative relationship shall be utilized to coordinate the patient's ongoing care, including, determining whether non-psychotropic medications should be prescribed to provide the patient with optimized care. In such cases, all non-psychotropic medications shall be prescribed by the health care practitioner who oversees the patient's general medical care, or by other health care practitioners involved in the patient's care who are authorized by law to prescribe such medications.

C. A conditional prescribing or prescribing psychologist shall not prescribe psychotropic medication to treat patients for the following conditions:

(1) chronic pain;

(2) endocrine, cardiovascular, orthopedic, neurological, and gynecological illness or disorders;

(3) allergies;

or

(4) other non-psychiatric illnesses, disorders, or illnesses causing mental disorders.

D. A conditional prescribing or prescribing psychologist shall treat psychopharmacologically only mental disorders listed in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

E. A conditional prescribing psychologist or prescribing psychologist who prescribes outside the scope of practice specified in the act and these regulations is subject to disciplinary action by the board.

[16.22.27.8 NMAC - Rp, 16.22.27.8 NMAC, 11/15/2006; A, 02/22/2013; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.29 NMAC, Section 8 and Section 9 effective 02/10/2022.

16.22.29.8

REQUIREMENTS: [~~Conditional prescribing and prescribing~~] Prescribing psychologists shall complete CPE requirements as specified in 16.22.9 NMAC.

[16.22.29.8 NMAC - Rp, 16.22.29.8 NMAC, 11/15/2006; A, 04/30/15; A, 02/10/2022]

16.22.29.9 CERTIFICATE RENEWAL:

A. Concurrent renewal of certificate and license. The prescription certificate shall be renewed concurrently with the active unrestricted psychologist license. The [~~conditional prescribing or~~] prescribing psychologist shall submit the certificate renewal application on forms approved by the board. The [~~conditional prescribing or~~] prescribing psychologist shall provide evidence of malpractice insurance and additional CPE required by the board, and shall pay a certificate renewal fee established by the board.

(1) The prescription certificate shall be suspended for failure to renew if the prescribing psychologist fails to renew the prescription certificate by July 1 of the appropriate year. A prescribing psychologist who chooses to permanently retire from practice may inform the board in writing previous to the expiration date of the prescription certificate and will be considered retired.

(2) A prescription certificate suspended for failure to renew may be renewed within a period of one year after the suspension upon payment of the renewal fee plus a late fee and evidence of malpractice insurance and additional CPE required by the board.

(3) The prescription certificate shall

be revoked if the prescribing psychologist has not renewed within one year of the suspension for failure to renew. Any licensee whose license is revoked for failure to renew shall be required to make a new application and shall satisfy all requirements for prescription certificate in effect at the time the application is filed.

B. Concurrent inactive status certificate and license. The prescription certificate may be renewed concurrently to inactive status with the inactive psychologist license in accordance with the provisions of 16.22.10 NMAC.

~~[B]~~ **C.** Voluntary surrender. A licensee in good standing may voluntarily surrender a [~~conditional prescription certificate or~~] prescription certificate.

[16.22.29.9 NMAC - Rp, 16.22.29.8 NMAC, 11/15/2006; A, 02/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
PSYCHOLOGIST EXAMINERS,
BOARD OF**

This is an amendment to 16.22.2 NMAC, Section 8 effective 02/10/2022.

16.22.30.8 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:

A. Any conditional prescribing or prescribing psychologist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall become a participant in the state's prescription monitoring program. Such participation requires registering with the board of pharmacy.

B. A conditional prescribing or prescribing psychologist may authorize non-licensed individuals under the psychologist's supervision to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. Individuals so authorized may obtain a report from the state's prescription monitoring program,

with the requirement that the conditional prescribing or prescribing psychologist is solely responsible for reviewing the prescription monitoring report, and for documenting the receipt and review of such report in the patient's medical record.

C. A conditional prescribing or prescribing psychologist shall obtain a prescription monitoring report, [~~in addition to contacting the patient's physician~~] before prescribing a controlled substance for the first time or when the patient has been prescribed an opiate by the patient's physician. If there is a gap in prescribing the controlled substance for 30 days or more, the conditional prescribing or prescribing psychologist shall review a prescription monitoring report for the patient for the preceding 12 months. When made available, the conditional prescribing or prescribing psychologist shall review similar reports from other states. The conditional prescribing or prescribing psychologist shall document the receipt and review of such reports in the patient's medical record.

D. A prescription monitoring report shall be reviewed a minimum of once every three months during a patient's continuous use of a controlled substance. The conditional prescribing or prescribing psychologist shall document the review of these reports in the patient's medical record. Nothing in this section shall be construed as preventing a conditional prescribing or prescribing psychologist from reviewing prescription monitoring reports with greater frequency than that required by this section.

E. A conditional prescribing or prescribing psychologist does not have to obtain and review a prescription monitoring report before prescribing,

(1) for a patient in a nursing facility;

(2) for a patient in hospice care;

(3) for a patient in a licensed treatment facility; or

(4) for a patient under 14 years of age.

F. Upon review of a prescription monitoring report for a patient, the conditional prescribing or prescribing psychologist shall identify, document, and attempt to remain current with regard to all prescriptions for any a patient known to be:

(1) receiving opioids from multiple prescribers;

(2) receiving opioids and benzodiazepines concurrently;

(3) receiving more than one controlled substance analgesic;

(4) receiving opioids totaling more than 90 morphine milligram equivalents per day; or

(5) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as:

(a) over-utilization;

(b) requests to fill early;

(c) requests for specific opioids;

(d) requests to pay cash when insurance is available; or

(e) receives opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in Subsection F, the conditional prescribing or prescribing psychologist, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve consultation with the primary prescribing physician, and utilization of the prescription monitoring program. The conditional prescribing or prescribing psychologist shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

H. The board will review over-prescription of schedule drugs by licensees, through review of the PMP, reference to currently accepted standards of care, and using the standard of patient protection.
[16.22.30.8 NMAC - N, 7/1/2018; A, 02/10/2022]

End of Adopted Rules

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Other Material Related to Administrative Law

**EARLY CHILDHOOD
EDUCATION AND CARE
DEPARTMENT****NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Early Childhood Education and Care Department gives Notice of a Minor, Nonsubstantive Correction to 8.17.2 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 7: In Subsection I, the internal citation was changed from "...Paragraph..." to "... Subsection...".

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

**End of Other Material
Related to Administrative
Law**

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Issue 2	January 13	January 25
Issue 3	January 27	February 8
Issue 4	February 10	February 22
Issue 5	February 24	March 8
Issue 6	March 10	March 22
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
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Issue 20	October 13	October 25
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Issue 23	December 1	December 13
Issue 24	December 15	December 27

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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