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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

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February 8, 2022

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Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

NOTICE OF RULEMAKING / NEWSPAPER NOTICE

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to amend the New Mexico Administrative Code (NMAC) rule 8.320.6, *Early and Periodic Screening, Diagnosis and Treatment (EPSDT), School-Based Services for MAP Eligible Recipients Under Twenty-One Years of Age*. The proposed amendments will allow MAD to pay for medically necessary services for a MAP eligible recipient under twenty-one years of age when the services are part of the MAP eligible recipient's (eligible recipient's) individualized education program (IEP) or an individualized family service plan (IFSP) for treatment (correction, amelioration, or prevention of deterioration) of an identified medical condition.

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

Notice Date: February 8, 2022
Hearing Date: March 11, 2022
Adoption Date: Proposed as July 1, 2022
Technical Citations: 34 CFR 300.142

The Department is proposing to amend the rule as follows:

Section 9 School-Based Services for Recipients Under Twenty-One Years of Age

HSD is proposing to add coverage for services provided under a Section 504 Accommodation Plan pursuant to 34 CFR 104.36 (504 Plan), an Individual Health Care Plan (IHCP), or are

otherwise medically necessary as appropriate for each covered service.

This addition will allow participating schools to seek reimbursement for covered services that are provided outside of an individualized education program (IEP) or an individualized family service plan (IFSP).

Section 11 Eligible Providers

Subsection 15

HSD is proposing to add unlicensed school personnel providing delegated nursing services in accordance with the New Mexico Board of Nursing under the supervision of a RN to the list of allowable providers.

This addition will allow unlicensed personnel who have been delegated nursing services in accordance with the New Mexico Board of Nursing to provide services. This will allow school-based providers in rural and underserved areas access to an increased pool of eligible practitioners which can bill for services.

Section 12 Provider Responsibilities

Subsection B, Paragraph (3), Subparagraph (b)

HSD is proposing to add other determination of medical necessity to the requirement for evaluation and determination of need for services.

This addition will allow schools to establish medical necessity for services through evaluations or other determinations for services provided under a 504 Plan, Individual Health Care Plan (IHCP) or other care plan.

Subsection B, Paragraph (3), Subparagraph (c)

HSD is proposing to add language to clarify that an annual PCP notification or documentation of a good faith effort is only required for services provided through an IEP/IFSP.

This addition will clarify that services provided under a 504 Plan, Individual Health Care Plan (IHCP) or other care plan are not subject to the requirement

for an annual PCP notification or documentation of a good faith effort.

Section 13, Covered Services Subsection A

HSD is proposing to add that 504 Plans, IHCPs or other care plans should be reviewed annually to establish ongoing medical necessity for services.

This addition will ensure that school-based providers are regularly reviewing the eligible recipient's plan of care to establish the ongoing medical need for services.

Subsection B, Paragraph (3)

HSD is proposing to add clarifying language to reiterate that the good faith effort to notify the eligible recipient's PCP of the services to be provided will only be required for those services provided under an IEP or IFSP.

This clarification will reduce the administrative burden for schools who choose to provide additional services under a 504 Plan, Individual Health Care Plan (IHCP) or other care plan.

Subsection G

HSD is proposing to add delegated nursing services which are tasks in accordance with the New Mexico Board of Nursing that may be delegated by the RN to unlicensed school personnel. Delegated staff may include, but is not limited to, school or contracted staff, such as health assistants, teachers, teacher assistants, therapists, school administrators, administrative staff, cafeteria staff, or personal care aides.

This addition will allow schools to bill for nursing services that have been delegated in accordance with the New Mexico Board of Nursing and allow school-based providers in rural and underserved areas access to an increased pool of eligible practitioners which can bill for services.

Section 14 Individualized Treatment Plan Subsection D

HSD is proposing to add that for purposes of Medicaid expansion, school-based services may also be listed in a Section 504 Accommodation Plan pursuant to 34 CFR 104.36, an Individual Health Care Plan, or are otherwise determined to be medically necessary as appropriate for each covered service.

This addition clarifies that covered services can be identified in an individual treatment plan that is part of a 504 Plan, Individual Health Care Plan (IHCP) or other care plan.

Throughout the Rule

HSD is proposing language to add 504 Plan, Individual Health Care Plan (IHCP) or other care plan as plans allowable for identifying covered services provided in the school-based setting.

This addition will allow schools to seek reimbursement for covered services that are provided under a 504 Plan, Individual Health Care Plan (IHCP) or other care plan.

The register for these proposed amendments to this rule will be available February 8, 2022 on the HSD web site at <https://www.hsd.state.nm.us/lookingforinformation/registers/> or at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/>. If you do not have Internet access, a copy of the proposed rule may be requested by contacting MAD in Santa Fe at 505-827-1337.

The Department proposes to implement this rule effective July 1, 2022. A public hearing to receive testimony on this proposed rule will be held **via conference call** on March 11, 2022 at 10:00 a.m., Mountain Time (MT). **Conference phone**

number: 1-800-747-5150. Access Code: 2284263.

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: madrules@state.nm.us. Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on March 11, 2022. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

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

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

**MINING SAFETY,
BOARD OF**

NOTICE OF RULEMAKING

Public Notice: The New Mexico Mining Safety Board (MSB) will conduct a public hearing via virtual medium on Zoom <https://zoom.us/j/95441179265?pwd=S21vUUUtub25JMlVFYUQxQkI5aFJ3UT09> (The meeting ID is 954 4117 9265 and the passcode is 780336) on March 29, 2022 from 1:00 pm to 5:00 p.m. (MST). Due to the global pandemic of COVID-19, the hearing is required to be held virtually at this time.

The purpose of the hearing is to receive public comment on proposed amendments to 19.6.2 NMAC - Emergency Notification ("Part 2") and 19.6.4 NMAC - Certification of Coal Mine Officials ("Part 4").

Purpose: The Mining Safety Board has proposed amending the current rules concerning the emergency notification, certification and recertification of coal mine officials. The purpose of the proposed action is to clarify procedures to complete the requirements of emergency notification, certification and recertification of coal mine officials when there is a vacancy of the office of the State Mine Inspector (SMI). The MSB initiated the Part 4 rule amendments after being approached by the coal mining community when certification and recertification of coal mine officials could not be completed by the NM Bureau of Mine Safety because the position of the state mine inspector was vacant. In addition to Part 4 rules, the MSB looked at duties of the SMI as defined in 19.6.2 NMAC and proposes amendments to the Part 2 rules to allow completion of the requirements when the position of State Mine Inspector is vacant.

Summary of full text: In both 19.6.2.7 NMAC and 19.6.4.7 NMAC, definitions for "Deputy State Mine Inspector", "extended absence",

and “vacant” were added to the definition sections. The “Deputy State Mine Inspector” definition was added to define a senior employee of the Bureau of Mine Safety who would perform the tasks relating to emergency notification, certification and recertification of coal mine officials when the position of the state mine inspector is vacant.

In 19.6.2.7 NMAC, Subsection B a spelling error was corrected; “tomage” was changed to “tonnage”.

In 19.6.2.8 NMAC, Subsection A the date “by April 10, 2006” was removed. This date was inserted when the Part 4 rule was previously amended with the requirement for existing mines to submit an emergency notification plan. The date is no longer relevant.

In 19.6.2.8 NMAC, Subsection C a spelling error was corrected; “insure” was changed to “ensure”.

In 19.6.2.11 NMAC, Subsection E and Subsection E (1) the word “inspector’s” was removed from “the inspector’s final order”. The State Mine Inspector will typically write the final order, however, during times when the position of the SMI is vacant the accident investigation, report and final order may be completed by the Deputy State Mine Inspector. The final order can be written by either the State Mine Inspector or the Deputy State Mine Inspector.

Section 19.6.2.12 NMAC, Investigation to Provide Timely Notice of an Accident was added to Part 2. This section provides the process for the investigation of timely notification of an accident by a Deputy State Mine Inspector when there is a vacancy of the position of State Mine Inspector.

Section 19.6.4.14 NMAC, Certification of Coal Mine Officials in the Event the Position of State Mine Inspector is Vacant was added to Part 4. This section provides the process

for the certification and recertification of coal mine officials to the completed by a Deputy State Mine Inspector when there is a vacancy of the position of State Mine Inspector.

Authority: Section 69-8-4, NMSA 1978, provides that the Mining Safety Board “shall, after public hearing, adopt rules for the protection of the life and safety of employees and to carry out the intent of the Mining Safety Act.” Section 69-14-3, NMSA 1978 authorizes the Mining Safety Board to “enact requirements, including requirements for applications, examinations and qualifications, for certification of any mine personnel required to be qualified by state or federal law.” Finally, Section 69-14-4, NMSA 1978 provides that, “The Mining Safety Board shall adopt rules for requirements for recertification.”

Access to the Proposed

Rulemaking: A complete copy of the proposed rule changes with line-out of extracted text and underlined inserted text may be read or downloaded from the Bureau of Mine Safety (BMS) website at bmi.state.nm.us. A copy may be obtained by contacting Debora McVey, Administrative Specialist, at the Bureau of Mine Safety at 575-835-5460 or debora.mcvey@nmt.edu.

Public Comment: Interested parties may comment on the proposed rulemaking at a public hearing to be held by virtual medium via Zoom by the MSB beginning at 1:00 pm on March 29, 2022. Written comments will also be received by the Bureau of Mine Safety and the Mine Safety Board Chair until 5:00 PM Monday, March 28, 2022 by U.S. Mail or email. All written comments will be posted to the Agency website within three days of receipt.

MSB Rulemaking Comments
New Mexico Bureau of Mine Safety
New Mexico Institute of Mining and Technology
801 Leroy Place
Socorro, NM 87801

Attention: Debora McVey
Email: debora.mcvey@nmt.edu.

Accommodations: Individuals with disabilities who require the above information in an alternative format or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Debora McVey or Chris Hefner, State Mine Inspector at 575-835-5460 as soon as possible before the public hearing. The Bureau of Mine Safety will make a reasonable effort to provide necessary accommodations.

Technical Information: These proposed amendments did not require technical information.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing. The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing Tuesday, March 15, 2022, from 1 p.m. to 3 p.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501. The location of the public hearing is subject to change due to concerns surrounding COVID-19 and in accordance with Governor Michelle Lujan Grisham’s Executive Order 2021-061, Renewing the State of Public Health Emergency Initially Declared in Executive Order 2020-004, Other Powers Invoked in That Order, and All Other Orders and Directives Contained in Executive Orders Tied to the Ongoing Public Health Emergency; or with any executive order that supersedes Executive Order 2021-061. Continuous updates on hearing changes and Zoom information will be provided on the PED website. The purpose of the public hearing is to receive public input on the proposed repeal and replace of **6.64.3 NMAC, Competencies for Entry-Level Reading Teachers**. At the hearing,

PED will provide a verbal summary statement on record. Attendees who wish to provide public comment on record will be given three (3) minutes to make a statement concerning the rule changes. Written comment will also be accepted at the hearing.

Explanation of Purpose of Text

The purpose of the proposed repeal and replace of **6.64.3 NMAC, Competencies for Entry-Level Reading Teachers**, is to add a pathway for educators to receive an endorsement in reading.

Summary of Text

The proposed repeal and replace of **6.64.3 NMAC, Competencies for Entry-Level Reading Teachers**, allows teachers to receive an endorsement in the teaching of reading by completing a minimum of 80 hours of professional development from an organization accredited by the International Dyslexia Association. The professional development must (1) include a minimum of 40 hours of online coursework, containing assessments of knowledge and understanding with a score of 80 percent or greater on all summative assessments; (2) a minimum of 40 hours of documented live sessions – virtually or in person – with a certified facilitator; and (3) submittal of a statement of impact that includes the instructional changes the applicant has made based on the applicant’s learning within the professional development. The organization accredited by the International Dyslexia Association must align to the science of reading and a structured literacy approach that (1) promotes explicit, systematic, and cumulative instruction as the primary approach; (2) promotes an understanding of how language, reading, and writing relate to one another; (3) promotes strategies for differentiated instruction for students with reading difficulties and disabilities and English language learners; (4) focuses on all five components of literacy instruction – phonemic

awareness, phonics, fluency, vocabulary, and comprehension; and (5) allows participants to implement the strategies into a classroom environment with the opportunity for feedback throughout the professional development experience.

Statutory Authorizations

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-32 NMSA 1978.

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

Public Comment. Interested parties may provide comment at the public hearing or may submit written comments by mail to John Sena, Policy Division, New Mexico Public Education Department, 300 Don Gaspar Avenue, Room 121, Santa Fe, New Mexico 87501, by electronic mail to rule.feedback@state.nm.us, or by fax to (505) 827-6520. Written comments must be received no later than 5 p.m. (MDT) on Tuesday, March 15, 2022. The PED encourages the early submission of written comments. The public comment period is from Tuesday, February 8, 2022, to Tuesday, March 15, 2022, at 5:00 p.m. (MDT).

The PED will review all feedback received during the public comment period and issue communication regarding a final decision at a later date.

Copies of the proposed rules may be accessed through the page titled, “Rule Notification,” on the PED’s website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from John Sena at (505) 570-7816 during regular business hours.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact John Sena at (505) 570-7816 as soon as possible before the date

set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance (“OSI” or “Superintendent”) will hold a public video/telephone hearing regarding a new proposed rule 13.10.36 NMAC HEALTH CARE AFFORDABILITY FUND. This hearing will commence on **March 11, 2022 at 9:00 a.m.**

PURPOSE OF THE PROPOSED RULES: These rules establish processes and procedures to govern appropriation requests and annual determinations to implement health insurance cost saving initiatives contemplated by the Health Care Affordability Act.

STATUTORY AUTHORITY: Section 59A-23F-11 NMSA 1978.

TO ATTEND THE HEARING:
Join via Video: <https://us02web.zoom.us/j/2916274744>
Join via telephone: 1-312-626-6799
Meeting ID: 291 627 4744

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

Copies of the Notice of Proposed Rulemaking and proposed new rules are available by electronic download

from the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5729> or the or by requesting a copy by calling (505) 476-0333. Note: Due to the COVID-19 pandemic, the physical offices of the OSI remain closed to the public until further notice.

Written comments will be accepted through 4:00 p.m. March 11, 2022. Responses to written comments or oral comments will be accepted through 4:00 p.m. on March 21, 2022. All comments shall be filed electronically through the OSI eDocket <https://edocket.osi.state.nm.us/guest/case-view/5729> at or received by mail to:

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

The below docket number must be indicated on filed comments.

Docket No. **2022-0008**
IN THE MATTER OF ADOPTION
OF RULE 13.10.36 NMAC HEALTH
CARE AFFORDABILITY FUND

All filings must be received between the hours of 8:00 a.m. and 4:00 p.m. Monday through Friday except on state holidays. The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

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

DONE AND ORDERED this 8th day
of February, 2022
/S/RUSSELL TOAL

TRANSPORTATION, DEPARTMENT OF NOTICE OF PROPOSED RULEMAKING

The New Mexico Department of Transportation (NMDOT) is proposing a new rule, 18.24.1 NMAC, Autonomous Vehicle Testing Rule.

Approval of the initial rulemaking action for the proposed new rule was granted to NMDOT by the New Mexico State Transportation Commission on May 20, 2021, pursuant to Sections 9-15, 67-3-8 and 67-3-11, NMSA 1978. The legal authority authorizing this rulemaking is Section 66-7-12 and 66-7-13, NMSA 1978.

Summary of Full Text: Title 18, Chapter 24, Part 1, Autonomous Vehicle (AV) Testing introduces definitions that are specific to AV as established in the Society of Autonomous Engineers (SAE) Standard J-3016, the standard recognized by National Highway Traffic and Safety Administration (NHTSA), the federal regulatory authority on AV operations. It also establishes the required information to be submitted to the New Mexico Department of Transportation prior to testing and operations of AVs on public roadways. It establishes the necessary content of a Police Interaction Plan that must be in place by an AV tester in the event of a crash involving the operations and/or testing of an AV on public roadways. It establishes the minimum liability coverage for AV operations and/or testing on public roadways.

Purpose: The purpose for this rule is to implement the newly enacted Autonomous Vehicle Testing Rule.

Full Text of the Proposed Rule: A copy of the full text of the proposed new rule 18.24.1 NMAC may be found on the NMDOT website at the following Internet link, under the *Legal Notices* link: <https://www.dot.nm.gov/public-legal-notices/>.

To obtain a printed copy of the proposed amended rule, contact Mershawn Griego at (505) 216-8831 or MershawnC.Griego@state.nm.us. A reasonable fee may be charged for printed copies.

Rulemaking Hearing: NMDOT will hold a statewide virtual public hearing for the purpose of receiving oral and written public comment from interested parties on the proposed repeal and replacement of 18.24.1 NMAC. This hearing will be held in conformance with the Governor's directives regarding gatherings and social distancing. The hearing is scheduled on Thursday, March 10, 2022, from 3:00 p.m. to 4:00 p.m. To participate in this hearing:

Join Zoom Meeting:

<https://dot-state-nm-us.zoom.us/j/88263148344>

Meeting ID: 882 6314 8344

One tap mobile

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+1 929 436 2866 US (New York)

833 548 0276 US Toll-free

833 548 0282 US Toll-free

877 853 5257 US Toll-free

888 475 4499 US Toll-free

Meeting ID: 882 6314 8344

Find your local number: <https://dot-state-nm-us.zoom.us/j/88263148344>

Written Comments: To submit written comments on or before the date of hearing, please send to:

Mershawn Griego at New Mexico Department of Transportation, P.O. Box 1149, Santa Fe, New Mexico

87504 or submit via email to

MershawnC.Griego@state.nm.us. Written comments will be accepted

from the date this notice is published

in the New Mexico Register, February 8, 2022, and until the close of the final hearing scheduled in this rulemaking, March 10, 2022. If you plan to submit written comments, argument, or data, please make sure any documentation contains your name, phone number and email address. If submitting written comments by email, please indicate the rule number in the subject line. Oral comments will only be accepted at the public hearing and may be subject to time limitations. After the close of the final hearing scheduled in this rulemaking, the rulemaking record will be closed and no other comments will be accepted. All written comments will be posted on the department's website within three days of receipt.

Accommodations: Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule revisions in an accessible form may contact Mereshawn Griego at (505) 216-8831 or MereshawnC.Griego@state.nm.us at least ten days before the hearing.

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

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.

**ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
ENERGY CONSERVATION AND
MANAGEMENT DIVISION**

The Energy, Minerals and Natural Resources Department repeals its rule entitled NEW SUSTAINABLE BUILDING TAX CREDIT FOR RESIDENTIAL BUILDINGS, 3.3.34 NMAC, filed 12/30/2015, and was replaced by 3.3.34 NMAC, 2015 SUSTAINABLE BUILDING TAX CREDIT, effective February 8, 2022.

The Energy, Minerals and Natural Resources Department repeals its rule entitled NEW SUSTAINABLE BUILDING TAX CREDIT FOR COMMERCIAL BUILDINGS, 3.3.35 NMAC, filed 12/30/2015, effective February 8, 2022.

The Energy, Minerals and Natural Resources Department repeals its rule entitled NEW SUSTAINABLE BUILDING TAX CREDIT FOR RESIDENTIAL BUILDINGS, 3.4.21 NMAC, filed 12/30/2015, and was replaced by 3.4.21 NMAC, 2015 SUSTAINABLE BUILDING TAX CREDIT effective February 8, 2022.

The Energy, Minerals and Natural Resources Department repeals its rule entitled NEW SUSTAINABLE BUILDING TAX CREDIT FOR COMMERCIAL BUILDINGS, 3.4.22 NMAC, filed 12/30/2015, effective February 8, 2022.

**ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
ENERGY CONSERVATION AND
MANAGEMENT DIVISION**

**TITLE 3 TAXATION
CHAPTER 3 PERSONAL
INCOME TAXES
PART 34 2015
SUSTAINABLE BUILDING TAX
CREDIT**

3.3.34.1 ISSUING
AGENCY: Energy, Minerals and Natural Resources Department.
[3.3.34.1 NMAC - Rp, 3.3.34.1 NMAC, 02/08/2022]

3.3.34.2 SCOPE: 3.3.34 NMAC applies to the application and certification procedures for administration of the 2015 sustainable building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured housing.
[3.3.34.2 NMAC - Rp, 3.3.34.2 NMAC, 02/08/2022]

3.3.34.3 STATUTORY
AUTHORITY: 3.3.34 NMAC is established under the authority of Sections 7-2-18.29 and Subsection E of Section 9-1-5 NMSA 1978.
[3.3.34.3 NMAC - Rp, 3.3.34.3 NMAC, 02/08/2022]

3.3.34.4 DURATION:
Permanent unless an earlier date is specified in a section.
[3.3.34.4 NMAC - Rp, 3.3.34.4 NMAC, 02/08/2022]

3.3.34.5 EFFECTIVE
DATE: February 8, 2022, unless a later date is cited at the end of a section.
[3.3.34.5 NMAC - Rp, 3.3.34.5 NMAC, 02/08/2022]

3.3.34.6 OBJECTIVE:
3.3.34 NMAC’s objective is to establish procedures for administering the program to issue a certificate of eligibility for the 2015 sustainable

building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured homes.
[3.3.34.6 NMAC - Rp, 3.3.34.6 NMAC, 02/08/2022]

3.3.34.7 DEFINITIONS:
“2015 sustainable building tax credit” means the amendments passed by the legislature in 2021 to the new sustainable building tax credit in the Income Tax Act and the Corporate and Franchise Tax Act. The name of the new sustainable building tax credit was changed to the 2015 sustainable building tax credit.

A. “Annual cap”
means the annual total amount of the 2015 sustainable building tax credit available to taxpayers owning sustainable buildings.

B. “Applicant” means a taxpayer who owns a sustainable residential or commercial building or manufactured home in New Mexico and who desires to have the department issue a certificate of eligibility for a 2015 sustainable building tax credit.

C. “Application package” means the documents an applicant submits to the department to apply for a certificate of eligibility for a 2015 sustainable building tax credit.

D. “Build green New Mexico certification” means the verification by a department-approved verifier that a building project has met certain prerequisites and performance benchmarks or credits within each category of the build green New Mexico rating system resulting in the issuance of a certification document.

E. “Building type”
means the primary use of a building or section of a building as defined in target finder.

F. “Certification”
means build green New Mexico

certification or LEED certification or energy star qualified for manufactured housing.

G. “Certificate of eligibility” means the document with a unique identifying number that specifies the amount and taxable year and specific physical address for the approved 2015 sustainable building tax credit, the system certification level awarded to the building, the amount of qualified occupied square footage, a calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible and the date of issuance.

H. “Certification level” means one of the following:

- (1) LEED-H silver or build green New Mexico silver;
- (2) LEED-H gold or build green New Mexico gold;
- (3) LEED-H platinum or build green New Mexico emerald;
- (4) LEED-NC silver or LEED-NC gold or LEED-NC platinum;
- (5) LEED-EB (O&M) or LEED-CS silver;
- (6) LEED-EB (O&M) or LEED-CS gold;
- (7) LEED-EB (O&M) or LEED-CS platinum; or
- (8) LEED-CI silver or LEED-CI gold or LEED-CI platinum.

I. “Code official” means the officer or other designated authority charged with the administration and enforcement of the building code.

J. “Department” means the energy, minerals and natural resources department.

K. “Division director” means the director of the department’s energy conservation and management division.

L. “Energy reduction requirements means” means has achieved a HERS of 60 or lower for a sustainable residential building; or has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national

average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form dated no sooner than the schematic design phase of development for a sustainable commercial building.

M. “Energy star” means a joint program of the United States environmental protection agency and the United States department of energy that qualifies homes based on a predetermined threshold of energy efficiency and other requirements.

N. “Energy star qualified manufactured home” means a home that an in state or out of state energy star certified plant has certified as being designed, produced and installed in accordance with energy star’s guidelines.

O. “HERS” means home energy rating system as developed by RESNET.

P. “HERS index” means a relative energy use index, where 100 represents the energy use of a home built to a HERS reference house and zero indicates that the proposed home uses no net purchased energy.

Q. “LEED certification” means the verification by the United States green building council, or a department-approved verifier, that a building project has met certain prerequisites and performance benchmarks or credits.

R. “Multifamily” means more than one family dwelling such as two-family dwellings, multiple single-family dwellings such as townhouses and buildings three stories or less in height above grade plane.

S. “Not a multifamily dwelling unit that is commercial” mean a single-family unit occupied by a renter or leasee or a work-live unit.

T. “Notice of approval” means that the work complies in all respects with the latest building code and has been approved by the code official.

U. “O&M” means operation and maintenance.

V. “Project completion” means notice of approval of installation of project prior to April 1, 2023. New buildings and renovations of existing buildings and installations shall be completed before April 1, 2023.

W. “Rating system” means the LEED rating system, the build green New Mexico rating system or the energy star program for manufactured housing.

X. “RESNET” means the residential energy services network, an industry not-for-profit membership corporation and national standards making body for building energy efficiency rating systems.

Y. “Solar market development tax credit” means the personal income tax credit the state of New Mexico issued to a taxpayer between January 1, 2006, and December 31, 2016, for a solar energy system the department has certified.

Z. “Target finder” means the web-based program developed by the United States environmental protection agency to establish an energy goal in kilo british thermal units per square foot per year for predetermined building types.

AA. “Taxable year” means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act, 7-2-1 *et seq.* NMSA 1978.

BB. “Taxpayer” means any individual subject to the tax imposed by the Income Tax Act, 7-2-1 *et seq.* NMSA 1978.

CC. “Taxpayer identification number” means the taxpayer’s nine-digit social security number or employer identification number provided by a business enterprise.

DD. “Verifier” means an entity the department approves to provide certifications under the build green New Mexico or LEED rating systems.

[3.3.34.7 NMAC - Rp, 3.3.34.7 NMAC, 02/08/2022]

3.3.34.8 GENERAL PROVISIONS:

A. A person who

is the owner of a building in New Mexico that has been constructed, renovated or manufactured or is a sustainable residential or sustainable commercial building and that receives certification on or after January 1, 2017, and prior to April 1, 2023, may receive a certificate of eligibility for a 2015 sustainable building tax credit. A subsequent purchaser of a sustainable residential building may receive a certificate if no tax credit has previously been claimed for the building.

B. The annual total amount in a calendar year of the 2015 sustainable building tax credit pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act available to taxpayers owning sustainable residential buildings is limited to \$3,375,000 for sustainable residential buildings that are not manufactured housing. When the \$3,375,000 cap for sustainable residential buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of an eligible 2015 sustainable residential building tax funds are within the annual residential cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year, except for the last taxable year when the 2015 sustainable building tax credit is in effect;

(2) if no 2015 sustainable residential building tax credit funds are available in a given taxable year, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable residential buildings tax credit in a taxable year when applications for the 2015 sustainable residential

buildings tax credit exceed the annual cap, but applications for the 2015 sustainable commercial buildings or manufactured housing tax credits are under the annual cap for that type of sustainable building by February 1 of any year in which the tax credit is in effect.

C. The total amount in a calendar year of the 2015 sustainable building tax credit available pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act to taxpayers owning sustainable commercial buildings is limited to \$1,250,000. When the \$1,250,000 limit for sustainable commercial buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of the eligible 2015 sustainable building tax credit is within the annual commercial buildings cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year; or

(2) if no 2015 sustainable commercial building tax credit funds are available, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable building tax credit in a taxable year when applications for the 2015 sustainable commercial buildings tax credits exceed the annual cap and applications for the 2015 sustainable residential buildings or manufactured housing tax credits are under the annual cap for that type of sustainable building by February 1 of any year in which the tax credit is in effect.

D. In the event of a discrepancy between a requirement of 3.3.34 NMAC and an existing New Mexico taxation and revenue

department rule promulgated before 3.3.34 NMAC's adoption, the existing rule governs.

E. All notices and applications required to be submitted to the department under 3.3.34 NMAC shall be submitted to the energy conservation and management division of the department.

F. There is a \$375,000 annual cap for sustainable residential buildings that are manufactured housing.

[3.3.34.8 NMAC - Rp, 3.3.34.8 NMAC, 02/08/2022]

3.3.34.9 VERIFIER ELIGIBILITY FOR ALL BUILDINGS:

A. The department reviews the qualifications for verifiers of the build green New Mexico or LEED-H certifications or LEED commercial buildings, which shall be provided annually to the department, based on the following criteria:

(1) the verifier is independent from the homebuilders or homeowners or commercial building owner that may apply for certification;

(2) the verifier has adequate staff and expertise to provide certification services, including:

(a) experience in green building services;

(b) ability to enlist and serve builders and provide training, consulting and other guidance as necessary;

(c) a method of auditing the certification process to maintain adequate stringency; and

(d) ability to administer the program and report on the certifications, audits and other relevant information the department may request;

(3) the verifier can identify the geographic area being served; and

(4) the verifier provides a statement that expresses a commitment to promoting energy-efficient green building with the highest standard of excellence.

B. The department approves verifiers after an entity submits a written request to the department that includes documentation on how the entity meets the required criteria. The department notifies the entity of the reasons for disapproving eligibility.

C. The verifier shall notify the department 30 calendar days prior to making changes to its certification process or rating systems.

D. The department may rescind an existing verifier’s approval if it determines that the above criteria are not being met.

E. The department notifies the verifier of the reasons for disapproving or rescinding eligibility as follows.

(1) The department shall notify the verifier of the proposed rescission in writing. The verifier has the right to request in writing review of the decision to rescind the verifier’s approval. The verifier shall file a request for review within 20 calendar days after the department’s notice is sent. The verifier shall address the request to the division director and include the reasons that the department should not rescind the verifier’s approval. The director shall consider the request. The division director may hold a hearing and appoint a hearing officer to conduct the hearing. The division director shall send a final decision to the verifier within 20 calendar days after receiving the request or the date the hearing is held.

(2) The verifier may appeal in writing to the department’s secretary a division director’s decision. The notice of appeal shall include the reasons that the secretary should overturn the division director’s decision. The secretary shall consider any appeal from a division director’s decision. The verifier shall file the appeal and the reasons for the appeal with the secretary within 14 calendar days of the division director’s issuance of the decision. The secretary may hold a hearing and appoint a hearing officer to conduct the hearing. The secretary shall send a final decision to the

verifier within 20 calendar days after receiving the request or the date the hearing concludes.

[3.3.34.9 NMAC - Rp, 3.3.34.9 NMAC, 02/08/2022]

3.3.34.10 APPLICATION FOR THE 2015 SUSTAINABLE BUILDING TAX CREDIT:

A. To obtain the 2015 sustainable building tax credit, a taxpayer shall apply for a certificate of eligibility with the department using either a department-developed application form or approved electronic application system as directed by the division director. An applicant may obtain the department-developed application form or access to the electronic application system from the department.

B. An application package shall include a completed application form and attachments as specified on the application form or by the electronic application system. The applicant shall submit the application form and required attachments at the same time. An applicant shall submit one application package for each sustainable building. The applicant shall submit all material in the application package on 8½ inch by 11-inch paper or using any approved electronic application system provided by the department as directed by the division director. If the applicant fails to submit the application form and required attachments at the same time as required by the division director the department may consider the application incomplete.

C. An applicant shall submit a complete application package to the department no later than February 1 of the taxable year for which the applicant seeks the 2015 sustainable building tax credit. If an applicant does not submit a complete application package by February 1, any remaining 2015 sustainable building tax credit funds under the cap may be used in that taxable year for completed 2015 sustainable building applications in another category. The department may review application packages it receives after that date for

the subsequent calendar year if the tax credit remains in effect.

D. The completed application form shall consist of the following information:

- (1) the applicant’s name, mailing address, telephone number and taxpayer identification number;
- (2) the name of the applicant’s authorized representative;
- (3) the ending date of the applicant’s taxable year;
- (4) the address of the sustainable building, including the property’s legal description;
- (5) whether the applicant was the building owner at time of certification or a subsequent purchaser;
- (6) the qualified occupied square footage of the sustainable residential or commercial buildings for projects eligible under LEED or build green New Mexico;
- (7) the rating system under which the sustainable residential or commercial building was certified for projects eligible under LEED or build green New Mexico;
- (8) the certification level achieved, if applicable;
- (9) the HERS index; if applicable;
- (10) documentation that applicant meets water efficiency standards to comply with water efficiency requirements of LEED and build green New Mexico programs;
- (11) the date of rating system certification;
- (12) project completion date;
- (13) notice of approval from a code official shall be provided to document that construction, renovation or installation of project was completed before April 1, 2023; and
- (14) a statement signed and dated by the applicant, which may be a form of electronic

signature if approved by the department, agreeing that

(a) all information provided in the application package is true and correct to the best of the applicant’s knowledge under penalty of perjury;

(b) applicant has read the requirements contained in 3.3.34 NMAC;

(c) if an onsite solar system is used to meet the requirements of either the rating system certification level applied for in the 2015 sustainable building tax credit or the energy reduction requirement achieved, the applicant did not claim a solar market development tax credit;

(d) applicant understands that there are annual caps for the 2015 sustainable building tax credit;

(e) applicant understands that the department must verify the documentation submitted in the application package before the department issues a certificate of eligibility for a 2015 sustainable building tax credit; and

(f) applicant understands that the department issues a certificate of eligibility for the taxable year in which the sustainable building was certified or, if the 2015 sustainable building tax credit’s annual cap has been reached, for the next taxable year in which funds are available.

E. In addition to the application form, the application package shall consist of the following information provided as attachments:

(1) a copy of a deed, property tax bill or ground lease in the applicant’s name as of or after the date of certification for the address or legal description of the sustainable building;

(2) a copy of the rating system certification form;

(3) a copy of the final certification review checklist that shows the points achieved, if applicable;

(4) a copy of a HERS certificate, from a

RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software RESNET lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;

(5) for sustainable commercial buildings that are not multifamily dwelling units, a copy of the final LEED optimized energy performance template or templates, signed by a New Mexico licensed design professional, that the applicant submitted for LEED certification including the results of the energy model that shows the kilo british thermal units per square foot per year for the sustainable commercial building;

(6) for sustainable commercial buildings that are not multifamily dwelling units, revised documentation of the energy reduction requirement, if the percent of use of any energy source for the energy model is different from the original energy target documentation by more than ten percent;

(7) a copy of the final LEED enhanced commissioning template, if available under the applicable LEED rating system;

(8) for multifamily dwelling units, a copy of a HERS certificate from a RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software the internal revenue service lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;

(9) documentation to show project completion date such as a copy of a notice of approval from a building official; and

(10) other information the department needs to review the building project for the 2015 sustainable building tax credit.

F. If the requirements established by the department have been complied with, the department shall issue to the building owner

a document granting a 2015 sustainable building tax credit with an identification number, date of issuance, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and a calculation of the maximum amount of the 2015 sustainable building tax credit for which the building owner would be eligible.

[3.3.34.10 NMAC - Rp, 3.3.34.10 NMAC, 02/08/2022]

3.3.34.11 VERIFICATION OF THE ALTERNATIVE METHOD USED FOR THE ENERGY REDUCTION REQUIREMENT:

A. In the event the sustainable commercial building is a building type that is not available in target finder and the applicant uses an alternative method to establish the energy reduction requirement, the applicant shall include the following information in addition to the other application requirements:

(1) a narrative describing the methodology used;

(2) the kilo british thermal units per square foot per year for all buildings, real or modeled, used as a basis of comparison, broken out by all energy sources, and including the percent of use for each energy source; and

(3) all formulas, assumptions and other explanation necessary to clarify how the kilo british thermal units per square foot per year for this project was derived.

B. The department will use the following criteria to evaluate the alternative method:

(1) clarity and completeness of the description of the alternative method;

(2) reasonableness of assumptions and comparisons; and

(3) thoroughness of justification of the method.

C. If the department rejects an alternative method, it

notifies the applicant of the reasons for the rejection.

D. The applicant may request that the department obtain the advice of a volunteer review committee of three or more New Mexico registered architects or New Mexico licensed professional mechanical or electrical engineers, chosen by the division, on their assessment of the alternative method, at which time the department may:

(1) reconsider the decision and accept the alternative method;

(2) recommend a revised alternative method; or

(3) reaffirm the rejection of the alternative method.

[3.3.34.11 NMAC - N, 02/08/2022]

3.3.34.12 APPLICATION REVIEW PROCESS:

A. The department considers applications in the order received, according to the day they are received, but not the time of day.

B. The department approves or disapproves an application package following the receipt of the complete application package. The department disapproves an application that is not complete or correct. The department's disapproval letter shall state the reasons why the department disapproved the application. The applicant may resubmit the application package for the disapproved project. The department places the resubmitted application in the review schedule as if it were a new application.

C. The department reviews the application package to calculate the maximum 2015 sustainable building tax credit, check accuracy of the applicant's documentation and determine whether the department issues a certificate of eligibility for the 2015 sustainable building tax credit.

D. If an applicant has claimed a solar market development tax credit (in effect January 1, 2006, through December 31, 2016) that solar system cannot be used to

meet the requirements of either the certification level applied for, or the energy reduction achieved. If an applicant has received a solar market development tax credit for a system that is used to meet the requirements of the certification level applied for or the energy reduction achieved, the department shall disapprove the application for the 2015 sustainable building tax credit. The applicant may submit a revised application package to the department that does not include the electricity projected to be generated by the solar system. The department places the resubmitted application in the review schedule as if it were a new application.

E. If the department finds that the application package meets the requirements and a 2015 sustainable building tax credit is available, the department issues the certificate of eligibility for a 2015 sustainable building tax credit. If a 2015 sustainable building tax credit is partially available or not available, the department issues a certificate of eligibility for any amount that is available and a certificate of eligibility for the balance for the next taxable year except in the last year that the tax credit is in effect. The notification shall include the taxpayer's contact information, taxpayer identification number, certificate of eligibility number or numbers, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible.

[3.3.34.12 NMAC - Rp, 3.3.34.11 NMAC, 02/08/2022]

3.3.34.13 CALCULATING THE TAX CREDIT:

A. The department calculates the maximum 2015 sustainable building tax credit for sustainable residential and sustainable commercial buildings that are not multifamily dwelling units based on the qualified occupied square footage of the sustainable commercial building, the LEED rating

system under which the applicant achieved LEED certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

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LEED-NC silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.75; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70
LEED-NC gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.75; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.00; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.00
LEED-NC platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$6.25; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$3.25; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$2.00
LEED-EB OR LEED-CS silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.25; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.50
LEED-EB OR LEED-CS gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.35; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.40; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70
LEED-EB OR LEED-CS platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.40; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.30; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.40
LEED-CI silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.40; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.70; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.30

LEED-CI gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.90; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.80; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.40
LEED-CI platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.30; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.80

B. The department calculates the maximum 2015 sustainable building tax credit for residential (single family or multifamily) dwelling units based on the qualified occupied square footage of the sustainable building, the rating system under which the applicant achieved certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

LEED-H silver or build green New Mexico silver:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00
LEED-H gold or build green New Mexico gold:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$4.50
LEED-H platinum or build green New Mexico emerald:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$6.50
energy star manufactured housing:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00

C. The taxation and revenue department makes the final determination of the amount of the 2015 sustainable building tax credit.

[3.3.34.13 NMAC - Rp, 3.3.34.12 NMAC, 02/08/2022]

3.3.34.14 CLAIMING THE STATE TAX CREDIT: To claim the 2015 sustainable building tax credit, an applicant shall submit all certificates of eligibility to the taxation and revenue department within 30 days of the department’s issuance, along with a completed form provided by the taxation and revenue department, and any other information the taxation and revenue department requires. The applicant shall submit the certificate to the taxation and revenue department no later than December 31, 2024.

[3.3.34.14 NMAC - Rp, 3.3.34.13 NMAC, 02/08/2022]

History of 3.3.34 NMAC: 3.3.34 NMAC – New Sustainable Building Tax Credit for Residential Buildings, filed 12/30/2015, was repealed and replaced with 3.3.34 NMAC – 2015 Sustainable Building Tax Credit, effective 02/08/2022.

**ENERGY, MINERALS AND
NATURAL RESOURCES
DEPARTMENT
ENERGY CONSERVATION AND
MANAGEMENT DIVISION**

**TITLE 3 TAXATION
CHAPTER 4 CORPORATE
INCOME TAXES
PART 21 2015
SUSTAINABLE BUILDING TAX
CREDIT**

3.4.21.1 ISSUING

AGENCY: Energy, Minerals and Natural Resources Department.
[3.4.21.1 NMAC - Rp, 3.4.21.1 NMAC, 02/08/2022]

3.4.21.2 SCOPE: 3.4.21

NMAC applies to the application and certification procedures for administration of the 2015 sustainable building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured housing. 3.4.21 NMAC only applies to the 2015 sustainable building tax credit.
[3.4.21.2 NMAC - Rp, 3.4.21.2 NMAC, 02/08/2022]

3.4.21.3 STATUTORY

AUTHORITY: 3.4.21 NMAC is established under the authority of Sections 7-2A-28 and Subsection E of Section 9-1-5 NMSA 1978.
[3.4.21.3 NMAC - Rp, 3.4.21.3 NMAC, 02/08/2022]

3.4.21.4 DURATION:

Permanent unless an earlier date is specified in a section.
[3.4.21.4 NMAC - Rp, 3.4.21.4 NMAC, 02/08/2022]

3.4.21.5 EFFECTIVE

DATE: February 8, 2022, unless a later date is cited at the end of a section.
[3.4.21.5 NMAC - Rp, 3.4.21.5 NMAC, 02/08/2022]

3.4.21.6 OBJECTIVE:

3.4.21 NMAC's objective is to establish procedures for administering the program to issue a certificate of eligibility for the 2015 sustainable

building tax credit for sustainable residential buildings, sustainable commercial buildings and manufactured homes.
[3.4.21.6 NMAC - Rp, 3.4.21.6 NMAC, 02/08/2022]

3.4.21.7 DEFINITIONS:

“2015 sustainable building tax credit” means the amendments passed by the legislature in 2021 to the new sustainable building tax credit in the Income Tax Act and the Corporate and Franchise Tax Act. The name of the new sustainable building tax credit was changed to the 2015 sustainable building tax credit.

A. “Annual cap” means the annual total amount of the 2015 sustainable building tax credit available to taxpayers owning sustainable buildings.

B. “Applicant” means a taxpayer who owns a sustainable residential or commercial building or manufactured home in New Mexico and who desires to have the department issue a certificate of eligibility for a 2015 sustainable building tax credit.

C. “Application package” means the documents an applicant submits to the department to apply for a certificate of eligibility for a 2015 sustainable building tax credit.

D. “Build green New Mexico certification” means the verification by a department-approved verifier that a building project has met certain prerequisites and performance benchmarks or credits within each category of the build green New Mexico rating system resulting in the issuance of a certification document.

E. “Building type” means the primary use of a building or section of a building as defined in target finder.

F. “Certification” means build green New Mexico certification or LEED certification or energy star qualified for manufactured housing.

G. “Certificate of eligibility” means the document with a unique identifying number that specifies the amount and taxable year and specific physical address

for the approved 2015 sustainable building tax credit, the system certification level awarded to the building, the amount of qualified occupied square footage, a calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible and the date of issuance.

H. “Certification level” means one of the following:

- (1) LEED-H silver or build green New Mexico silver;
- (2) LEED-H gold or build green New Mexico gold;
- (3) LEED-H platinum or build green New Mexico emerald;
- (4) LEED-NC silver or LEED-NC gold or LEED-NC platinum;
- (5) LEED-EB (O&M) or LEED-CS silver;
- (6) LEED-EB (O&M) or LEED-CS gold;
- (7) LEED-EB (O&M) or LEED-CS platinum; or
- (8) LEED-CI silver or LEED-CI gold or LEED-CI platinum.

I. “Code official” means the officer or other designated authority charged with the administration and enforcement of the building code.

J. “Department” means the energy, minerals and natural resources department.

K. “Division director” means the director of the department's energy conservation and management division.

L. “Energy reduction requirements means” means has achieved a HERS of 60 or lower for a sustainable residential building; or has reduced energy consumption beginning January 1, 2012, by sixty percent based on the national average for that building type as published by the United States department of energy as substantiated by the United States environmental protection agency target finder energy performance results form dated no sooner than the schematic design phase of development for a sustainable commercial building.

M. “Energy star”
means a joint program of the United States environmental protection agency and the United States department of energy that qualifies homes based on a predetermined threshold of energy efficiency and other requirements.

N. “Energy star qualified manufactured home”
means a home that an in state or out of state energy star certified plant has certified as being designed, produced and installed in accordance with energy star’s guidelines.

O. “HERS” means home energy rating system as developed by RESNET.

P. “HERS index”
means a relative energy use index, where 100 represents the energy use of a home built to a HERS reference house and zero indicates that the proposed home uses no net purchased energy.

Q. “LEED certification” means the verification by the United States green building council, or a department-approved verifier, that a building project has met certain prerequisites and performance benchmarks or credits.

R. “Multifamily”
means more than one family dwelling such as two-family dwellings, multiple single-family dwellings such as townhouses and buildings three stories or less in height above grade plane.

S. “Not a multifamily dwelling unit that is commercial”
mean a single-family unit occupied by a renter or leasee or a work-live unit.

T. “Notice of approval” means that the work complies in all respects with the latest building code and has been approved by the code official.

U. “O&M” means operation and maintenance.

V. “Project completion” means notice of approval of installation of project prior to April 1, 2023. New buildings and renovations of existing buildings and installations shall be completed before April 1, 2023.

W. “Rating system”
means the LEED rating system, the build green New Mexico rating system or the energy star program for manufactured housing.

X. “RESNET”
means the residential energy services network, an industry not-for-profit membership corporation and national standards making body for building energy efficiency rating systems.

Y. “Solar market development tax credit” means the personal income tax credit the state of New Mexico issued to a taxpayer between January 1, 2006, and December 31, 2016, for a solar energy system the department has certified.

Z. “Target finder”
means the web-based program developed by the United States environmental protection agency to establish an energy goal in kilo british thermal units per square foot per year for predetermined building types.

AA. “Taxable year”
means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act, 7-2A-1 *et seq.* NMSA 1978.

BB. “Taxpayer” means any corporation subject to the tax imposed by the Corporate Income and Franchise Tax Act, 7-2A-1 *et seq.* NMSA 1978.

CC. “Taxpayer identification number” means the taxpayer’s nine-digit social security number or employer identification number provided by a business enterprise.

DD. “Verifier” means an entity the department approves to provide certifications under the build green New Mexico or LEED rating systems.

[3.4.21.7 NMAC - Rp, 3.4.21.7 NMAC, 02/08/2022]

3.4.21.8 GENERAL PROVISIONS:

A. A person who is the owner of a building in New Mexico that has been constructed, renovated or manufactured or is a sustainable residential or sustainable commercial building and that receives

certification on or after January 1, 2017, and prior to April 1, 2023, may receive a certificate of eligibility for a 2015 sustainable building tax credit. A subsequent purchaser of a sustainable residential building may receive a certificate if no tax credit has previously been claimed for the building.

B. The annual total amount in a calendar year of the 2015 sustainable building tax credit pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act available to taxpayers owning sustainable residential buildings is limited to \$3,375,000 for sustainable residential buildings that are not manufactured housing. When the \$3,375,000 cap for sustainable residential buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of an eligible 2015 sustainable residential building tax funds are within the annual residential cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year, except for the last taxable year when the 2015 sustainable building tax credit is in effect;

(2) if no 2015 sustainable residential building tax credit funds are available in a given taxable year, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable residential buildings tax credit in a taxable year when applications for the 2015 sustainable residential buildings tax credit exceed the annual cap, but applications for the 2015 sustainable commercial buildings or manufactured housing tax credits are under the annual cap for that type of

sustainable building by February 1 of any year in which the tax credit is in effect.

C. The total amount in a calendar year of the 2015 sustainable building tax credit available pursuant to the Income Tax Act and the Corporate Income and Franchise Tax Act to taxpayers owning sustainable commercial buildings is limited to \$1,250,000. When the \$1,250,000 limit for sustainable commercial buildings is reached, based on all certificates of eligibility the department has issued, the department shall:

(1) if part of the eligible 2015 sustainable building tax credit is within the annual commercial buildings cap and part is over the annual cap, issue a certificate of eligibility for the amount under the annual cap for the applicable tax year and issue a certificate of eligibility for the balance for the subsequent tax year; or

(2) if no 2015 sustainable commercial building tax credit funds are available, issue a certificate of eligibility for the next subsequent tax year in which funds are available, except for the last taxable year when the 2015 sustainable building tax credit is in effect; or

(3) the department may issue certificates of eligibility to applicants who meet the requirements for the 2015 sustainable building tax credit in a taxable year when applications for the 2015 sustainable commercial buildings tax credits exceed the annual cap and applications for the 2015 sustainable residential buildings or manufactured housing tax credits are under the annual cap for that type of sustainable building by February 1 of any year in which the tax credit is in effect.

D. In the event of a discrepancy between a requirement of 3.4.21 NMAC and an existing New Mexico taxation and revenue department rule promulgated before 3.4.21 NMAC's adoption, the existing rule governs.

E. All notices and applications required to be submitted

to the department under 3.4.21 NMAC shall be submitted to the energy conservation and management division of the department.

F. There is a \$375,000 annual cap for sustainable residential buildings that are manufactured housing.

[3.4.21.8 NMAC - Rp, 3.4.21.8 NMAC, 02/08/2022]

3.4.21.9 VERIFIER ELIGIBILITY FOR ALL BUILDINGS:

A. The department reviews the qualifications for verifiers of the build green New Mexico or LEED-H certifications or LEED commercial buildings, which shall be provided annually to the department, based on the following criteria:

(1) the verifier is independent from the homebuilders or homeowners or commercial building owner that may apply for certification;

(2) the verifier has adequate staff and expertise to provide certification services, including:

(a) experience in green building services;

(b) ability to enlist and serve builders and provide training, consulting and other guidance as necessary;

(c) a method of auditing the certification process to maintain adequate stringency; and

(d) ability to administer the program and report on the certifications, audits and other relevant information the department may request;

(3) the verifier can identify the geographic area being served; and

(4) the verifier provides a statement that expresses a commitment to promoting energy-efficient green building with the highest standard of excellence.

B. The department approves verifiers after an entity submits a written request to the department that includes documentation on how the entity

meets the required criteria. The department notifies the entity of the reasons for disapproving eligibility.

C. The verifier shall notify the department 30 calendar days prior to making changes to its certification process or rating systems.

D. The department may rescind an existing verifier's approval if it determines that the above criteria are not being met.

E. The department notifies the verifier of the reasons for disapproving or rescinding eligibility as follows.

(1) The department shall notify the verifier of the proposed rescission in writing. The verifier has the right to request in writing review of the decision to rescind the verifier's approval. The verifier shall file a request for review within 20 calendar days after the department's notice is sent. The verifier shall address the request to the division director and include the reasons that the department should not rescind the verifier's approval. The director shall consider the request. The division director may hold a hearing and appoint a hearing officer to conduct the hearing. The division director shall send a final decision to the verifier within 20 calendar days after receiving the request or the date the hearing is held.

(2) The verifier may appeal in writing to the department's secretary a division director's decision. The notice of appeal shall include the reasons that the secretary should overturn the division director's decision. The secretary shall consider any appeal from a division director's decision. The verifier shall file the appeal and the reasons for the appeal with the secretary within 14 calendar days of the division director's issuance of the decision. The secretary may hold a hearing and appoint a hearing officer to conduct the hearing. The secretary shall send a final decision to the verifier within 20 calendar days after receiving the request or the date the hearing concludes.

[3.4.21.9 NMAC - Rp, 3.4.21.9 NMAC, 02/08/2022]

3.4.21.10 APPLICATION FOR THE 2015 SUSTAINABLE BUILDING TAX CREDIT:

A. To obtain the 2015 sustainable building tax credit, a taxpayer shall apply for a certificate of eligibility with the department using either a department-developed application form or approved electronic application system as directed by the division director. An applicant may obtain the department-developed application form or access to the electronic application system from the department.

B. An application package shall include a completed application form and attachments as specified on the application form or by the electronic application system. The applicant shall submit the application form and required attachments at the same time. An applicant shall submit one application package for each sustainable building. The applicant shall submit all material in the application package on 8½ inch by 11-inch paper or using any approved electronic application system provided by the department as directed by the division director. If the applicant fails to submit the application form and required attachments at the same time as directed by the division director, the department may consider the application incomplete.

C. An applicant shall submit a complete application package to the department no later than February 1 of the taxable year for which the applicant seeks the 2015 sustainable building tax credit. If an applicant does not submit a complete application package by February 1, any remaining 2015 sustainable building tax credit funds under the cap may be used in that taxable year for completed 2015 sustainable building applications in another category. The department may review application packages it receives after that date for the subsequent calendar year if the tax credit remains in effect.

D. The completed application form shall consist of the following information:

- (1) the applicant’s name, mailing address, telephone number and taxpayer identification number;
- (2) the name of the applicant’s authorized representative;
- (3) the ending date of the applicant’s taxable year;
- (4) the address of the sustainable building, including the property’s legal description;
- (5) whether the applicant was the building owner at time of certification or a subsequent purchaser;
- (6) the qualified occupied square footage of the sustainable residential or commercial buildings for projects eligible under LEED or build green New Mexico;
- (7) the rating system under which the sustainable residential or commercial building was certified for projects eligible under LEED or build green New Mexico;
- (8) the certification level achieved, if applicable;
- (9) the HERS index; if applicable;
- (10) documentation that applicant meets water efficiency standards to comply with water efficiency requirements of LEED and build green New Mexico programs;
- (11) the date of rating system certification;
- (12) project completion date;
- (13) notice of approval from a code official shall be provided to document that construction, renovation, or installation of project was completed before April 1, 2023; and
- (14) a statement signed and dated by the applicant, which may be a form of electronic signature if approved by the department, agreeing that:
 - (a) all information provided in the application package is true and correct to the best of the applicant’s

- knowledge under penalty of perjury;
 - (b) applicant has read the requirements contained in 3.4.21 NMAC;
 - (c) if an onsite solar system is used to meet the requirements of either the rating system certification level applied for in the 2015 sustainable building tax credit or the energy reduction requirement achieved, the applicant did not claim a solar market development tax credit;
 - (d) applicant understands that there are annual caps for the 2015 sustainable building tax credit;
 - (e) applicant understands that the department must verify the documentation submitted in the application package before the department issues a certificate of eligibility for a 2015 sustainable building tax credit; and
 - (f) applicant understands that the department issues a certificate of eligibility for the taxable year in which the sustainable building was certified or, if the 2015 sustainable building tax credit’s annual cap has been reached, for the next taxable year in which funds are available.
- E.** In addition to the application form, the application package shall consist of the following information provided as attachments:
- (1) a copy of a deed, property tax bill or ground lease in the applicant’s name as of or after the date of certification for the address or legal description of the sustainable building;
 - (2) a copy of the rating system certification form;
 - (3) a copy of the final certification review checklist that shows the points achieved, if applicable;
 - (4) a copy of a HERS certificate, from a RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software RESNET lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;

(5) for sustainable commercial buildings that are not multifamily dwelling units, a copy of the final LEED optimized energy performance template or templates, signed by a New Mexico licensed design professional, that the applicant submitted for LEED certification including the results of the energy model that shows the kilo british thermal units per square foot per year for the sustainable commercial building;

(6) for sustainable commercial buildings that are not multifamily dwelling units, revised documentation of the energy reduction requirement, if the percent of use of any energy source for the energy model is different from the original energy target documentation by more than ten percent;

(7) a copy of the final LEED enhanced commissioning template, if available under the applicable LEED rating system;

(8) for multifamily dwelling units, a copy of a HERS certificate from a RESNET (or a rating network that has the same standards as RESNET) accredited HERS provider, using software the internal revenue service lists as eligible for certification of the federal tax credit, showing the building has achieved a HERS index of 60 or lower;

(9) documentation to show project completion date such as a copy of a notice of approval from a building official; and

(10) other information the department needs to review the building project for the 2015 sustainable building tax credit.

F. If the requirements established by the department have been complied with, the department shall issue to the building owner a document granting a 2015 sustainable building tax credit with an identification number, date of issuance, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the

building and a calculation of the maximum amount of the 2015 sustainable building tax credit for which the building owner would be eligible.

[3.4.21.10 NMAC - Rp, 3.4.21.10 NMAC, 02/08/2022]

3.4.21.11 VERIFICATION OF THE ALTERNATIVE METHOD USED FOR THE ENERGY REDUCTION REQUIREMENT:

A. In the event the sustainable commercial building is a building type that is not available in target finder and the applicant uses an alternative method to establish the energy reduction requirement, the applicant shall include the following information in addition to the other application requirements:

(1) a narrative describing the methodology used;

(2) the kilo british thermal units per square foot per year for all buildings, real or modeled, used as a basis of comparison, broken out by all energy sources, and including the percent of use for each energy source; and

(3) all formulas, assumptions and other explanation necessary to clarify how the kilo british thermal units per square foot per year for this project was derived.

B. The department will use the following criteria to evaluate the alternative method:

(1) clarity and completeness of the description of the alternative method;

(2) reasonableness of assumptions and comparisons; and

(3) thoroughness of justification of the method.

C. If the department rejects an alternative method, it notifies the applicant of the reasons for the rejection.

D. The applicant may request that the department obtain the advice of a volunteer review committee of three or more New Mexico registered architects or

New Mexico licensed professional mechanical or electrical engineers, chosen by the division, on their assessment of the alternative method, at which time the department may:

(1) reconsider the decision and accept the alternative method;

(2) recommend a revised alternative method; or

(3) reaffirm the rejection of the alternative method.

[3.4.21.11 NMAC - N, 02/08/2022]

3.4.21.12 APPLICATION REVIEW PROCESS:

A. The department considers applications in the order received, according to the day they are received, but not the time of day.

B. The department approves or disapproves an application package following the receipt of the complete application package. The department disapproves an application that is not complete or correct. The department's disapproval letter shall state the reasons why the department disapproved the application. The applicant may resubmit the application package for the disapproved project. The department places the resubmitted application in the review schedule as if it were a new application.

C. The department reviews the application package to calculate the maximum 2015 sustainable building tax credit, check accuracy of the applicant's documentation and determine whether the department issues a certificate of eligibility for the 2015 sustainable building tax credit.

D. If an applicant has claimed a solar market development tax credit (in effect January 1, 2006, through December 31, 2016) that solar system cannot be used to meet the requirements of either the certification level applied for, or the energy reduction achieved. If an applicant has received a solar market development tax credit for a system that is used to meet the requirements of the certification level applied for

or the energy reduction achieved, the department shall disapprove the application for the 2015 sustainable building tax credit. The applicant may submit a revised application package to the department that does not include the electricity projected to be generated by the solar system. The department places the resubmitted application in the review schedule as if it were a new application.

E. If the department finds that the application package meets the requirements and a 2015 sustainable building tax credit is available, the department issues the certificate of eligibility for a 2015 sustainable building tax credit. If a 2015 sustainable building tax credit is partially available or not available, the department issues a certificate of eligibility for any amount that is available and a certificate of eligibility for the balance for the next taxable year except in the last year that the tax credit is in effect. The notification shall include the taxpayer’s contact information, taxpayer identification number, certificate of eligibility number or numbers, the rating system certification level awarded to the building, the amount of qualified occupied square footage in the building and calculation of the maximum amount of the 2015 sustainable building tax credit for which the owner would be eligible.

[3.4.21.12 NMAC - Rp, 3.4.21.11 NMAC, 02/08/2022]

3.4.21.13 CALCULATING THE TAX CREDIT:

A. The department calculates the maximum 2015 sustainable building tax credit for sustainable residential and sustainable commercial buildings that are not multifamily dwelling units based on the qualified occupied square footage of the sustainable commercial building, the LEED rating system under which the applicant achieved LEED certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

LEED-NC silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.75; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70
LEED-NC gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.75; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.00; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.00
LEED-NC platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$6.25; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$3.25; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$2.00
LEED-EB OR LEED-CS silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.25; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.50
LEED-EB OR LEED-CS gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$3.35; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.40; plus

next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.70
LEED-EB OR LEED-CS platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$4.40; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$2.30; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$1.40
LEED-CI silver:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.40; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.70; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.30
LEED-CI gold:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$1.90; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$.80; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.40
LEED-CI platinum:	
first 10,000 square feet	equals the qualified occupied square footage less than or equal to 10,000 multiplied by \$2.50; plus
next 40,000 square feet	the qualified occupied square footage greater than 10,000 and less than or equal to 50,000 multiplied by \$1.30; plus
next 450,000 square feet	the qualified occupied square footage greater than 50,000 and less than or equal to 500,000 multiplied by \$.80

B. The department calculates the maximum 2015 sustainable building tax credit for residential (single family or multifamily) dwelling units based on the qualified occupied square footage of the sustainable building, the rating system under which the applicant achieved certification and the certification level the applicant achieved. The tax credit for various square footages is specified in the chart below.

LEED-H silver or build green New Mexico silver:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00
LEED-H gold or build green New Mexico gold:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$4.50
LEED-H platinum or build green New Mexico emerald:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$6.50
energy star manufactured housing:	
up to 2,000 square feet	equals the qualified occupied square footage less than or equal to 2,000 multiplied by \$3.00

C. The taxation and revenue department makes the final determination of the amount of the 2015 sustainable building tax credit.

[3.4.21.13 NMAC - Rp, 3.4.21.12 NMAC, 02/08/2022]

3.4.21.14 CLAIMING THE STATE TAX CREDIT: To claim the 2015 sustainable building tax credit, an applicant shall submit all certificates of eligibility to the taxation and revenue department within 30 days of the

department’s issuance, along with a completed form provided by the taxation and revenue department, and any other information the taxation and revenue department requires. The applicant shall submit the certificate to the taxation and revenue department no later than December 31, 2024.
[3.4.21.14 NMAC - Rp, 3.4.21.13 NMAC, 02/08/2022]

History of 3.4.21 NMAC: 3.4.21 NMAC – New Sustainable Building Tax Credit for Residential Buildings, filed 12/3-/2015 was repealed and replaced by 3.4.21 – 2015 Sustainable Building Tax Credit, effective 02/08/2022.

**HOMELAND SECURITY
AND EMERGENCY
MANAGEMENT,
DEPARTMENT OF
STATE MARSHAL**

**TITLE 10 PUBLIC SAFETY
AND LAW ENFORCEMENT
CHAPTER 25 STATE FIRE
MARSHAL
PART 12 INSPECTION OF
FIRE AND SMOKE DAMPERS**

10.25.12.1 ISSUING
AGENCY: New Mexico Department of Homeland Security & Emergency Management
[10.25.12.1 NMAC - N, 2/8/2022]

10.25.12.2 SCOPE: This rule requires the inspection and testing of mechanical fire and smoke dampers and smoke control systems in places of assembly, educational occupancies, institutional occupancies, residential occupancies consisting of four or more family units, mercantile occupancies, industrial occupancies, storage occupancies, and miscellaneous structures consisting of towers, underground structures and windowless buildings and all buildings owned or occupied by the state or any political subdivision thereof or by municipal governments. It also sets the minimum qualifications for the inspection and

testing of fire and smoke dampers and some control systems.
[10.25.12.2 NMAC - N, 2/8/2022]

10.25.12.3 STATUTORY AUTHORITY: Section 59A-52-15.1 NMSA 1978.
[10.25.12.3 NMAC - N, 2/8/2022]

10.25.12.4 DURATION: Permanent.
[10.25.12.4 NMAC - N, 2/8/2022]

10.25.12.5 EFFECTIVE DATE: Unless a later date is otherwise provided by law or in the rule, the effective date of this rule shall be the date of publication in the New Mexico register.
[10.25.12.5 NMAC - N, 2/8/2022]

10.25.12.6 OBJECTIVE: The purpose of this rule is to protect the safety and welfare of New Mexicans by providing inspection and testing in accordance with national fire protection association standards.
[10.25.12.6 NMAC - N, 2/8/2022]

10.25.12.7 DEFINITIONS: [RESERVED]
[10.25.12.7 NMAC - N, 2/8/2022]

10.25.12.8 CERTIFICATE OF FITNESS FOR INSPECTORS AND TESTERS:

A. The state fire marshal or its designee shall issue a certificate of fitness for the inspection and testing of fire and smoke dampers to persons fulfilling all requirements pursuant to 10.25.2.8 and 10.25.2.9 NMAC.

B. For inspectors and testers other than the state or a political subdivision of the state with a fire and life safety enforcement program, the certificate of fitness application shall include verification of the applicant’s fire life safety certification from an American national standards institute’s accredited program in addition to all other requirements listed herein.

C. for certification to inspect and test fire and smoke dampers, an application shall include:
(1) for

mechanically actuated fire and smoke dampers, applicants shall provide documentation of a valid NFPA-Certified Fire Protection Specialist certification or of an approved fire and life safety certification from a program accredited by the American national standards institute (ANSI).

(2) for electrically actuated fire and smoke dampers monitored by a fire alarm system, applicants shall comply with requirements of Paragraph (5) of Subsection A of 10.25.2.9 NMAC.

(3) for fire and smoke dampers with both mechanical and electrical components, the applicant inspecting the mechanical components shall provide documentation pursuant to (1) of this section and the applicant inspecting the electrical components shall provide documentation pursuant to (2) of this section.

[10.25.12.8 NMAC - N, 2/8/2022]

10.25.12.9 REQUIRED INSPECTION AND TESTING OF FIRE AND SMOKE DAMPERS:
A. Inspections.

The inspection and testing of fire and smoke dampers and smoke control systems shall be required in accordance with national fire protection association standards in places of assembly, educational occupancies, institutional occupancies, residential occupancies consisting of four or more family units, mercantile occupancies, industrial occupancies, storage occupancies, and miscellaneous structures consisting of towers, underground structures and windowless buildings and all buildings owned or occupied by the state or any political subdivision thereof or by municipal governments.

B. Findings. The person conducting the inspection or test shall submit findings of noncompliance to the owners of the public occupancy and to the state fire marshal.

C. Inspector qualifications. The inspection and testing of fire and smoke dampers and smoke control systems shall be

conducted by qualified individuals pursuant to 10.25.12.8 NMAC. [10.25.12.9 NMAC - N, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.6.3 NMAC, Section 8 effective 2/8/2022.

16.6.3.8 FEES: All fees payable to the board are non-refundable.

~~A. PROCESSING FEE:~~ \$75.00. The board shall assess a processing fee for administrative processing of applications:

~~B. INITIAL LICENSURE FEE:~~ \$500.00. The initial licensure fee shall be five hundred dollars (\$500.00) in addition to the processing fee.

~~C. RENEWAL FEE:~~ \$500.00. The renewal fee shall be five hundred dollars (\$500.00) annually due no later than July 1st of each year. In the event that a licensee fails to renew their license by the deadline of any year, the board is required to assess a late fee. If an initial license is granted on or after April 1st of any year but before the license expiration date of June 30th, the license will be good until the following year and the licensee will not be required to pay the renewal fee for the first year.

~~D. LATE FEES:~~
~~(1)~~ \$100.00 to 300.00. If a renewal is post-marked past the deadline of July 1st, the board is required to charge a late fee
~~(a)~~

\$100.00. Late fee after July 1 through August 1

~~(b)~~
\$200.00. Late fee after August 1 thru September 1

~~(c)~~
\$300.00. Late fee after September 1 through October 1

~~(2)~~ If a licensee renews their license by October 1, they must submit a renewal application accompanied by the fee and late fee. If the licensee fails to renew their license by October 1 the licensee must reinstate

their license as set forth in the reinstatement procedures of the board.

~~E. INACTIVE STATUS FEE:~~ \$100.00. A licensee may submit a request in writing to the board office to be placed on inactive status. The fee for inactive status is one hundred dollars (\$100.00) annually. Once a license is placed on inactive status, the licensee cannot practice naprapathy in New Mexico.

~~F. REACTIVATION FROM INACTIVE STATUS:~~ \$50.00. If the inactive licensee requests reactivation from inactive status to active status, the licensee must complete an application for reactivation form provided by the board. The licensee will be required to pay the renewal fee. The applicant may be required to re-take the national examination at the discretion of the board.

~~G. REINSTATEMENT FEE:~~ \$500.00. If the expired licensee requests to reinstate their license, the licensee will be required to pay a five hundred dollar (\$500.00) reinstatement fee, renewal fee, the processing fee and submit a reinstatement application. The applicant may be required to re-take the national examination at the discretion of the board.

~~H. DUPLICATE LICENSE:~~ \$50.00. The fee for a duplicate of original certificate of licensure to replace a lost certificate of licensure, or a replacement certificate of licensure with a new name, or for a board verified copy of certificate of licensure shall be fifty dollars (\$50.00):

- ~~I. OTHER MISCELLANEOUS CHARGES:~~
- ~~(1)~~ license list \$ 25.00
 - ~~(2)~~ license labels \$ 50.00
 - ~~(3)~~ list/labels for commercial use \$150.00
 - ~~(4)~~ copy fee; per page \$ 1.00
 - ~~(5)~~ continuing education provider fee \$ 75.00]

~~A. INITIAL LICENSURE FEE:~~ The initial application for licensure fee shall

be three hundred twenty dollars (\$320.00).

~~B. RENEWAL APPLICATION FEE:~~ The renewal application fee shall be two hundred dollars (\$200.00) annually due no later than July 1st of each licensure year. In the event that a licensee fails to renew their license by the deadline of any renewal year, the board shall assess a late fee per Subsection C of 16.6.3.8 NMAC. Any initial license that is granted on or after April 1st of that licensure year but before the license expiration date of June 30th will be good until the following licensure year and the licensee will not be required to pay the renewal application fee for the first year.

~~C. LATE FEES:~~
~~(1)~~ Any licensure renewal application that is post-marked past the deadline of July 1st, shall be charged a late fee as follows:

~~(a)~~
Late fee of eighty (\$80.00) is assessed for all naprapathic practitioners who renew their license to active status, and provide the required renewal application documentation per Subsection B of 16.6.3.7 NMAC after July 1 but no later than August 15 of that renewal year.

~~(b)~~
Late fee of one hundred sixty (\$160.00) for all naprapathic practitioners who renew their license to active status, and provide the required renewal application documentation per Subsection B of 16.6.3.7 NMAC after August 16 but by October 1 of that renewal year.

~~(2)~~ Any licensee who renews their license by October 1, must submit a renewal application accompanied by the renewal application fee and late fee per Subsection B of 16.6.3.7 NMAC. If the licensee fails to renew their license by October 1 the licensee must reinstate their license as set forth in the reinstatement procedures per Subsection E of 16.6.3.8 NMAC.

~~D. INACTIVE STATUS FEE:~~ A licensee may submit a request in writing to the board office to be placed on inactive

status. The fee for inactive status is twenty-five dollars (\$25.00). Once a license is placed on inactive status, the licensee cannot practice naprapathy in New Mexico.

E. REINSTATEMENT APPLICATION FEE FOR EXPIRED STATUS:

Any expired licensee requesting to reinstate their license, will be required to pay a two hundred dollars (\$200.00) reinstatement fee, and a renewal application fee of two hundred dollars (\$200.00), and submit a reinstatement application. The applicant may be required to re-take the national examination at the discretion of the board.

F. MISCELLANEOUS CHARGES:

(1)	license list	\$ 25.00
(2)	license labels	\$ 50.00
(3)	list/labels for commercial use	\$150.00
(4)	copy fee; per page	\$ 1.00

[16.6.3.8 NMAC - N, 9/30/2004; A, 7/31/2008; A, 5/24/2010; A, 9/22/2011; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.6.5 NMAC, Sections 2, 8, 9 and 10 effective 2/8/2022.

16.6.5.2 SCOPE: [This part applies to licensed naprapaths as well as naprapaths who have previously held a license to practice in New Mexico and wish to inactivate a license, reinstate an inactive license or reinstate a license from expired status.] Any licensed naprapaths who have held a license to practice in New Mexico can inactivate a license, reinstate an inactive license or reinstate a license from expired status. [16.6.5.2 NMAC - N, 9/30/2004; A, 9/22/2011; A, 2/8/2022]

16.6.5.8 INACTIVE STATUS:

A. A current licensee in good standing is eligible to be placed on inactive status.

B. A licensee who wishes to be placed on inactive status shall notify the board office in writing before their license expires. The board will acknowledge receipt of the notification.

C. [A licensee shall pay the fees established by the board to be placed on inactive status by July 1st of every year.] A licensee shall pay the fees established in Subsection D of 16.6.3.8 NMAC to be placed on inactive status by July 1st.

D. An inactive licensee is required to submit proof of continuing education required by an active licensee as defined in [16.6.6 NMAC] Subsection C of 16.6.6.8 NMAC.

E. Once a license is placed on inactive status, the licensee shall not practice naprapathy in New Mexico.

F. A licensee on inactive status shall at all times comply with the provisions of the code of conduct. [16.6.5.8 NMAC - N, 9/30/2004; A, 5/24/2010; A, 2/8/2022]

16.6.5.9 REINSTATEMENT FROM INACTIVE STATUS: [If an inactive licensee requests to reinstate their license; the licensee is required to] Any inactive licensee requesting to reinstate their license is required to:

A. pay the reinstatement fee and renewal application fee [established by the board to reinstate their license] as defined in Subsection E of 16.6.3.8 NMAC;

B. submit a reinstatement application provided by the board office;

C. submit 30 continuing professional education (CPE) hours for every year the licensee has been inactive as defined in 16.6.6 NMAC;

D. submit verification of licensure, if licensed or previously licensed in another state(s) or jurisdiction; verification shall be sent directly to the board office from the issuing state(s) or jurisdiction; and

E. the applicant may

be required to take the national examination at the discretion of the board. [16.6.5.9 NMAC - N, 5/24/2010; A, 9/22/2011; A, 2/8/2022]

16.6.5.10 REINSTATEMENT FROM EXPIRED STATUS: [If an expired licensee requests to reinstate their license; the licensee is required to] Any licensee requesting to reinstate their license is required to:

A. [pay the reinstatement fee, processing fee and renewal fee established by the board to reinstate their license as defined in 16.6.3.8 NMAC] pay the reinstatement application fee and renewal application fee as defined in Subsection F of 16.6.3.8 NMAC;

B. submit a reinstatement application provided by the board office;

C. submit 30 continuing professional education (CPE) hours for every year the license has been expired as defined in 16.6.6 NMAC;

D. submit verification of licensure, if licensed or previously licensed, in another state(s) or jurisdiction; verification shall be sent directly to the board office from the issuing state(s) or jurisdiction; and;

E. the applicant may be required to take the national examination at the discretion of the board.

[16.6.5.10 NMAC - N, 5/24/2010; A, 9/22/2011; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.6.7 NMAC, Section 2, 8, 9, and 10 effective 2/8/2022.

16.6.7.2 SCOPE: This part applies to naprapathic [physicians] practitioners applying for licensure in New Mexico.

[16.6.7.2 NMAC - N, 10/1/2004; A, 9/22/2011; A, 2/8/2022]

16.6.7.8 LICENSURE

~~[BY ENDORSEMENT OR EXAMINATION]~~

REQUIREMENTS: A license may be issued to practice naprapathy to individuals who satisfy the following criteria:

- A. is at least twenty-one years of age;
- B. has graduated from a two year college-level program or an equivalent program approved by the board after consultation with the naprapathic task force per 16.6.1.8 NMAC;
- C. has completed, in not less than three years, a four year academic curriculum in naprapathy, that is approved by the board after consultation with the naprapathic task force, and the person has successfully completed ~~[one hundred thirty-two]~~ 132 hours of academic credit, including ~~[sixty-six]~~ 66 credit hours in basic science courses with emphasis on the study of connective tissue, and ~~[sixty-six]~~ 66 credit hours in clinical naprapathic science, theory and application;
- D. passed the national examination administered by the national board of naprapathic examiners (NBNE) and provides the board with evidence of successful completion or holds a current valid license in good standing as a naprapath in another state(s), ~~[jurisdiction, Sweden, Norway or Finland]~~ or jurisdiction that licenses naprapaths;
- E. provide two letters of recommendation from individuals licensed as a naprapath, in good standing, at the time the letters were written;
- F. ~~[provide one letter of personal reference from anyone with whom the applicant has worked within the past three years]~~ provide verification of all work experience in the past three years;
- G. verification of licensure, if licensed or previously licensed in another state or jurisdiction; verification must be sent directly to the board office from the issuing state(s) or jurisdiction; and;

H. has met all other requirements of the Naprapathic Practice Act.

[16.6.7.8 NMAC - N, 10/1/2004; A, 5/24/2010; A, 9/22/2011; A, 10/11/2013; A, 2/8/2022]

16.6.7.9 LICENSURE [BY EXAMINATION] DOCUMENTATION

REQUIREMENTS: Each applicant for licensure ~~[by examination]~~ must submit the required fees and following documentation:

- A. completed application ~~[signed and notarized]~~ with a nonrefundable processing and initial licensure fee per Subsection A of 16.6.3 NMAC;
 - B. official transcripts from the accredited programs as defined in Subsections B and C of 16.6.7.8 NMAC;
 - C. certified copy of national board of naprapathic examination (NBNE) certificate;
 - D. provide two letters of recommendation from individuals licensed as naprapaths, in good standing at the time the letter is written;
 - E. provide verification of all work experience in ~~[one letter of personal reference from anyone with whom the applicant has worked within]~~ the past three years; and
 - F. submit verification of licensure, if currently or previously licensed in another state(s) or jurisdiction, verification must come directly from the issuing state(s) or jurisdiction; verification must include the state seal or international equivalent and must attest to the status, issue date and license number. [16.6.7.9 NMAC - N, 5/24/2010; A, 10/11/2013; A, 2/8/2022]
- 16.6.7.10 [LICENSURE BY ENDORSEMENT] DOCUMENTATION REQUIREMENTS:** Each applicant for licensure by endorsement must submit the required fees and following documentation:
- A. completed application signed and notarized with a nonrefundable processing and initial licensure fee;

- ~~B. official transcripts from the accredited programs as defined in Subsections B and C of 16.6.7.8 NMAC;~~
- ~~C. certified copy of national board of naprapathic examination certificate; or;~~
- ~~D. provide two letters of recommendation from individuals licensed as naprapaths, in good standing at the time the letter is written;~~
- ~~E. provide one letter of personal reference from anyone with whom the applicant has worked, within the past three years;~~
- ~~F. submit verification of licensure where the applicant holds a license in good standing to practice naprapathy; verification must be sent directly from the issuing state(s), jurisdiction or international board; verification must include a board state seal or international equivalent and must attest to the status, issue date and license number.] [RESERVED] [16.6.7.10 NMAC - N, 5/24/2010; A, 10/11/2013; Repealed, 2/8/2022]~~

MEDICAL BOARD

This is an amendment to 16.6.8 NMAC, Section 8 and 10 effective 2/8/2022.

16.6.8.8 DIAGNOSTIC PROCEDURES:

- A. Naprapathic ~~[physicians]~~ practitioners are authorized to perform diagnostic procedures specified in this regulation, which shall include the authority to perform and take:
 - (1) medical case history;
 - (2) physical examination of all body systems including, but not limited to:
 - (a) skin, hair, nails, head, eyes, ears, nose;
 - (b) cardiovascular and respiratory system, including auscultation;
 - (c) musculoskeletal system;

(d) neurological system.

B. Naprapathic [~~physicians~~] practitioners are authorized to order any diagnostic procedure from any recognized laboratory or imaging facility reasonably necessary to clinically correlate a physical examination to a diagnostic impression; which shall include, but not be limited to laboratory procedures involving the collection of human fluids, such as saliva, blood, urine, hair, feces and special imaging, such as x-ray; CT scan, MRI, nuclear scans, ultrasonography, thermography, [~~beaches emergency assistance ministry (B.E.A.M.);~~] EEG, EKG, ECG and surface or needle EMG. [16.6.8.8 NMAC - N, 9/30/2004; A, 9/22/2011; A, 2/8/2022]

16.6.8.10 REHABILITATION OF THE

NEUROMUSCULOSKELETAL SYSTEM: Naprapathic [~~physicians~~] practitioners may use all necessary mechanical, hygienic and sanitary measures incident to the care of the body including but not limited to air, sound, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and electricity. [16.6.8.10 NMAC - N, 9/30/2004; A, 9/22/2011; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.6.9 NMAC, Section 8 effective 2/8/2022.

16.6.9.8 SUPERVISION OF INTERNS:

A. The purpose for the intern program in New Mexico shall be to safely complete advanced training for the graduating naprapathic intern in the areas including, but not limited to, history taking, exams, patient report of findings, treatment recommendations, treatment room control, staff management, general clinic policies, problem solving skills, team concepts, goal setting, administrative skills, and other training the [~~doctor~~] naprapathic

practitioner may feel appropriate to complete the intern's advanced naprapathic training. This purpose enhances the professional training of the intern, the naprapathic college curriculum, the teaching skills of the [~~doctor~~] naprapathic practitioner, the professional status of the profession of naprapathic and the professional standard of naprapathic health care available to New Mexico consumers.

B. Supervising [~~doctor~~] naprapathic practitioner must have a current New Mexico license in "good standing" with the board and have been treating patients as a [~~naprapathy~~] naprapathic practitioner for at least three years.

C. Supervising doctor must have written verification from the college that the intern is in a [~~CEE, or~~] board approved equivalent thereof, accredited naprapathic college sanctioned intern program, and the [~~doctor~~] naprapathic practitioner must assure compliance to the guidelines of the institution's intern program.

D. Supervising [~~doctor~~] naprapathic practitioner must personally train intern in naprapathic procedure.

E. Supervising [~~doctor~~] naprapathic practitioner must be physically in the [~~same treatment room~~] clinic overseeing the intern to provide care for any patient.

F. Public must be informed that the intern is an "intern naprapath", not a licensed [~~in the state~~], and must sign an informed consent document approved by the board to this effect] naprapathic practitioner in the state.

G. Supervising [~~doctor~~] naprapathic practitioner may allow intern to assist in various exams and therapies [~~after being trained and cleared by the supervising doctor~~] on proper naprapathic procedures.

H. The supervising [~~doctor~~] naprapathic practitioner must inform the college if the intern is deemed professionally competent in the diagnosis or treatment of naprapathic patients.

I. A supervising [~~doctor~~] naprapathic practitioner may

not supervise more than [~~two~~] six interns at one time.

J. Supervising [~~doctor~~] naprapathic practitioner shall register with the board the interns' names, the college they are from, and the term of the internship, and provide proof of malpractice insurance for the supervising [~~doctor~~] naprapathic practitioner in a minimum amount of \$1,000,000 per person - \$3,000,000 per occurrence coverage, at least 15 days before the first day of the internship.

K. The board is to be sent a copy of any report sent to the college involving the intern at the time the report is sent to the college. [16.6.9.8 NMAC - N, 9/30/2004; A, 5/24/2010; A, 9/22/2011; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.2 NMAC, Section 2, 3, 7, 9, 10, 12, 16 and 19 effective 2/8/2022.

16.10.2.2 SCOPE: This part applies to all [~~allopathic~~] physicians applying for licensure in New Mexico.

[16.10.2.2 NMAC - Rp 16 NMAC 10.2.2, 4/18/2002; A, 2/8/2022]

16.10.2.3 STATUTORY

AUTHORITY: This part governs the licensing of [~~medical doctors~~] in New Mexico and is promulgated pursuant to and in accordance with the Medical Practice Act, sections 61-6-11, 61-6-11.1, 61-6-12, 61-6-13, 61-6-14, 61-6-15, 61-6-18, 61-6-18.1, and 61-6-19 NMSA 1978.

[16.10.2.3 NMAC - Rp 16 NMAC 10.2.3, 4/18/2002; A, 2/8/2022]

16.10.2.7 DEFINITIONS:

A. "Absence of good moral character" means any conduct that calls into question an applicant's fitness or suitability to engage in licensed practice, or that is antithetical to the promotion of the public health, safety, and welfare, as determined by the board, constitutes a lack of good moral character. The conduct subject to the board's evaluation for good

moral character may or may not arise in the context of professional practice.

B. “AOA” means the American osteopathic association.

C. “AOA-BOS” means the American osteopathic association bureau of osteopathic specialists.

[A:] D. “Board approved school” means a medical school that has been approved by the liaison committee on medical education, composed of the American medical association and the association of American medical colleges, has a liaison council on medical education (LCME)-approved curriculum or equivalent for graduates of Canadian schools, is on the approved list of the California state medical board, is accredited by the American osteopathic association or commission on osteopathic accreditation, or has been approved by the board.

[B:] E. “Board approved training program” means a program approved by the accrediting council on graduate medical education of the American medical association (ACGME), is approved by American osteopathic association (AOA), the royal college of physicians and surgeons of Canada (RCPC), or a residency program located within an ACGME approved institution that has been approved by the board.

[C:] E. “Board approved credential verification service” means a credential verification service certified by the national commission on quality assurance (NCQA) and approved by the board.

G. “Disqualifying criminal conviction” means a conviction pursuant to the Uniform Licensing Act, Section 61-1-36, NMSA 1978, for a crime that is job-related for the position in question and consistent with business necessity.

H. “FCVS” means the federation credential verification service of the federation of state medical boards.

I. “Good moral character” means qualities evidencing an applicant’s present good moral character for purposes of licensure including candor, honesty,

integrity, a respect for the law, regard for the welfare, safety, and rights of another, and fidelity and trustworthiness in the practice of the professions for which they may be licensed. Conversely, an applicant whose conduct reflects the absence of one or more of these qualities may be said to lack the good moral character required for licensure. It is a continuing duty to exhibit good moral character as a licensee. Absence of good moral character means any conduct that calls into question an applicant’s fitness or suitability to engage in licensed practice, or that is antithetical to the promotion of the public health, safety, and welfare, as determined by the board, constitutes a lack of good moral character. The conduct subject to the board’s evaluation for good moral character may or may not arise in the context of professional practice.

[D:] J. “HSC” means the hospital services corporation, a New Mexico corporation, and a credential verification organization certified by the national commission on quality assurance (NCQA).

[E.] “FCVS” means the federation credential verification service of the federation of state medical boards.

[F:] K. “Major disaster” means a declaration of a major disaster by the federal emergency management agency (FEMA).

[G:] L. “Military service member” means a person who is serving in the armed forces of the United States or in a reserve component of the armed forces of the United States, including the national guard.

[H:] M. “Nationwide criminal history record,” 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.

[F:] N. “Nationwide criminal history screening,” 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.

O. “Physician” means allopathic doctor (MD) or doctor of osteopathy (DO).

[F:] P. “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 applies for a medical license pursuant to section 16.10.2.17. The veteran shall submit a copy of Form DD214, or its equivalent, as part of the application process.

[K:] Q. “Telemedicine” means the practice of medicine across state lines as defined in the Medical Practice Act, Subsection K of Section 61-6-6, NMSA 1978.

[16.10.2.7 NMAC - Rp 16 NMAC 10.2.7, 4/18/2002; A, 1/20/2003; A, 10/7/2005; A, 12/30/2005; A, 7/1/2006; A, 1/10/2007; A, 10/11/2013; A, 2/8/2022]

16.10.2.9 MEDICAL LICENSE BY EXAMINATION:

A. Prerequisites for licensure: Each applicant for a license to practice as a [medical-doctor] physician in New Mexico must be of good moral character and must possess the following qualifications:

(1) graduated and received a diploma from a board approved school, completed a program determined by the board to be substantially equivalent to a U.S. medical school, based on board review of an evaluation by a board approved credential evaluation service, or the board shall, in its sole discretion, determine if the applicant’s

total educational and professional clinical experience is substantially equivalent to that which is required for licensure in New Mexico; and

(2)

successfully passed one of the examinations or combinations of examinations defined in 16.10.3 NMAC; and

(3) completed

two years of postgraduate training or been approved by the board in accordance with the provisions of Subsection B of Section 61-6-11 NMSA 1978;

(4) when

the board has reason to believe that an applicant for licensure is not competent to practice medicine it may require the applicant to complete a special competency examination or to be evaluated for competence by other means that have been approved by the board; and

(5) a qualified

applicant who has not been actively and continuously in practice for more than two years prior to application may be required to successfully complete a special examination or evaluation such as, but not limited to, the SPEX (special purpose examination), the PLAS (post-licensure assessment system of the federation of state medical boards), or specialty re-certification.

B. Required

documentation for all applicants:

Each applicant for a license must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation:

(1) a

completed signed application with a passport-quality photo taken within the previous six months; applications are valid for one year from the date of receipt by the board;

(2) verification

of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession; verification must be received directly from the other state board(s), and must attest to the status, issue date, license number, and other information requested and contained on the form;

this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;

(3) two

recommendation forms from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physicians must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly to the board from the recommending physician; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;

(4)

verification of all work experience and hospital affiliations in the last two years, if applicable, not to include postgraduate training; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;

(5) a copy

of all American board of medical specialties (ABMS) specialty board certifications, or American osteopathic association bureau of osteopathic specialists (AOA-BOS) if applicable;

this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board; and

(6) the

board may request that applicants be investigated by the biographical section of the American medical

association (AMA), the drug enforcement administration (DEA), the federation of state medical boards (FSMB), the national practitioner data bank, and other sources as may be deemed appropriate by the board;

(7) applicants

who are not United States citizens must provide proof that they are in compliance with the immigration laws of the United States.

C. Additional

documentation for applicants

using the FCVS: Applicants are encouraged to use the FCVS as once a credential file is created future applications for medical licensure will be streamlined. However, application through FCVS is not required. Applicants using the FCVS must submit a completed application to the FCVS, who will provide primary source documentation to the board. Only the documents required in Subsection B of 16.10.2.9 are required in addition to the FCVS report.

D. Additional

documentation for applicants using HSC or another board-approved credentials verification service:

(1) status

report of educational commission for foreign medical graduates (ECFMG) certification sent directly to the board from ECFMG, if applicable;

(2) copy of

ECFMG interim letter documenting additional postgraduate training for international medical graduates applying through the fifth pathway process, if applicable;

(3) certified

transcripts of exam scores as required in 16.10.3 NMAC sent directly to the board from the testing agency;

(4) proof of

identity may be required; acceptable documents include birth certificate, passport, naturalization documents, and visas.

E. Additional

documentation for applicants applying directly to New Mexico and not using FCVS or HSC or another board-approved credentials verification service:

- (1) verification of medical education form with school seal or notarized, sent directly to the board from the school;
- (2) transcripts sent directly to the board from the medical school;
- (3) status report of ECFMG certification sent directly to the board from ECFMG, if applicable;
- (4) copy of ECFMG interim letter documenting additional postgraduate training for international medical graduates applying through the fifth pathway process, if applicable;
- (5) postgraduate training form sent to the board directly from the training program;
- (6) certified transcripts of exam scores as required in 16.10.3 NMAC sent directly to the board from the testing agency; and
- (7) proof of identity may be required; acceptable documents include birth certificate, passport, naturalization documents, and visas;
- (8) certified copies of source documents obtained directly from another state licensing jurisdiction who has the original document on file will be accepted in lieu of original documents when the originals cannot be obtained for a valid cause.

F. Licensure

process: Upon receipt of a completed application, including all required documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

G. Initial license

expiration: Medical licenses shall be renewed on July 1 following the date of issue. Initial licenses are valid for a period of not more than thirteen months or less than one month. If

New Mexico is the first state of licensure, initial licenses are valid for a period of not less than twenty-four months or more than thirty-five months and shall be renewed on July 1.
[16.10.2.9 NMAC - N, 5/1/2002; A, 1/20/2003; A, 7/1/2003; A, 4/3/2005; A, 10/7/2005; A, 7/1/2006; A, 1/10/2007; A, 1/3/2008; A, 10/11/2013; A, 01/15/2014; A, 2/8/2022]

16.10.2.10 MEDICAL LICENSE BY ENDORSEMENT:

A. Prerequisites

for licensure: Each applicant for a license to practice as a [medical-doctor] physician in New Mexico by endorsement must be of good moral character, hold a full and unrestricted license to practice medicine in another state, and possess the following qualifications:

- (1) have practiced medicine in the United States or Canada immediately preceding the application for at least three years;
- (2) be free of disciplinary history, license restrictions, or pending investigations in all jurisdictions where a medical license is or has been held;
- (3) graduated from a board approved school or hold current ECFMG certification; and
- (4) current certification from a medical specialty board recognized by the ABMS or the AOA-BOS.

B. Required

documentation for all applicants:

Each applicant for a license must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation:

- (1) a completed signed application with a passport-quality photo taken within the previous six months; applications are valid for one year from the date of receipt by the board;
- (2) verification of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession;

verification must be received directly from the other state board(s), and must attest to the status, issue date, license number, and other information requested and contained on the form;

(3) two

recommendation forms from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physicians must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly to the board from the recommending physician; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;

(4)

verification of all work experience and hospital affiliations in the last three years, if applicable, not to include postgraduate training; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;

(5) a copy of

all ABMS or AOA-BOS specialty board certifications, if applicable; this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board; and

(6) the

board may request that applicants be investigated by the biographical section of the AMA, the DEA, the FSMB, the national practitioner data bank, and other sources as may be deemed appropriate by the board;

(7) applicants

who are not U.S. citizens must provide proof that they are in compliance with the immigration laws of the United States.

C. Licensure

process: Upon receipt of a completed application, including all required

documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

D. Initial license

expiration: Medical licenses shall be renewed on July 1 following the date of issue. Initial licenses are valid for a period of not more than thirteen months or less than one month.

[16.10.2.10 NMAC - N, 1/20/03; A, 7/1/2003; A, 4/3/05; A, 10/7/05; A, 7/1/06; A, 1/10/07; A, 10/11/13; A, 01/15/14; A, 2/8/2022]

16.10.2.12 POSTGRADUATE TRAINING LICENSE:

A postgraduate training license is required for all interns, residents, and fellows enrolled in board approved training programs within the state. Individuals enrolled in board approved training programs outside of New Mexico may apply for a postgraduate training license as a pre-requisite to obtaining a New Mexico public service license.

A. Prerequisites

for licensure: Each applicant for a postgraduate training license must possess the following qualifications:

(1) graduated

from a board approved school or completed a program determined by the board to be substantially equivalent to a U.S. medical school or college of osteopathic medicine, based on board review of an evaluation by a board approved credential evaluation service;

(2) passed

part I of the United States medical licensing examination (USMLE) or COMLEX; and

(3) be of good

moral character.

B. Required

documentation: Each applicant shall submit the required fee as specified in 16.10.9.8 NMAC and complete the board-approved application.

(1) Applicants

enrolled at the university of New Mexico health science center must submit an application through the office of graduate medical education for review before it is forwarded to the board for review and approval.

(2) Applicants

enrolled at a board approved training program outside New Mexico must submit the postgraduate training license application directly to the board.

(3) A copy of

the official examination results must be attached to each application.

C. Licensure process:

Upon receipt of a completed signed application and fee, a member or agent of the board will review the application and may approve the license. The applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board.

D. License expiration:

Postgraduate training licenses are valid for no longer than one year, but may be renewed for a period not to exceed eight years or completion of the residency, whichever is shorter, and as long as the license holder is enrolled in a board approved training program. Postgraduate training licenses may be renewed prior to expiration.

[16.10.2.12 NMAC - Rp, 16 NMAC 10.2.14, 4/18/2002; 16.10.2.12 NMAC - Rn, 16.10.2.11 NMAC, 1/20/2003; A, 10/7/2005; A, 7/1/2006; A, 1/3/2008; A, 10/11/2013; A, 2/8/2022]

16.10.2.16 PROVISIONS FOR PHYSICIAN LICENSURE DURING A DECLARED

DISASTER: The board will make accommodations for physicians who have been impacted by a major disaster. Based on the nature of the disaster, the extent of the damage, and the number of individuals and institutions that have been affected, the board may waive documentation requirements for any new or pending applications when the disaster delays or prohibits the procuring of the

required documents. The board may also waive any required fees for applications submitted after the major disaster. The board will determine the length of time the emergency provisions will be in effect for each major disaster that results in applications for a federal emergency license.

A. Federal emergency

license by examination: Physicians currently licensed in a state in which a major disaster has been declared may be issued a federal emergency license in New Mexico. The board may waive specific documentation required in Subsection B through E of 16.10.2.9 NMAC if the applicant is unable to obtain the documentation from individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.9 NMAC.

B. Federal emergency

license by endorsement: Physicians currently licensed in a state in which a major disaster has been issued a federal emergency license in New Mexico. The board may waive specific requirements of Subsection B of 16.10.2.10 NMAC if the applicant is unable to obtain the documentation from individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.10.2.10 NMAC. The following requirements will apply to applicants under this provision:

(1) a

completed signed application, is required, accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) the board

will consider the required three years of practice experience to be met through any combination of postgraduate medical education and actual work experience;

(3) the board

may waive any requirements for recommendation forms or verification of work experience forms;

(4) other required verification will be obtained online by board staff to include: current licensure status, national practitioners data bank, federation of state medical board disciplinary database, American medical association or AOA records of education and postgraduate training, and the records of the American board of medical specialties or AOA-BOS to confirm board certification status.

C. License expiration:

Initial federal emergency licenses shall be valid for not less than three months or more than fifteen months. Licenses shall be renewed on July 1 following the date of issue, pursuant to 16.10.7 NMAC. The board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license renewal. At the time a federal emergency license is approved for renewal it will be transferred to a full medical license. [16.10.2.16 NMAC - N/E, 9/22/2005; A, 12/30/2005; A, 7/1/2006; A, 2/8/2022]

16.10.2.19 CRIMINAL CONVICTIONS:

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

- (1) homicide;
- (2) aggravated assault, aggravated battery, kidnapping, false imprisonment, human trafficking, stalking, or other crimes of violence against persons;
- (3) robbery, larceny, burglary, extortion, receiving stolen property, possession of burglary tools, unlawful taking of a motor vehicle, or other crimes involving theft or appropriation of personal property or funds;
- (4) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, child solicitation, or other crimes constituting sexual offenses;

- (5) crimes against children; crimes involving child abuse or neglect; child sexual exploitation, child pornography;
- (6) driving under the influence of intoxicating liquor or drugs;
- (7) trafficking controlled substances;
- (8) fraud, forgery, money laundering, embezzlement, credit card fraud, counterfeiting, financial exploitation, or other crimes of altering any instrument affecting the rights or obligations of another;
- (9) making a false statement under oath or in any official document;
- (10) evasion of a lawful debt or obligation, including but not limited to tax obligations; or
- (11) an attempt, solicitation or conspiracy involving any of the felonies in this subsection. [16.10.2.19 NMAC - N, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.3 NMAC, Section 2, 6, 7, and 12 effective 2/8/2022.

16.10.3.2 SCOPE: This part applies to all [allopathic] physicians applying for licensure in New Mexico. [16.10.3.2 NMAC - N 4/18/2002; A, 2/8/2022]

16.10.3.6 OBJECTIVE: This part establishes examination requirements for physicians seeking licensure as [an allopathic] a physician in New Mexico. [16.10.3.6 NMAC - N, 4/18/2002; A, 2/8/2022]

16.10.3.7 DEFINITIONS:
A. "COMLEX" means comprehensive osteopathic medical licensing examination.
B. "COMVEX" means comprehensive osteopathic medical variable-purpose examination.

~~[A.]~~ **C.** "ECFMG" means educational commission for foreign medical graduates.

~~[B.]~~ **D.** "FLEX" means federal licensing exam.

~~[C.]~~ **E.** "LMCC" means licentiate of the medical council of Canada.

~~[D.]~~ **F.** "NBME" means national board of medical examiners.

G. "NBOE" means national board of osteopathic examination.

~~[E.]~~ **H.** "PLAS" means post-licensure assessment system.

~~[F.]~~ **I.** "SPEX" means special purpose examination.

~~[G.]~~ **J.** "USMLE" means the United States medical licensing examination, an examination of three separate "steps". [16.10.3.7 NMAC - N, 4/18/2002; A, 1/2/2008; A, 2/8/2022]

16.10.3.12 OSTEOPATHIC LICENSING EXAMINATIONS:

- A. FLEX:**
- (1) Each applicant must earn a passing score of seventy-five percent or higher on each of the two components of the examination. The board will not accept overall or average scores.
 - (2) If an applicant fails either component of the FLEX examination, the applicant must repeat only the component failed. Upon failing one or both components, the applicant may repeat the component failed at the next administration of the examination. If the applicant fails a second examination, the applicant must wait one year before taking the examination for a third time. If the applicant fails a third time, the applicant must acquire one additional year of AOA approved postgraduate training before being examined a fourth time.
 - (3) Both components of the FLEX examination must be passed within seven years of taking the initial examination.
- B. NBOE:**
- (1) Each applicant must earn a passing score of seventy-five percent or higher on

each of the three components of the examination.

(2) All three components of the NBOE examination must be passed within seven years of taking the initial examination.

C. COMLEX: (1) Each applicant must earn a minimum total passing score or higher on each level of the examination.

(2) All levels of the COMLEX examination must be passed within seven years of taking the initial examination.

D. USMLE: (1) Each applicant must earn a minimum total passing score or higher on each step of the examination.

(2) All steps of the USMLE examination must be passed within seven years of taking the initial examination.

[16.10.3.1 NMAC - N, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.4 NMAC, Section 7, 10, 11 effective 2/8/2022.

16.10.4.7 DEFINITIONS:

A. "AACOM" means American association of colleges of osteopathic medicine.

B. "AAFP" means American academy of family physicians.

C. "AAPS" means American association of physician specialists.

D. "ACCME" means accreditation council for continuing medical education.

~~[A:] E. "AMA" means the American medical association.~~

F. "AOA" means American osteopathic association.

G. "CCME" means council on continuing medical education of the AOA.

~~[B:] H. "CME" means continuing medical education.~~

~~[C:] I. "ABMS" means American board of medical specialties.~~

[16.10.4.7 NMAC - N, 4/18/2002; A, 9/27/07; A, 2/8/2022]

16.10.4.10 ACCEPTABLE AS CME: The board will accept any of the following as fulfillment of CME requirements:

A. the physician's recognition award of the AMA PRA Category 1 Credit™;

B. certificate of CME issued by any board or sub-board of the ABMS, or

C. certification or recertification by an ABMS approved specialty board during the renewal period;

D. active membership in the AOA;

E. certification or recertification by an osteopathic specialty board during the triennial cycle;

F. passage of the COMVEX or SPEX during the triennial cycle.

[16.10.4.10 NMAC - N, 4/18/2002; A, 9/27/2007; A, 2/8/2022]

16.10.4.11 ALLOWED COURSES AND PROVIDERS:

The following courses and activities are acceptable for CME credit:

A. AMA PRA Category 1 Credit™ Clinical courses, lectures or grand rounds certified by an accredited sponsor of the AMA physician's recognition award, AMA PRA Category 1 Credit™ are acceptable for credit whether taken in an on-site format or taken using the internet.

B. AOA. Clinical courses approved for CCME, AOA, AMA, ACCME, AAFP, AACOM, or AAPS category 1-A, 1-B are approved.

~~[B:] C. NEW MEXICO SPECIFIC CME. Activities certified by the New Mexico medical society (NMMS) continuing medical education committee are acceptable for credit. Up to [forty (40)] 40 credits in any three-year reporting period are allowed for participation in activities certified as New Mexico specific CME by the NMMS continuing education committee.~~

New Mexico specific CME are issued by the NMMS for service on the New Mexico medical review commission and on the impaired physician committee.

~~[C:] D. POST GRADUATE EDUCATION.~~ A maximum of [~~seventy-five (75)] 75] credit hours in any three-year reporting period are allowed for participation in a postgraduate education program, which has been approved by the board or by the AMA liaison committee on graduate medical education, CCME, ACGME and AACOM. This category includes internships, residencies and fellowships.~~

~~[D:] E. ADVANCED DEGREES.~~ [~~Forty (40)] 40] credit hours are allowed for each full academic year of study toward an advanced degree in a medical field or a medically related field as approved by the board.~~

~~[E:] F. TEACHING.~~ One credit hour is allowed for each hour of teaching medical students or physicians in a United States medical school, an approved internship or residency or for teaching in other programs approved by the board for a maximum of [~~forty (40)] 40] credit hours in any three-year reporting period.~~

~~[F:] G. PHYSICIAN PRECEPTORS.~~ A maximum of [~~thirty (30)] 30] hours of credit during a three year reporting period is acceptable for licensed physicians who are acting as preceptors for students enrolled in an accredited medical or physician assistant school or as preceptors for students enrolled in a combined bachelor of arts and medical degree program.~~

~~[G:] H. PAPERS AND PUBLICATIONS.~~ [~~Ten (10)] 10] hours of credit are allowed for each original scientific medical paper or publication written by a licensee. For acceptance, papers must have been presented to a recognized national, international, regional or state society or organization whose membership is primarily physicians; or must have been published in a recognized medical or medically related scientific~~

journal. Material used in a paper or publication may be given credit one time. A maximum of [~~thirty (30)~~] 30 hours credit may be claimed during each three-year reporting period.

[H:] L. ADVANCED LIFE SUPPORT. Credit may be claimed during each three-year reporting period for successful completion of ACLS (advanced cardiac life support), PALS (pediatric advanced life support), ATLS (advanced trauma life support), NALS (neonatal advanced life support), and ALSO (advanced life support in obstetrics) courses.

[H:] J. EXPERT REVIEW. Credit may be claimed by physicians who provide expert services by reviewing investigation cases for the board. A maximum of 10 credit hours in any three-year reporting period are allowed for providing expert review.

[16.10.4.11 NMAC - Rp 16 NMAC 10.4.8, 4/18/2002; A, 4/3/2005; A, 9/27/2007; A, 1/2/2008; A, 7/1/2010; A, 9/22/2011; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.5 NMAC, Section 3, 7, 9, 10, 11, 14, 15 and 16 effective 2/8/2022.

16.10.5.3 STATUTORY AUTHORITY: This part is promulgated pursuant to and in accordance with the Medical Practice Act, Sections 61-6-1 through 61-6-35 NMSA 1978, the Uniform Licensing Act, Section 61-1-1 through 61-1-33 NMSA 1978, [and] the Impaired Health Care Provider Act, section 61-7-1 through 61-7-12 NMSA 1978, the Genetic Counseling Act, Section 61-6A-1 through 61-6A-10 NMSA 1978, the Polysomnography Practice Act, Section 61-6B-1 through 61-6B-10 NMSA 1978, the Naprapathic Act, Sections 61-12F-1 through 61-12F-13 NMSA 1978, and the Naturopathic Doctors' Act, Section 61-12G-1 through 61-12G-11 NMSA 1978. [16.10.5.3 NMAC - Rp 16 NMAC 10.5.3, 4/18/2002; A, 1/1/2009; A, 2/8/2022]

16.10.5.7 DEFINITIONS:
A. "License" means a document granting legal permission to a physician, a physician assistant, anesthesiologist assistant, genetic counselor, or a polysomnographic technologist, naprapathic practitioner, or a naturopathic physician, to practice in the state of New Mexico.

B. "Licensee" means a physician, physician assistant, anesthesiologist assistant, genetic counselor, or a polysomnographic technologist, naprapathic practitioner, or naturopathic physician, who has been granted permission to practice in the state of New Mexico.
[16.10.5.7 NMAC - Rp 16 NMAC 10.5.7, 4/18/2002; A, 1/1/2009; A, 2/14/2013; A, 2/8/2022]

16.10.5.9 REVOCATION OF LICENSE:

A. Action prior to revocation: Prior to revoking any license for any violation of the Medical Practice Act, or the Impaired Health Care Provider Act, the board shall give the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act.

B. Terms of revocation: A licensee whose license is revoked may not practice in any manner under that license.

C. Revocation under the Medical Practice Act: All revocations pursuant to the Medical Practice Act are permanent and no such license revoked shall be reinstated. Persons seeking licensure after revocation under the Medical Practice Act shall file a new application for licensure with the board, under the rules for new applicants.

D. Relicensing after revocation under the Impaired Health Care Provider Act: A [~~physician or physician assistant~~] licensee whose license has been revoked pursuant to the Impaired Health Care Provider Act may petition for reinstatement pursuant to Section 61-7-9 NMSA 1978.

[16.10.5.9 NMAC - Rp 16 NMAC 10.5.10, 4/18/2002; A, 1/1/2009; A, 2/14/2013; A, 2/8/2022]

16.10.5.10 SUSPENSION OF LICENSE:

A. Action prior to suspension: Except as provided in the Impaired Health Care Provider Act, or in a disciplinary order entered after a hearing, or pursuant to Subsection C of 16.10.5.15 NMAC below, prior to suspending any license, the board shall give the licensee written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act.

B. Terms of suspension: The board may suspend a license for either a specified period of time or indefinitely. A licensee whose license is suspended may not practice in any manner under that license during the period of suspension.

C. Reinstatement: Unless otherwise established by the board:

(1) If the board has suspended a license indefinitely, the licensee must [~~petition~~] apply to the board for reinstatement. If reinstatement is initially denied, the licensee may [~~petition~~] apply for reinstatement on a yearly basis thereafter.

(2) If the board sets a date after which a license may be reinstated, the board will consider [~~a~~] an [~~petition~~] application for reinstatement only after that date. The licensee may [~~petition~~] apply for reinstatement on a yearly basis thereafter.

(3) A [~~physician~~] licensee whose license has been suspended pursuant to the Impaired Health Care Provider Act may [~~petition~~] apply for reinstatement pursuant to Section 61-7-9 NMSA, 1978, if the [~~physician~~] licensee can meet the statutory requirements. If the reinstatement is denied, the licensee may [~~petition~~] apply for reinstatement on a yearly basis thereafter.

[16.10.5.10 NMAC - Rp 16 NMAC 10.5.11, 4/18/2002; A, 1/1/2009; A, 2/8/2022]

16.10.5.11 PROBATION:

A. General: The board may stay any disciplinary action taken and place a licensee on probation with a requirement that the licensee comply with ~~[terms of probation]~~ certain terms and conditions. The board may also place a licensee on probation without taking other disciplinary action.

B. Terms of probation: The terms of the probation shall be set forth in writing. The licensee on probation may continue to practice under the license so long as the licensee complies with all terms of probation.

C. Violation of probation: If ~~[probation is granted and]~~ the terms of the probation are ~~[then]~~ violated, the board shall give the applicant written notice and an opportunity to request a hearing pursuant to the Uniform Licensing Act prior to taking further disciplinary action, unless the order of probation contains a provision for the ~~[summary]~~ immediate suspension of the license.

[16.10.5.11 NMAC - Rp 16 NMAC 10.5.13, 4/18/2002; A, 1/1/2009; A, 2/8/2022]

16.10.5.14 [RESERVED] REIMBURSEMENT OF COSTS: Where a disciplinary proceeding resulting in a board order imposing disciplinary action of any kind, the board may impose reimbursement of costs against the licensee.

[16.10.5.14 NMAC - Rp 16 NMAC 10.5.16, 4/18/2002; - Repealed, 4/3/2005; N, 2/8/2022]

16.10.5.15 STIPULATION:

A. Power to enter into stipulations: The board may come to an agreement and enter into a stipulation with a licensee at any time. In a stipulation, the parties may agree to any disciplinary or other action that the board is authorized to take by law.

B. Contents: The stipulation shall be in writing, shall contain the agreed upon conditions or restrictions on the licensee and shall be signed by the board and the licensee. The stipulation shall contain statements that the licensee:

(1) knows and understands the applicable statutory and regulatory provisions setting forth the authority and power of the board; and

(2) understands that entering into a stipulation regarding the case results in a waiver of the licensee's rights under the Uniform Licensing Act, the Medical Practice Act, or the Impaired Health Care Provider Act, as applicable, including the right to appeal.

C. Violation of a stipulation:

The licensee, by accepting a stipulation, agrees the board may immediately suspend a license ~~[and the board may agree that the board may take immediate action to suspend a license, as set forth in the stipulation,]~~ if the board has reasonable cause to believe that any term of the stipulation has been violated, without the licensee being given an opportunity to request a hearing. The immediate suspension remains in effect until a further order of the board is entered. The board shall issue a notice of contemplated action within 10 days of the issuance of an immediate suspension. In this case, the stipulation shall provide that the board shall give notice of the disciplinary action to the licensee at the ~~[last known]~~ address of record maintained by the board of the licensee pursuant to the provisions of the Uniform Licensing Act. An immediate suspension is separate and distinct from a summary suspension described in 16.10.5.16 NMAC below.

D. Costs: In all appropriate cases, the payment of costs of investigating and preparing the case, ~~[including reasonable prosecuting attorney's fees,]~~ may be negotiated as part of the stipulation. [16.10.5.15 NMAC - Rp 16 NMAC 10.5.17, 4/18/2002; A, 1/1/2009; A, 2/8/2022]

16.10.5.16 SUMMARY SUSPENSION: This is a formal preliminary disciplinary action that [immediately] summarily suspends a licensee's right to practice. The

summary suspension remains in effect until a further order of the board is entered. The licensee has an opportunity for a full hearing before the board on the summary suspension.

A. The board may summarily suspend or restrict a license issued by the board without a hearing, simultaneously with, or at any time after, the issuance of a notice of contemplated action (NCA) and the initiation of proceedings for a hearing provided for under the Uniform Licensing Act on the NCA, if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;

(2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction; or

(3) has pled guilty to or been found guilty of any offense related to their practice or for any violent criminal offense in this state or a substantially equivalent criminal offense in another U.S. jurisdiction.

B. A licensee is not required to comply with a summary action until service of the action has been made personally or by certified mail, return receipt requested, at the licensee's ~~[last known]~~ address of record maintained by the board ~~[as shown in the board's records]~~, or the licensee has actual knowledge of the order, whichever occurs first. The board's executive director may sign a summary suspension order that the board has authorized.

C. A licensee whose license is summarily suspended is entitled to a hearing before the board on the summary suspension order, pursuant to the Uniform Licensing Act, within ~~[fifteen (15)]~~ 15 days from the date the licensee requests a hearing. This hearing request shall be in writing, addressed to the board, delivered by certified mail, return receipt requested.

[16.10.5.16 NMAC - N, 1/1/2009; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.9 NMAC, Section 6, 9, 10, 11, 12, 14 and 15 effective 2/8/2022.

16.10.9.6 OBJECTIVE:

This part sets fees for physicians, physician assistants, anesthesiologists assistants, genetic counselors, polysomnography technologists, naturopathic doctors and individuals requesting selected public information.

[16.10.9.6 NMAC - Rp 16.10.9.6 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.9 PHYSICIAN ASSISTANT FEES:

A. Application fee of \$150.
B. Biennial renewal of licensure fee of \$150.

C. Change of primary supervising physician fee of \$25.

D. Late fee of \$50 for physician assistants who renew their license, or provide required documentation, after March 1 but by April 15 of the renewal year.

E. Late fee of \$75 for physician assistants who renew their license, or provide required documentation, between April 15 and May 30 of the renewal year.

F. Fee of \$25 for placing a physician assistants license on inactive status.

G. [~~Fee of \$100 for reinstatement of a physician assistants license.~~] Reinstatement fee of \$100, for reinstatement of a physician assistant license, which shall be in addition to the biennial license renewal; and if required, nationwide criminal history screening fee.

H. Nationwide criminal history screening fee equal to the current federal bureau of investigation and department of public safety fee.

I. Statewide criminal history fee equal to the current department of public safety fee.
[16.10.9.9 NMAC - Rp 16.10.9.9 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.10 ANESTHESIOLOGIST ASSISTANT FEES:

A. Application fee of \$100.

B. Biennial renewal fee of \$100.

C. Change in supervision fee of \$25.

D. Late fee of \$25 for failure to renew license or provide required documentation by July 1 of the renewal year.

E. Reinstatement fee of \$50, for reinstatement of an anesthesiologist assistant license, which shall be in addition to the biennial license renewal; and if required, nationwide criminal history screening fee.

[16.10.9.10 NMAC - Rp 16.10.9.10 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.11 GENETIC COUNSELOR FEES:

A. Application fee of \$150; includes temporary license while certification is pending.

B. Biennial renewal fee of \$150.

C. [~~Reinstatement fee of \$100.~~] Reinstatement fee of \$100, for reinstatement of a genetic counselor license, which shall be in addition to the biennial license renewal; and if required, nationwide criminal history screening fee.

D. Temporary teaching or assisting license fee of \$150.

E. Temporary license renewal fee of \$50; for applicants renewing a temporary license while certification is pending.

F. Late fee of \$50 for failure to renew license or provide required documentation by March 1 of the renewal year.

[16.10.9.11 NMAC - Rp 16.10.9.11 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.12 POLYSOMNOGRAPHY TECHNOLOGIST FEES:

A. Application fee of \$150; includes temporary permit while certification is pending.

B. Biennial renewal fee of \$150.

C. [~~Reinstatement fee of \$100.~~] Reinstatement fee of \$100, for reinstatement of a

polysomnography technologist license, which shall be in addition to the biennial license renewal; and if required, nationwide criminal history screening fee.

D. Temporary permit renewal fee of \$50.

E. Late fee of \$50 for failure to renew license or provide required documentation by March 1 of the renewal year.

[16.10.9.12 NMAC - Rp 16.10.9.12 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.14 MISCELLANEOUS FEES:

A. Copying fee of up to \$1.00 per page for public records.

B. License verification fee of \$30 per license for a letter of good standing to confirm the verification.

C. [~~License verification fee of \$5 per license with a minimum charge of \$15 for verification of a list of licenses when the list contains the license numbers and physicians' names. No letters of good standing shall be issued for verifications from a list of this kind and notations regarding each verification shall be made on the list provided.~~

~~_____D.]~~ Fee of \$20 per copy for annual directory of physicians.

~~[E.]~~ **D.** Returned check fee of \$25.

~~[F.]~~ **E.** List of licensees on CD - \$100.

~~[G.]~~ **F.** Physician mailing labels - \$250, physician assistant mailing labels - \$50.

~~[H.]~~ **G.** Administrative reprocessing fee - no greater than current initial licensing fee.

~~[I.]~~ **H.** Waiver. The board may waive or reduce miscellaneous fees but only for good cause shown and documented. The NMMS, NMAPA, and UNMHSC will each be given one free list or CD annually.

[16.10.9.14 NMAC - Rp 16.10.9.14 NMAC, 3/24/2020; A, 2/8/2022]

16.10.9.15 NATUROPATHIC DOCTORS:

A. Application fee of \$320.

B. Triennial license renewal fee of \$360.

C. Processing fee of \$20 for placing a license on inactive status.

D. Late fee of \$80 for all naturopathic doctors who renew their license to active status, or provide required documentation after March 1 but by April 15 of the renewal year.

E. Late fee of \$160 for naturopathic doctors who renew their license to active status, or provide required documentation after April 15 but by May 30 of the renewal year.

F. Reinstatement fee of \$200, for reinstatement of a naturopathic doctors' license, which shall be in addition to the biennial license renewal; and if required, nationwide criminal history screening fee.

G. Nationwide criminal history screening fee equal to the current federal bureau of investigation and department of public safety fee.

H. Statewide criminal history fee equal to the current department of public safety fee.
[16.10.9.15NMAC - N, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.10 NMAC, Section 7 effective 2/8/2022.

16.10.10.7 DEFINITIONS:

The following definitions apply to this section. All terms not defined have their general dictionary meaning.

A. "Adverse action" means any discipline, sanction or other action, whether equitable, administrative, civil or criminal, affecting a licensee, applicant or other person falling under the jurisdiction of the Medical Practice Act. The term embraces any action affecting the licensee's or applicant's practice, including, but not limited to revocations, suspensions, probation, monitoring, restrictions, and stipulations or other limitations, as well as fines, penalties and financial settlements. The term also includes any action taken to avoid disciplinary action, a sanction, or another action. An action does not need to involve

clinical competence or patient care or affect clinical privileges in order to be "adverse".

B. "Adversely affecting" means reducing, restricting, suspending, revoking, denying, or failing to renew clinical privileges, or membership in a health care entity to include: terminating employment for cause, or without cause when based on incompetency or behavior affecting patient care and safety, or allowing the licensee or applicant to resign rather than being terminated for such reasons. These actions do not include those instances in which a peer review entity requires supervision of a licensee or applicant for purposes of evaluating that licensee's or applicant's professional knowledge or ability.

C. "Clinical privileges" include privileges, membership on the medical staff, employment, and other circumstances under which a licensee or applicant is permitted by a health care entity to furnish medical care.

D. "Termination of employment" includes the termination of employment by a health care entity for cause, or without cause if related to clinical competence or behavior affecting patient safety/ care, or allowing resignation in lieu of termination for such reason.

E. "Health care entity" means:

- (1) a hospital, HMO, a physician group, locum tenens or staffing agency, or other health care institution that is licensed to provide health care services in New Mexico;

- (2) an entity that provides health care services and that follows a formal peer review process for the purpose of furthering quality health care;

- (3) a professional society or a committee, or agent thereof, of licensed health care practitioners at the national, state or local level, that follows a formal peer review process for the purpose of furthering quality health care, including without limitation a health maintenance organization or other

prepaid medical practice which is licensed or determined to be qualified by any state; and

- (4) a health plan or network that partners payers, employers and health care providers and professionals, including preferred provider groups, specialty groups, physician-hospital organizations and workers' compensation networks.

F. "Medical malpractice action or claim" means a written claim or demand for compensation based on the furnishing, or failure to furnish, health care services, and includes, without limitation, the filing of a cause of action, based on the law of tort, brought in any court of any state or the United States seeking monetary damages whether resulting in a settlement or in a judgment.

G. "Professional review action" means an action of a health care entity:

- (1) taken in the course of professional review activity;

- (2) based on the competence, conduct, or impairment of a licensed health care practitioner which affects or could affect adversely the health or welfare of a patient or patients; and,

- (3) which adversely affects or may adversely affect the clinical privileges or membership in a professional society of a licensed health care professional.

H. "Professional review activity" means an activity of a health care entity with respect to an individual licensee or applicant:

- (1) to determine whether the licensee or applicant may have clinical privileges with respect to, or membership in, the entity;

- (2) to determine the scope or conditions of such privileges or membership; or

- (3) to change or modify such privileges or membership.

I. "Credentialing discrepancy" means, for the purposes of this part, an error or omission in an application.

[16.10.10.7 NMAC - Rp 16.10.10.7 NMAC, 9/17/2018; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.11 NMAC, Section 7, 9, 10 and 12 effective 2/8/2022.

16.10.11.7 DEFINITIONS:

A. “Alternate supervising physician” means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, and agrees to act as the supervising physician in the supervising physician’s absence with no change to the scope of practice or protocol of the pharmacist clinician. The alternate supervising physician must be approved by the board or designee.

[A:] B. “Consultation” means in person, telephonically, by two-way radio, by e-mail or by other electronic means.

[B. — “Alternate supervising physician” means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, and agrees to act as the supervising physician in the supervising physician’s absence with no change to the scope of practice or protocol of the pharmacist clinician. The alternate supervising physician must be approved by the board.]

C. “Dangerous drug” means a drug, that because of any potentiality for harmful effect or the methods of its use or the collateral measures necessary to its use, is not safe except under the supervision of a physician licensed by law to direct the use of such drug and the drug prior to dispensing is required by federal law and state law to bear the manufacturer’s legend “Caution: Federal law prohibits dispensing without a prescription”.

D. “Pharmacist clinician” means a pharmacist with additional training required by regulation adopted by the New Mexico board of pharmacy in consultation with the New Mexico

medical board and the New Mexico academy of physician assistants, who exercises prescriptive authority in accordance with guidelines or protocol.

[C:] E. “Scope of practice” means duties and limitations of duties placed upon a pharmacist clinician by their supervising physician and/or the alternate supervising physician(s) and the board; includes the limitations implied by the [field of practice] specialty of the supervising physician and/or the alternate supervising physician(s), the training and experience of the pharmacist clinician and the board.

F. “Supervising physician” means a physician, or group of physicians who hold a current unrestricted license and are approved by the board to supervise a pharmacist clinician and includes a physician approved by the board as an alternate supervising physician.

G. “Written Protocol” means a written agreement between a pharmacist clinician or group of pharmacist clinicians and a physician or group of physicians that delegates prescriptive authority.

[4/5/1997, 4/27/2000; 16.10.11.7 NMAC - Rn & A, 16 NMAC 10.11.7, 1/10/2007; A, 2/8/2022]

16.10.11.9 APPROVAL OF SUPERVISING PHYSICIANS: A physician shall only be approved as a pharmacist clinician supervisor after the pharmacist clinician registers with the board by submitting an application for authority to practice under the supervision of a licensed physician. The application shall include:

A. the name, address, phone number of the applicant and his/her proof of current certification as a pharmacist clinician by the board of pharmacy;

B. the name, address, and phone number of the supervising physician;

C. a written protocol agreed to and signed by the pharmacist clinician and the supervising physician that shall include:

(1) a statement identifying the physician authorized

to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive authority that the pharmacist clinician is authorized to make within his scope of practice which may include:

(a) a statement of the types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication to and consultation with the supervising physician concerning specific decisions made; documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(d) a statement that describes appropriate mechanisms for reporting to the physician the pharmacist clinician’s activities in monitoring the patients; and

(e) a statement that describes provisions for immediate communication or consultation between the pharmacist clinician and the supervising physician or alternate supervising physician.

D. The pharmacist clinician may be authorized in the protocol to monitor dangerous drug therapy as follows:

(1) collecting and reviewing patient dangerous drug histories;

(2) measuring and reviewing routine patient vital signs including pulse, temperature, blood pressure and respiration; and

(3) ordering and evaluating the results of

laboratory tests relating to dangerous drug therapy, including blood chemistries and cell counts, controlled substance therapy levels, blood, urine, tissue or other body fluids, culture and sensitivity tests when performed in accordance with guidelines or protocols applicable to the practice setting.

E. A pharmacist clinician may only prescribe controlled substances if he/she:

(1) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and

(2) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3, A. of the Pharmacist Prescriptive Authority Act.

~~**F.** The protocol for each pharmacist clinician shall be reviewed by the board as least every two years.~~

~~**G.**~~ **E.** A pharmacist clinician shall perform only those services that are set forth in the protocol.

~~**H.**~~ **G.** Pharmacist clinicians may prescribe only those drugs described in a board approved protocol.

~~**I.**~~ **H.** A physician may supervise as many pharmacist clinicians as the physician can effectively supervise and communicate with in the circumstances of their particular practice setting.

~~**J.** Within thirty days after an employer terminates the employment of a pharmacist clinician, the supervising physician and/or the pharmacist clinician shall submit a written notice to the board providing the date of termination and reason for termination. The pharmacist clinician shall not work as a pharmacist clinician until the board approves another supervising physician.~~

[4/5/1997, 4/27/2000; 16.10.11.9 NMAC - Rn & A, 16 NMAC 10.11.9, 1/10/2007; A, 1/2/2008; A, 2/8/2022]

16.10.11.10 THE PHYSICIAN'S REQUIREMENTS OF SUPERVISION:

A. Supervising physicians must provide direction to pharmacist clinicians to specify the pharmacotherapeutic services to be provided under the circumstances in each case. This may be done by written protocol or by oral consultation. It is the responsibility of the supervising physician to assure that the appropriate directions are given and understood.

B. Supervising physicians must establish a quality assurance program for review of medical services provided by the pharmacist clinician.

C. If the supervising physician is of the opinion that circumstances warrant exceptions to the requirements set forth in Subsections A or B above, the supervising physician must specify the circumstances in writing and deliver the same to the board. The board will review, grant or deny requests for exceptions or waivers, at the board's discretion.

D. Documentation of the supervising physician reviews must be retained by the pharmacist clinician and be available for board inspection for a period of not less than ~~five (5)~~ three years from the date of such reviews.

E. The pharmacist clinician must have prompt access to the physician by telephone or other electronic means for advice and direction.

F. If the supervising physician plans to be or is absent from his or her practice for any reason, the supervising physician cannot designate a pharmacist clinician to take over those duties or cover the practice during such absence. The supervising physician may designate an alternate supervising physician, approved by the board, to cover the practice and perform the duties of supervising physician. The alternate supervising physician will then supervise the pharmacist clinician and will be responsible for the pharmacist clinician's actions or omissions in

exercising prescriptive authority or other duties as a pharmacist clinician.

~~**G.** [In order to change a supervising physician between biennial renewals of registration, without a change to the pharmacist clinician's scope of practice or protocol, a pharmacist clinician shall submit to the board a change of supervising physician form and the required fee, as specified in 16.10.9.11 NMAC. The new supervising physician may only act after the application is approved by the board.]~~ Supervising physician is required to report any supervised pharmacist clinician who is practicing below accepted standards of care to the board.

[4/5/1997, 4/27/2000; 16.10.11.10 NMAC - Rn & A, 16 NMAC 10.11.10, 1/10/2007; A, 2/8/2022]

16.10.11.12 PHARMACIST CLINICIAN SUPERVISOR APPLICATION, RENEWAL AND TERMINATION:

A. Required documentation. Each applicant for a pharmacist clinician supervisor and alternate pharmacist clinician supervisor must submit the required fees as specified in 16.10.9.8 NMAC and the following documentation:

(1) A completed signed application.

(2) Copy of proof of current certification of the pharmacist clinician by the New Mexico board of pharmacy.

(3) A written protocol signed by the pharmacist clinician and the supervising physician, which includes the requirements in Subsection C of 16.10.11.9 C NMAC.

(4) Physicians who have had previous disciplinary action against them will be subject to further review by the board and may be approved, or approved with limitations, or denied. Physicians who had previous disciplinary action may apply to become a pharmacist clinician supervisor or alternate supervisor, the application will be sent to the board for consideration and decision.

B. License expiration.

Pharmacist clinician supervisor licenses shall be renewed on July 1. Initial licenses are issued for two years.

C. Process for written protocol. The protocol for each pharmacist clinician shall be reviewed by the board or designee upon new application, if change of supervising physician occurs, or if a written protocol has been changed or modified.

D. Change of supervising physician. In order to change a supervising physician between biennial renewal of approval, without a change to the pharmacist clinician's scope of practice or protocol, an applicant shall submit to the board a change of supervising physician form and the required fee, as specified in 16.10.9.11 NMAC. The new supervising physician may only act after the application is approved by the board.

E. License issuance. Pharmacist clinician supervisor licenses are issued with the name of the pharmacist clinician who the supervisor is authorized to supervise. A copy of the license will be mailed to both the pharmacist clinician and the pharmacist clinician supervisor.

F. Employment Termination/Change. Within 30 days after an employer terminates the employment of a pharmacist clinician, the supervising physician shall submit a written notice to the board providing the date of termination and reason for termination. The pharmacist clinician shall not work as a pharmacist clinician except under a current approved protocol and supervising physician.

[16.10.11.12 NMAC - N, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.14 NMAC, Section 10 effective 2/8/2022.

16.10.14.10 PHYSICIAN, PHYSICIAN ASSISTANTS**AND ANESTHESIOLOGIST ASSISTANTS TREATED WITH OPIATES:**

Physicians, physician assistants or anesthesiologist assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by a [medical doctor or doctor of osteopathy] physician pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.

[16.10.14.10 NMAC - N, 9/28/2012; A, 2/14/13; 16.10.14.10 NMAC - Rp, 16.10.14.9 NMAC, 11/30/2016; A, 2/8/2022]

MEDICAL BOARD

This is an amendment to 16.10.15 NMAC, Section 9 effective 2/8/2022.

16.10.15.9 LICENSURE PROCESS FOR A PHYSICIAN ASSISTANT UNDER SUPERVISION:

Each applicant for a license as a physician assistant under supervision shall submit the required fees and following documentation.

A. A completed application for which the applicant has supplied all information and correspondence requested by the board on forms and in a manner acceptable to the board. Applications are valid for one year from the date of receipt.

B. Two letters of recommendation from physicians licensed to practice medicine in the United States or physician assistant program directors, or the director's designee, who have personal knowledge of the applicant's moral character and competence to practice.

C. Verification of licensure in all states where the applicant holds or has held a license to practice as a physician assistant, or other health care profession.

Verification must be sent directly to the board from the other state board(s).

D. Verification of all work experience in the last two years, if applicable, provided directly to the board.

E. [All applicants may be scheduled for a personal interview before the board or the board's designee for an interview and must present original documents, as the board requires. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.] Upon receipt of a completed signed application and fee, a member or agent of the board will review the application and may approve the license. The applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board.

F. The initial license is valid until March 1 of the year following expiration of certification by NCCPA or other certifying agency approved by the board.

[~~G.~~ License by endorsement from New Mexico board of osteopathic examiners. Applicants who are currently licensed in good standing by the New Mexico board of osteopathic examiners may be licensed by endorsement upon receipt of a verification of licensure directly from the New Mexico board of osteopathic examiners and a supervising physician form signed by the medical doctor who will serve as supervising physician.]

[~~H.~~] **G.** All applicants for initial licensure as a physician assistant are subject to a state and national criminal history screening at their expense.

(1)

Applications for licensure will not be processed until receipt of the background check requirements verification.

(2)

Applications will be processed pending the completion of the nationwide criminal background screening and may be granted while the screening is still pending.

(3) If the criminal background screening reveals a criminal arrest or charge, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board. Failure to report a criminal arrest or charge is a violation of the Medical Practice Act.
[16.10.15.9 NMAC - Rp, 16.10.15.9 NMAC, 1/16/2018; A, 2/8/2022]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule 14.5.1 NMAC, General Provisions filed on January 15, 2016, and replace it with 14.5.1 NMAC General Provisions, adopted on January 26, 2022 and effective March 10, 2022.

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule 14.5.2 NMAC, Permits filed on November 15, 2016, and replace it with 14.5.2 NMAC Permits, adopted on January 26, 2022 and effective March 10, 2022.

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule 14.5.3 NMAC, Inspections filed on November 15, 2016, and replace it with 14.5.3 NMAC Inspections, adopted on January 26, 2022 and effective March 10, 2022.

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule 14.6.3 NMAC, Contractor’s License Requirements filed on February 1, 2006, and replace it with 14.6.3 NMAC Contractor’s License Requirements, adopted on January 26, 2022 and effective March 10, 2022.

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule

14.6.5 NMAC, Inspectors filed on May 1, 2014, and replace it with 14.6.5 NMAC Inspectors, adopted on January 26, 2022 and effective March 10, 2022.

The Construction Industries Commission approved at its January 19, 2022 meeting, to repeal its rule 14.6.6 NMAC, Classifications and Scope filed on January 1, 2014, and replace it with 14.6.6 NMAC Classifications and Scopes, adopted on January 26, 2022 and effective March 10, 2022.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

**TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS
PART 1 GENERAL PROVISIONS**

14.5.1.1 ISSUING AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.
[14.5.1.1 NMAC - Rp, 14.5.1.1 NMAC, 3/10/2022]

14.5.1.2 SCOPE: This rule applies to all the administration, interpretation, and enforcement of contracting work performed in New Mexico subject to the jurisdiction of Construction Industries Licensing Act and the Liquefied Petroleum and Compressed Natural Gas (LPG & CNG Act).
[14.5.1.2 NMAC - Rp, 14.5.1.2 NMAC, 3/10/2022]

14.5.1.3 STATUTORY AUTHORITY: Section 60-13-9 NMSA 1978.
[14.5.1.3 NMAC - Rp, 14.5.1.3 NMAC, 3/10/2022]

14.5.1.4 DURATION: Permanent.

[14.5.1.4 NMAC - Rp, 14.5.1.4 NMAC, 3/10/2022]

14.5.1.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section.
[14.5.1.5 NMAC - Rp, 14.5.1.5 NMAC, 3/10/2022]

14.5.1.6 OBJECTIVE: The purpose of this rule is to set forth general provisions as the statewide minimum standards governing construction contracting work in New Mexico.
[14.5.1.6 NMAC - Rp, 14.5.1.6 NMAC, 3/10/2022]

14.5.1.7 DEFINITIONS: The definitions in this section are used throughout the construction industries division rules contained in Chapters 5 through 10 of Title 14.

A. “Apprentice” means an individual who is learning a particular trade from a validly licensed employer. CID recognizes apprentices whether registered in an apprenticeship program recognized by the New Mexico state apprenticeship council pursuant to the New Mexico department of workforce solutions or unregistered while learning the particular trade skills.

B. “Authority having jurisdiction” “AHJ” means the state or a municipality, county or other political subdivision that has a full-service building department employing a full-time certified building official and has permitting, inspection and enforcement authority over the general construction, electrical and mechanical-plumbing trades within its jurisdiction. Provided however, that a municipality, county or other political subdivision established as an AHJ prior to July 1, 2009, with authority over specified trades shall continue in that capacity without a full-service building department until relinquishing its authority as a building trades department.

C. “Baby changing facility” means a table or other device suitable for changing the diaper of a child age three or under.

D. “Certified building official” “CBO” means an employee of the state, a county, a municipality or other political subdivision who is approved by the division as to experience and qualifications, and who has a broad knowledge of the construction industry, holds a current nationally recognized code organization certified building official certificate and has been either a practicing inspector or practicing contractor for at least five years or held a management position in a construction-related business or construction organization for at least five of the past 10 years. Each CBO is charged with the administration and enforcement of the provisions of the Construction Industries Licensing Act and the administrative codes under the act.

E. “Certificate of occupancy” “C/O” means the written approval for a newly constructed building or for a change in building occupancy, certifying that the building has passed all required inspections and is safe for occupancy. Once issued it remains in effect unless suspended or revoked pursuant to Subsection F of 14.5.3.13 NMAC.

F. “Change of occupancy” means a change in the use of the building or portion of a building including a change of the occupancy classification or any change in use within a classification group to another occupancy in the group.

G. “CID” and “division” mean the construction industries division of the regulation and licensing department.

H. “CID rules” means the rules compiled in Title 14, Chapters 5 through 10 of the New Mexico Administrative Code.

I. “CILA” means the Construction Industries Licensing Act, Section 60-13-1 et seq. NMSA 1978.

J. “CIC” and “Commission” means the construction industries commission.

K. “Code” means the statewide construction codes adopted by the commission.

L. “Code Bond”: means the construction license bond required in Section 60-13-49 NMSA 1978, for correction of code violations certified by the division.

M. “Commercial” means a structure that is classified as having a use identified in the New Mexico Commercial Building Code, including but not limited to, assembly, business including a public building, educational, institutional, mercantile, storage or utility.

N. “Commercial or industrial work” means all electrical, mechanical or plumbing work not defined as residential work in 14.6.6. NMAC.

O. “Commissioning” means test procedures and results completed and certified by the registered design professional or approved agency and provided to the building owner or owner’s authorized agent.

P. “Completion” means the date of the issuance of a certificate of occupancy or the date of the final inspection by the governmental entity having jurisdiction over code enforcement.

Q. “Contracting” has the same meaning as defined in Section 60-13-3 NMSA 1978.

R “CVD” means a code violation determination report prepared by a division employee.

S. “Direct supervision” means supervision, inspection and evaluation by a certified journeyman, working in the immediate proximity of a trainee or apprentice, overseeing all classification activities as they occur while providing direction, feedback, assistance and evaluation of the work of the apprentice.

T. “Director” has the same meaning as defined in Subsection N of Section 60-13-2 NMSA 1978.

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

V. “Electrical wiring” means installation; alteration; connection; service and maintenance;

demolition; or repair of raceways; conduits; conductors; cables; boxes; fittings; wiring devices; luminaires; overcurrent devices; distribution equipment; or other equipment or apparatus that is used as part of, or in connection with, an electrical installation.

W. “Fixed works” means public work projects and facilities that require specialized engineering, knowledge and skill

X. “Foreman” means an owner or employee of a licensed company with experience in a particular trade who is charged with organizing and managing the execution of that trade for single or multiple projects for the licensed entity.

Y. “Formal hearing” means a hearing held under the ULA, Section 60-1-1 through 60-1-33 NMSA 1978.

Z. “Gross incompetence or gross negligence” means, but shall not be limited to, a significant departure from the prevailing industry standard, manufacturer specifications or any provision of CILA, ULA or rule adopted by the commission

AA. “IBC” means the International Building Code currently adopted by reference.

BB. “Industrial” means buildings and structures designed to house industrial processes for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations.

CC. “Informal hearing” means a hearing held pursuant to Subsection C of Section 60-13-27 NMSA 1978.

DD. “Inspector” means a person certified by the division and certified by one or more trade bureaus to conduct inspections of permitted work, in the jurisdiction of the AHJ employing said inspector to ensure that all work performed by a contractor or a homeowner complies with the CILA and its administrative code.

EE. “IRC” means the International Residential Code currently adopted by reference.

FF. “License” means a license, registration, certificate of registration, or certificate.

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

HH. “LPG standards” means Section 70-5-1 et seq. NMSA 1978, LPG and CNG Act and 19.15.40 NMAC, Liquefied Petroleum Gas Standards, collectively.

II. “Mechanical and or plumbing work” means installation, alteration, connection, maintenance, demolition, or repair of piping, fixtures, or equipment as defined in Section 60-13-32 NMSA 1978; ducts, appurtenances or other equipment that is used as part of, or in connection with a mechanical or plumbing system installation.

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

KK. “NMCBC” means 14.7.2 NMAC, the currently adopted New Mexico Commercial Building Code, which adopts by reference and amends the designated IBC

LL. “New Mexico certified building official” and “NMCBO” means a person who meets the qualifications of a CBO, is employed by CID as a trade bureau chief, and appointed by the director as the state of New Mexico’s CBO. The NMCBO has ultimate authority over conflicts arising among AHJs other than trade bureau chiefs.

MM. “New Mexico construction code(s)” means any of the rules compiled in Title 14, Chapters 7 through 10 of the New Mexico Administrative Code.

NN. “New restroom” means a toilet facility constructed as part of the construction of a new commercial building or facility, constructed as part of a new addition to an existing commercial building or facility, constructed as a standalone restroom facility, or a new toilet facility constructed in an existing building.

OO. “NMCBC” means 14.7.2 NMAC, the currently adopted

New Mexico Commercial Building Code, which adopts by reference and amends the designated IBC.

PP. “NMEBC” means 14.7.7 NMAC, the currently adopted New Mexico Existing Building Code, which adopts by reference and amends the designated International Existing Building Code.

QQ. “NMEBMC” means 14.7.4 NMAC, currently adopted New Mexico Earthen Building Materials Code.

RR. “NMEC” means 14.10.4 NMAC, the currently adopted New Mexico Electrical Code, which adopts by reference and amends the designated National Electrical Code.

SS. “NMRECC” means 14.7.6 NMAC, the currently adopted New Mexico Residential Energy Conservation Code, which adopts by reference and amends the designated International Residential Energy Conservation Code.

TT “NMCECC” means 14.7.9 NMAC, the currently adopted New Mexico Commercial Energy Conservation Code, which adopts by reference and amends the designated International Commercial Energy Conservation Code.

UU. “NMESC” means 14.10.5 NMAC, the currently adopted New Mexico Electrical Safety Code, which adopts by reference and amends the designated National Electrical Safety Code.

VV. “NMMC” means 14.9.2 NMAC, the currently adopted New Mexico Mechanical Code, which adopts by reference and amends the designated Uniform Mechanical Code.

WW. “NMPC” means 14.8.2 NMAC, the currently adopted New Mexico Plumbing Code, which adopts by reference and amends the designated Uniform Plumbing Code.

XX. “NMRBC” means 14.7.3 NMAC, the currently adopted New Mexico Residential Building Code, which adopts by reference and amends the designated International Residential Code.

YY “NMSEC” means 14.9.6 NMAC, the currently adopted Mexico Solar Energy Code, which

adopts by reference and amends the designated Uniform Solar Energy Code.

ZZ. “NMSPSHTC” means 14.8.3 NMAC, the currently adopted New Mexico Swimming Pool, Spa, and Hot Tub Code, which adopts by reference and amends the designated Uniform Swimming Pool, Spa, and Hot Tub Code.

AAA. “NOI” means a notice of investigation prepared by a division employee.

BBB “Notice of contemplated action” (“NCA”): means the official notice to a licensee that the commission is seeking to take action against a licensee for alleged violations of the CILA or rules promulgated by the commission.

CCC. “Place of public accommodation” means a structure or facility intended to accommodate members of the public as specifically provided in Section 60-13-10.3 NMSA 1978 and supplemented in Table 2902.1 of the NMCBC 14.7.2.37 NMAC.

DDD. “Prime contractor” means the licensed contractor who contracted with the property owner to oversee the construction project and act as the owner’s agent as defined in Subsection B of 14.6.6.8 and Subsection A of 14.6.6.9 NMAC.

EEE. “Public building” means a building or other structure on publicly owned lands or used by the state, a municipality, county or other political subdivision of the state using state, municipal or county funds, bonds or other revenue

FFF. “Published code” means any code or standard published by an entity other than the state of New Mexico and adopted by reference, or referred to as a standard in the CID rules.

GGG. “Residential work” means work on one and two family dwelling units, and residences including apartment houses accommodating not more than four family units (Groups R-1, R-2, R-3) as defined in 14.7.2 NMAC. This includes structures in Group U, as defined in 14.7.2 NMAC, when incidental to groups R-1, R-2 and R-3.

HHH. “Roof coating” means a fluid material applied in the field as a sacrificial film to the roof surface to provide weather protection over the original waterproof membrane. The coating protects the waterproof roof substrate from the weather (solar radiation, heat and moisture) and may change the appearance of the roof. Roof coatings do not replace a roof assembly or roof covering.

III. “School” means a public school, a school district, a regional educational cooperative, shared maintenance program, charter school, or private school, recognized by the New Mexico public education department that offers grade levels from kindergarten through 12th grade only.

JJJ. “Statewide inspector’s certificate” means a state-issued certificate that enables an inspector to conduct inspections in one or more trade bureau jurisdictions for the state or any county, municipality or other political subdivision in which the inspector is employed and that has a certified building official in its employ.

KKK. “Sub-contractor” means a licensed contractor who is hired by the prime contractor, regardless if the sub-contractor obtains its own permit or works under the permit obtained by the prime contractor.

LLL. “Substantially equivalent” means the determination by the Construction Industries Division 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 Construction Industries Licensing Act.

MMM. “Surety” means the insurance company authorized by the NM department of insurance to transact business in New Mexico and acts as the underwriter of a contractor’s code bond.

NNN. “Technically infeasible” means an alteration of

a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

OOO. “Trade bureau” means the general construction, mechanical-plumbing, electrical or liquefied petroleum (LP) gas trade bureau of the CID.

PPP. “Trade bureau chief” “TBC” means the administrative head of a New Mexico CID trade bureau charged with the administration and enforcement of the trade bureau’s state adopted codes and standards. The trade bureau chiefs are the ultimate authority having jurisdiction to determine and render interpretations of their trade codes. The trade bureau chief shall recommend to the CID and the CIC all minimum standards and codes, for their specific trade(s), for adoption.

QQQ. “ULA” means the Uniform Licensing Act, Section 61-1-1 et seq. NMSA 1978.

RRR. “Unregistered apprentice” means a person who, for the purpose of learning a trade of journeyman and is not registered in an apprenticeship program recognized by the New Mexico state apprenticeship council.

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

[14.5.1.7 NMAC - Rp, 14.5.1.7 NMAC, 3/10/2022]

14.5.1.8 RESPONSIBILITY FOR COMPLIANCE:

A. Every person who performs work in connection with the installation, construction, alteration, repair or demolition of any building or structure, or on any electrical,

gas, mechanical or plumbing system, or other constructions as defined by Section 60-13-3 NMSA 1978 or Section 70-5-6 NMSA 1978 and regulated by the division’s statutes and rules is responsible for complying with all statutes and rules.

B. When a violation of the statutes or code is alleged, the AHJ shall investigate the allegation to obtain sufficient evidence or proof to determine whether a violation has occurred. The AHJ may require tests, at no cost to CID or the AHJ, to determine compliance. Such tests shall be conducted in conformance with nationally recognized testing standards, or if no standards have been established, in conformance with such specifications as the AHJ shall approve.

[14.5.1.8 NMAC - Rp, 14.5.1.8 NMAC, 3/10/2022]

14.5.1.9 CONFLICTS:

A. Between current New Mexico construction codes.

When the provisions of one New Mexico construction code specifies different materials, methods, construction, or requirements than another New Mexico construction codes, the general rule of legal interpretation shall be applied that the most specific provision shall govern over more general provisions.

B. Title 14 NMAC is recognized as the state minimum standards. An AHJ may enact ordinances that are stricter than the state adopted minimum codes. If a conflict arises between the TBC and the CBO of an AHJ regarding compliance with a particular state adopted minimum code, the determination of the TBC shall control. The interpretation of an AHJ ordinance beyond the requirements of the state adopted minimum codes is the sole authority of the CBO of the AHJ

C. With prior New Mexico construction codes.

The code adopted at the time a structure is built or modified governs. If modifications are made under a subsequent code, that code governs the areas modified. If all or any part

of the structure is determined to be unsafe, 14.5.1.12 NMAC shall apply.

D. Between current New Mexico construction codes and codes adopted by other state agencies. The NMRBC and the NMCBC establish the type of structure, the design, construction and the occupancy classification of a building. These codes shall govern over any codes concerning construction adopted by other agencies which conflict as to type of structure, the design, construction and the occupancy classification. The construction codes adopted and enacted by the CID shall govern if the construction is specifically required in the enacted code.

E. With requirements of other agencies. All licensees, qualifying parties and journeymen must follow all regulatory agency laws when said agency has jurisdiction over certain aspects of a project. These may include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, any local fire code enforcement agency; or any other applicable code or standard enforced by the state environment department; the state health department, state human services department; transportation department, the public regulation commission; homeland security and emergency management department, the governor's committee on the concerns of the handicapped; historical authorities; and local zoning, and floodplain.

F. With referenced and incorporated codes and standards. The provisions of any published code or standard referenced in the CID rules shall be deemed to be incorporated into and made part of the CID rules, including all modifications and amendments to the referenced codes and standards. If the reference results in a conflict between the provision of the published code or standard and the CID rules, the CID rules shall govern.

[14.5.1.9 NMAC - Rp, 14.5.1.9 NMAC, 3/10/2022]

14.5.1.10 CERTIFIED BUILDING OFFICIAL FOR AN AHJ: Power and duties: The CBO is responsible for enforcing the state and local rules and codes in an AHJ. The interpretations and procedures established by a CBO must be in compliance with CID statutes and rules.

[14.5.1.10 NMAC - Rp, 14.5.1.10 NMAC, 3/10/2022]

14.5.1.11 TRADE BUREAU CHIEFS:

A. Powers and duties: Each trade bureau chief is the ultimate authority and is authorized to render interpretations of the trade bureau's adopted New Mexico codes and standards and to establish procedures for the interpretation and application of those codes.

B. Alternative materials and methods of construction: The trade bureau chief is authorized to permit a variance or approve an alternative material or method of construction as provided in this section.

C. Variances. If the circumstances of a particular construction project make strict compliance with state adopted code(s) and standards technically infeasible or impracticable, the trade bureau chief responsible for enforcing that code has the authority to approve a variance. No variance shall be valid or have force or effect unless issued in writing and signed by the trade bureau chief.

D. Alternatives. The trade bureau chief is responsible, for approving materials, designs and methods of construction that are not expressly specified in that particular code.

E. Supporting data. The trade bureau chief may require supporting data be supplied by the requestor.

[14.5.1.11 NMAC - Rp, 14.5.1.11 NMAC, 3/10/2022]

14.5.1.12 UNSAFE STRUCTURES OR OTHER LIFE SAFETY HAZARD:

A. For purposes of this

section, an unsafe condition is any condition that poses an actual threat to the health, safety or welfare of persons or property and constitutes a violation of the CILA or its rules.

B. When conducting an inspection, if an inspector discovers an unsafe condition or a life safety hazard the inspector shall take the following action:

(1) If the unsafe condition or hazard results from construction in progress, issue a correction notice and stop work order as is applicable to abate the unsafe condition or hazard; if a stop work order is appropriate the inspector shall contact the TBC or CBO for authority to issue the stop work order unless the correction is for life safety. In such circumstance the stop work order shall be issued by the inspector providing notification to the specific TBC or CBO.

(2) If the unsafe condition or hazard is in an existing building not related to construction in progress, complete a correction notice detailing the observed unsafe condition or hazard. Either a correction notice or report shall be provided to the AHJ and the owner, agent or person in control or possession of the structure when the identity of the owner, agent or person cannot be readily determined. The report shall be provided no later than 48 hours after the observation of the unsafe condition.

(3) If the unsafe condition or hazard relates to any utility service the inspector shall proceed in accordance with Subsections A through D of Section 60-13-42 NMSA 1978; any service disconnected pursuant to this rule shall not be reconnected without the prior written approval of the TBC or CBO.

C. If requested by a condemning authority, the TBC or CBO of the applicable AHJ will inspect or designate an inspector to inspect the property within its jurisdiction and report findings to the condemning authority pursuant to Paragraph (2) of Subsection B of this section.

[14.5.1.12 NMAC - Rp, 14.5.1.12 NMAC, 3/10/2022]

14.5.1.13 TECHNICAL ADVISORY COMMITTEE:

A. Each TBC may create a technical advisory committee and appoint members to assist the TBC in an advisory capacity on technical aspects of the particular industry.

B. The committee will meet at the call of the trade bureau chief.

C. The members serve at the pleasure of the TBC.

[14.5.1.13 NMAC - Rp, 14.5.1.13 NMAC, 3/10/2022]

14.5.1.14 APPEALS:

A. All appeals, other than the allowable appeal to the commission regarding identical or similar names pursuant to Section 60-13-13.2 NMSA 1978 shall follow provisions of the ULA.

B. Appeals from the decision of the commission shall be made in writing to the district court as provided in Section 61-1-17 NMSA 1978.

[14.5.1.14 NMAC - N, 3/10/2022]

History of 14.5.1 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11/25/1970;

CIC 72-4, General Construction Classifications, filed 2/16/1972;

CIC 76-2, Rules and Regulations, filed 5/05/1976;

CID 78-2, Rules and Regulations, filed 12/05/1978;

CID 79-1, Rules and Regulations, filed 6/06/1979;

CID 82-1, Construction Industries Rules and Regulations, filed 4/14/1982;

CID 85-1, Construction Industries Rules and Regulations, filed 2/04/1985;

CID 90-1, Construction Industries Rules and Regulations, filed 5/31/1990.

History of Repealed Material:

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 92/97), repealed 12/1/2000.

14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10/16/2000) repealed 7/1/2004.

14.5.1 NMAC, Construction Industries General Provisions - General Provisions, (filed 5/27/2004) repealed 11/15/2016.

14.5.1 NMAC, General Provisions, (filed 1/15/2016) was repealed and replaced by 14.5.1 NMAC, General Provisions, effective 3/10/2022.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 05/31/1990 -- renumbered, reformatted and amended to 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act, effective 9/14/1996.

14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act (filed 9/03/1996) amended and replaced by 14 NMAC 5.1.1, Construction Industries General Provisions - Open Meetings Act effective 9/23/1997.

14 NMAC 5.1.1, Housing and Construction - Construction Industries General Provisions - Open Meetings Act (filed 9/02/1997) replaced by 14.5.1 NMAC, Housing and Construction - Construction Industries General Provisions - Open Meetings Act, effective 12/1/2000.

14.5.1 NMAC, Construction Industries General Provisions - Open Meetings Act (filed 10/16/2000); that portion of 14.1.1 NMAC, Housing General Provisions - General Provisions (filed 10/16/2000); that portion of 14.5.4 NMAC, Construction Industries General Provisions - Alternative Materials, Methods and Assemblies of Construction (filed 10/16/2000); that portion of 14.5.7 NMAC, Construction Industries General Provisions - Technical Advisory Councils, Hearings, Appeals, Severability (filed 10/16/2000);

that portion of 14.7.2 NMAC, 1997 New Mexico Building Code (filed 10/16/2000); that portion of 14 NMAC 9.2, 1997 New Mexico Plumbing and Mechanical Code (filed 10/30/1998); that portion of 14.10.4 NMAC, State of New Mexico Electrical Code (filed 7/01/2002) has been replaced by 14.5.1 NMAC, Construction Industries General Provisions - General Provisions, effective 7/1/2004.

**REGULATION AND LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND CONSTRUCTION
CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS
PART 2 PERMITS**

14.5.2.1 ISSUING AGENCY: The Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.5.2.1 NMAC - Rp, 14.5.2.1 NMAC, 3/10/2022]

14.5.2.2 SCOPE: This rule applies to all work performed in New Mexico that is subject to the jurisdiction of CID for which permits are required.

[14.5.2.2 NMAC - Rp, 14.5.2.2 NMAC, 3/10/2022]

14.5.2.3 STATUTORY AUTHORITY: Sections 60-13-9, 60-13-10.3, 60-13-45, 60-13-46 and 60-13-47 NMSA 1978.

[14.5.2.3 NMAC - Rp, 14.5.2.3 NMAC, 3/10/2022]

14.5.2.4 DURATION: Permanent.

[14.5.2.4 NMAC - Rp, 14.5.2.4 NMAC, 3/10/2022]

14.5.2.5 EFFECTIVE DATE: March 10, 2022, unless

a later date is cited at the end of a section.

[14.5.2.5 NMAC - Rp, 14.5.2.5 NMAC, 3/10/2022]

14.5.2.6 OBJECTIVE:

The purpose of this rule is to set forth standards and requirements governing permitting of construction work in New Mexico as the statewide minimum standard.

[14.5.2.6 NMAC - Rp, 14.5.2.6 NMAC, 3/10/2022]

14.5.2.7 DEFINITIONS:

See 14.5.1.7 NMAC for definitions.

[14.5.2.7 NMAC - Rp, 14.5.2.7 NMAC, 3/10/2022]

14.5.2.8 PERMITS

REQUIRED:

A. Permits required.

Subject to the Construction Industries Licensing Act “CILA”, Sections 60-13-3 and Section 60-13-45 NMSA 1978, and its rules, no building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished, no electrical wiring, plumbing or mechanical work or LP gas work as defined and described in the applicable New Mexico construction codes for those trades, may be installed, repaired, altered or maintained in or on such building or structure, unless the applicable permit has first been obtained from the appropriate AHJ, unless otherwise provided by statutes or rule. All re-roofs and applications of roof coatings require a building permit and inspections.

B. Eligibility.

A person who is not appropriately, validly and currently licensed by the division is not eligible to apply for or be issued a permit. Provided however, a homeowner’s permit may be issued to a residential property owner subject to the limitations of 14.5.2.18 NMAC and an annual permit is provided as noted in 14.5.2.19 NMAC.

C. Application.

In order to obtain a permit, the applicant must complete and submit an application on an AHJ approved form for the type of permit sought.

D. Separate Permit Types.

(1) Separate

permits are required for general building, electrical, mechanical/plumbing, and for liquefied petroleum gas (“LPG”) work, 19.15.40 NMAC.

(2) Permits

for temporary structures or temporary uses of structures, or for temporary electric poles or electrical service, may be issued pursuant to Subsection K of 14.5.2.10 NMAC and 14.5.2.17 NMAC.

E. Roofing.

(1) All new

roof installations and re-roofs require building permits and inspections.

(2) All

applications of roof coating systems require building permits and inspections.

(3) Inspections

must include, at a minimum, decking inspection upon removal of existing roof and the roof system or application of roof coating systems as a final inspection upon completion of roofing project.

F. Solar PV systems.

(1) Persons

bidding or contracting for the installation of a solar PV electric system must possess a valid license issued by the division with the EE-98, EL-1 or ER-1 license classification, as applicable, pursuant to Paragraph (1) of Subsection B of 14.6.6.8 NMAC and Subsection B of 14.6.6.10 NMAC; the GB-98 license classification is authorized if Paragraph (2) of Subsection B of 14.6.6.8 NMAC applies. If structural modifications are required, a GB-02 license classification is allowed for residential construction and otherwise a GB-98 license classification is mandated. CID license classifications can be found in 14.6.6 NMAC.

(2) Submittal

documents shall be prepared and submitted to the appropriate electrical AHJ for review and approval pursuant to Subsection K of 14.5.2.10 NMAC. The submittal documents shall consist of, at a minimum, the following documentation and upon approval an electrical permit shall be issued to

a New Mexico electrical contractor properly licensed for the specific solar PV installation;

(a)

Site plan indicating electrical equipment location.

(b)

PV solar panel layout and arrangement.

(c)

One line diagram identifying all components of the PV solar system and electrical equipment with documentation classifying the listing for each component.

(d)

One line diagram identifying all conductors and conductor sizes.

(e)

Documentation identifying listing of solar mounting system.

(f) If

utility interactive, location and type of connection to other power sources.

(g) If

roof mounted, calculated added loads of solar equipment and mounting systems as noted in Paragraph (5) of Subsection F of 14.5.2.8 NMAC.

(h)

System Calculations.

(i)

Location and type of grounding system or connection to existing grounding system

(3) Persons

performing the installation of a solar PV electrical system, or related work, must possess a valid journeyman certificate issued by CID with an EE-98J, EL-1J or ER-1J classification, as applicable, or be an apprentice working under the direct supervision of a certified journeyman pursuant to 14.6.6.10 NMAC.

(4) Nothing

in this section shall be construed to prohibit a properly licensed person from performing work on the solar PV system’s support structures, racking and mounting of panels as long as it is within the scope of the license classification and upholds the manufacturers’ original listing and labeling.

(5) Structural

analysis must be performed by a professional engineer licensed in

New Mexico to determine if the roof structure is capable of supporting the added loads of a solar PV electric system when any of the following occur.

(a) The total added dead load of the array is greater than five pounds per square foot on the roof.

(b) The total added point load of the array is greater than 45 pounds on the roof.

(c) The total added dead load exceeds 200 pounds on a single truss, rafter or roof joist.

(d) The mounting of the system is of a unique roof mounted design.

(e) The roof structure contains over-spanned trusses, rafters or roof joists.

(6) In addition to the required electrical permit for the mounting of the solar PV system on the roof a general construction building permit shall be required if:

(a) structural reinforcement of an existing roof is necessary as determined by a New Mexico licensed structural engineer or;

(b) a new structure is not listed and approved to support a PV Solar System.

(7) If structural modifications are required, or a new structure will be constructed that is not listed and approved to support a PV solar system, engineered details shall be provided. Structural documents must be sealed by a structural engineer licensed in New Mexico. The required modifications to the structure shall be performed by a validly licensed GS-13, GB-2 or GB-98, as applicable. Reinforcement of the structure will require building permits and inspections conducted by a certified building inspector.

G. Wind turbine systems.

(1) Persons bidding or contracting for the installation of a wind turbine system shall possess a valid license issued by CID with the EE-98, EL-1 or ER-1

license classification, as applicable, pursuant to Paragraph (1) of Subsection B of 14.6.6.8 NMAC, and Subsection B of 14.6.6.10 NMAC; the GB-98 license classification is authorized if Paragraph (2) of Subsection B of 14.6.6.8 NMAC applies. If structural modifications are required, a GB-02 license classification is allowed for residential construction and otherwise a GB-98 license classification is mandated. CID license classifications can be found in 14.6.6 NMAC.

(2) Submittal documents shall be prepared and submitted to the appropriate electrical AHJ for review and approval pursuant to Subsection K of 14.5.2.10 NMAC. The submittal documents shall consist of, at a minimum, the following minimum documentation and, upon approval, an electrical permit shall be issued to a New Mexico electrical contractors properly licensed for the specific wind turbine installation;

(a) Site plan indicating electrical equipment location

(b) Site Plan indicating any distribution

(c) One line diagram identifying all components of the wind turbine system and electrical equipment with documentation classifying the listing for each component.

(d) One line diagram identifying all conductors and conductor sizes.

(e) Documentation identifying listing of wind turbine mounting systems

(f) If utility interactive, location and type of connection to other power sources.

(g) If roof mounted, calculated added loads of wind turbine equipment and mounting systems as noted in Subparagraph (a) of Paragraph (3) of Subsection G of 14.5.2.8 NMAC.

(h) System Calculations

(i) Location and type of grounding system or connection to existing grounding system.

(3) Persons performing the installation of wind turbine electrical systems shall possess a valid journeyman certificate issued by CID for the EE-98J, EL-1J or ER-1J classification, as applicable, or shall be an apprentice working under the direct supervision of a certified journeyman pursuant to Subsection A of 14.6.6.10 NMAC.

(4) Building mounted wind turbine systems

(a) Structural analysis must be performed by a professional engineer licensed in New Mexico to determine if the roof structure is capable of supporting the added loads of a wind turbine if:

(i) the total added dead load of the turbine is greater than five pounds per square foot on the roof.

(ii) the total added point load of the turbine is greater than 45 pounds on the roof.

(iii) the total added dead load exceeds 200 pounds on any single truss, rafter or roof joist.

(iv) the mounting of the system is of a unique roof mounted design.

(v) the roof structure contains over-spanned trusses, rafters or roof joists.

(b) A general construction building permit for the mounting of the wind turbine system on the roof will be required if structural reinforcement is necessary as determined by a structural engineer licensed in the state of New Mexico

(c) If structural modifications are required, engineered details shall be provided. Structural documents must be sealed by a professional engineer licensed in New Mexico. The required modifications to the structure shall be performed by a validly certified GS-13, GB-2 or GB-98, as applicable. Reinforcement of the structure will require building permits to be obtained and inspections conducted by a certified building inspector.

H. Baby changing facilities

(1) Pursuant to CILA and 14.7.2.45 NMAC, new restrooms, which shall accommodate any person needing to utilize a baby changing facility, shall be provided in a place of public accommodation except in:

(a) a new restroom located in a place of public accommodation that is not available or accessible for public use.

(b) a new restroom, in a place of public accommodation, providing appropriate signage as to the location of a baby changing facility on the same floor, which shall accommodate any person needing to utilize such facility.

(c) a new restroom constructed in an existing building if it is technically infeasible to provide a baby changing table, due to existing building code, health or safety requirements, including Americans with Disabilities Act requirements;

(2) Baby changing facilities in new restrooms subject to this rule, shall not require a separate permit however shall be included in all drawings, specifications and other documents submitted to an AHJ for plan review and approval pursuant to Subsection A of 14.5.2.10 NMAC and Subsection A of 14.5.2.11 NMAC and inspections pursuant to Subsection A of 14.5.3.8 NMAC.

(a) Submittal documents shall not be approved if said documents do not fully comply with the requirements of this part and 14.7.2.45 NMAC.

(b) A C/O shall not be issued for new construction that fails to be in compliance with all requirements of this part.

(c) a final inspection shall not be issued for a remodel that fails to be in compliance with all requirements of this part.

I. Previously permitted work; previously submitted plans.

(1) All work for which a permit has lawfully been issued prior to the effective date of this rule, which permit has not expired, been deactivated, revoked or suspended by the AHJ pursuant to this part, may proceed as permitted; the rules, codes and standards in effect at the time the permit was issued shall be the rules, codes and standards governing the work and its inspections.

(2) All work for which plans have been submitted and received by the AHJ shall be permitted and inspected pursuant to the rules in effect at the time the plans were received.

[14.5.2.8 NMAC - Rp, 14.5.2.8 NMAC, 3/10/2022]

14.5.2.9 EXCEPTIONS TO REQUIREMENT FOR PERMITS:

Permits shall not be required for the following:

A. Commercial.

(1) One-story detached accessory structures not used for habitation and used as tool or storage sheds, playhouses or similar uses, provided the floor area does not exceed 120 square feet (11.15.m2).

(2) Oil derricks.

(3) Retaining walls that retain less than 36 inches (915 mm) of unbalanced fill, and have a total height equal to or less than six feet from top of wall to bottom of footing. Retaining walls supporting a surcharge load or impounding class I, II, or III-A liquids are not exempt from permit.

(5) Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927L) and the ratio of height to diameter or width does not exceed two to one.

(6) Sidewalks and driveways not more than 30 inches (762 mm) above grade and not over any basement or story below and which are not part of an accessible route.

(7) Temporary motion picture, television and theater stage sets and scenery.

(8) Prefabricated swimming pools accessory to a group R-3 occupancy, as applicable in the NMRBC, that are installed entirely above ground with no permanent connections to water or power.

(9) Shade cloth structures constructed for nursery or agricultural purposes that do not include services systems.

(10) Swings and other playground equipment accessory to one-and two-family dwellings.

(11) Window awnings supported by an exterior wall of group R-3, as applicable in the NMRBC, and group U occupancies.

(12) Partitions not over five feet nine inches (1,753mm) in height.

B. Residential: Refer to Section R105.2 of the IRC except as provided below:

(1) **R105.2 (1)** - One-story detached accessory structures provided that the floor area does not exceed 120 square feet (18.58 m2).

(2) **R105.2 (2)** - Delete this section of the IRC.

(3) **R105.2 (3)** - Retaining walls that retain less than 36 inches (915mm) of unbalanced fill, and have a total height equal to or less than six feet from top of wall to bottom of footing. Retaining walls supporting a surcharge load or impounding class I, II, or III-A liquids are not exempt from permit.

(4) **R105.2 (4)** - See this section of the IRC.

(5) **R105.2 (5)** - See this section of the IRC.

(6) **R105.2 (6)** - Delete this section of the IRC.

(7) **R105.2 (7)** - See this section of the IRC.

(8) **R105.2 (8)** - See this section of the IRC.

(9) **R105.2 (9)** - See this section of the IRC.

(10) **R105.2 (10)** - See this section of the IRC

C. Mechanical work. Refer to the exempt work section of the currently adopted NMMC.

D. Plumbing work.
Refer to the exempt work section of the currently adopted NMPC.

E. Electrical work.
No exceptions other than those set forth in CILA Section 60-13-45. [14.5.2.9 NMAC - Rp, 14.5.2.9 NMAC, 3/10/2022]

14.5.2.10 SUBMITTAL DOCUMENTS:

- A. Submittal documents.**
- (1) With each application for a permit, two sets of the following documents (collectively, submittal documents) must be submitted:
 - (a) type, occupancy including occupant load and kind of structure;
 - (b) plans;
 - (c) specifications;
 - (d) engineering calculations;
 - (e) diagrams;
 - (f) soil investigation reports;
 - (g) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC the NMRBC and NMECC; the submittal documents shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings; roofing systems and manufacturers specifications are required to be submitted;
 - (h) mechanical design criteria for all buildings must be included with the submittal documents; and
 - (i) any other data or document required by the AHJ’s plan review official.
 - (2) For construction subject to the NMCBC,

see Sections 107.1 and 107.2 of the IBC for other requirements regarding submittal documents, including form, means of egress, and site plans. See Subsection H of 14.5.2.8 NMAC and 14.7.2.45 NMAC for requirements for baby changing facilities.

(3) For construction subject to NMRBC, see Sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer’s installation instructions, construction in floodplain areas, and site plans.

(4) Upon approval, one set of the submittal documents shall be retained by the division during construction and one set shall be returned to the permittee, which shall be available at the work site, and available for inspection by the AHJ or inspector during the performance of the permitted work.

(5) Submissions may be required of any specifications, drawings or diagrams necessary to show clearly the kind and extent of building construction work.

B. Professional seals requirements: An architect or engineer stamp is required for all uses listed in table 1004.1.2 of the IBC or when deemed relevant and required at the discretion of the AHJ pursuant to Subsection I of 14.5.2.10 NMAC.

C. Exceptions: The requirement for plans and specifications to be prepared by an architect or engineer shall not be required, in any of the following instances unless, in the discretion of the TBC or CBO, such an exception is not in the best interests of public safety or health. These exceptions are authorized pursuant to The Architectural Act, Section 61-15-9 1978, NMSA and the Engineers & Surveyors Practice Act, NMSA 1978, §. 61-23-22 and Subsection C of 16.39.4.8 NMAC.

(1) Single-family dwellings, not more than two stories in height.

(2) Multiple dwellings not more than two stories in

height and containing not more than four dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided this exception is not construed to allow a person who is not a properly licensed architect to design multiple clusters of up to four dwelling units each where the total exceeds four dwelling units on each lawfully divided lot.

(3) Garages or other structures not more than two stories in height which are appurtenant to buildings described in Paragraphs (1) and (2) of this subsection.

(4) Group A, B, E divisions 1 and 2, F, M, S, U buildings or additions having a total occupant load of 10 or less and not more than two stories in height.

(5) Alteration to buildings or structures that present no unusual conditions or hazards or change in occupancy.

D. Submission may be waived. The CBO or TBC may waive the submission of plans, calculations, construction inspection requirements and other data if it is determined that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the AHJ or the plan review official.

F. Approval and phased approval.

(1) **Approval.** Deferral of any submittal items must have the prior approval of the TBC or CBO. The responsible design professional shall list which submittals are deferred with the submittal documents accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional who shall review and forward them to the

AHJ with a notation indicating the deferred submittal documents have been reviewed and they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until the TBC or CBO has approved their design and submittal documents.

(2) Phased

approval. All submittal documents need not be submitted with the initial application for a permit.

G. Responsible

design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the “responsible design professional.” The permittee shall notify the division in writing within a reasonable period of time, not to exceed 10 business days, if the responsible design professional is changed or is unable to continue to perform all of the responsible design professional’s required duties.

H. Special

submissions. The AHJ or plan review official is authorized to require, before and after the commencement of a project, the submission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical or plumbing, and electrical work on the project covered by the issued permits, or that is required to be permitted pursuant to CID rules.

I. Correction of

submittal documents. The issuance of a permit based on certain plans and specifications shall not prevent the AHJ from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

J. Electrical projects.

(1) Submittal

documents shall be submitted and sealed by an engineer with a specialty in electrical work, licensed in accordance with the New Mexico Engineering and Surveying Practice Act for an electrical installation when:

(a)

there is a calculated service capacity over 100 kVA single-phase;

(b)

there is a calculated service capacity over 225 kVA three- phase;

(c)

electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 400 amps single-phase;

(d)

electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 600 amps on 120/208 volt three-phase systems;

(e)

electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 500 amps on 120/240 volt three-phase systems;

(f)

electrical wiring for new or altered branch circuits or feeders with over-current protection devices over 300 amps on 480 volt three-phase systems;

(g)

a project with a total valuation over \$600,000; or

(h)

a structure in which the total occupancy of 50 or more;

(2) The

following shall not require submittal documents to be sealed by an engineer with a specialty in electrical work:

(a)

Electrical wiring at remote locations with the approval of the appropriate AHJ.

(b)

electrical installations under the following criteria may be sealed by a validly licensed engineer or architect to include:

(i)

a calculated service capacity under 100 kVA single-phase;

(ii)

a calculated service capacity under 225 kVA three-phase;

(iii)

a project valued under \$600,000; or

(iv)

a structure in which the total occupancy is less than 50.

(3) Any

commercial project that requires an architect or engineer seal pursuant to this part shall be submitted to the appropriate electrical AHJ for review and approval.

(4)

Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as “work shall be done in accordance with the New Mexico Electrical Code” or “work shall be done to the satisfaction of the state building official” shall be considered inadequate; and incomplete.

(5) No permit

for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed not a hazard to life or property by the inspector, and approved by the CBO or TBC, may remain in service.

(6) No permit

for a permanent electrical service shall be issued unless the end use of the service is specified by the appropriate valid permit.

(7) A permit

may be issued for a temporary construction electrical service (temp pole) or permanent electrical services for a project site if the permanent permit, as required by 14.5.2.8 NMAC, has not yet been issued and

the electrical service is in compliance with the electrical code and these rules, including but not limited to 14.5.2.17 NMAC, and all required documents are completed and submitted to the AHJ.

K. Mechanical projects.

(1) The AHJ may require the stamp of a professional engineer, licensed in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical or plumbing work with a total value of \$200,000.00, or more, or for commercial buildings three stories and higher.

(2) For plans of buildings more than two stories in height, other than R-3 and U occupancies, see the construction documents section of the currently adopted NMMC.

L. Permit contents and display. Pursuant to CILA Section 60-13-59 NMSA 1978, every permit or notice of permit issued by the AHJ shall:

(1) clearly indicate the name and address of the property owner;

(2) contain a legal description of the property by "lot and block" or "meters and bounds" description in a subdivision, by street address in a municipality, or by township, range and section if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is issued, and the name of the architect or engineer as may be required by the AHJ ; and

(4) must be prominently displayed on the site where the permitted work is to be performed.

M. Preliminary inspection. As part of the document review process, before issuing a building permit, the AHJ is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.10 NMAC, 3/10/2022]

14.5.2.11 ISSUANCE:

A. Plan review. If the submittal documents do not comply with construction codes 14.5.7 through 14.5.10 NMAC, the AHJ shall reject them and shall communicate the reasons for rejection to the applicant in writing. If the submittal documents meet the applicable codes and rules, the submittal documents shall be approved and the AHJ shall issue a permit to the applicant after payment in full of the applicable permit fees, as set forth in 14.5.5 NMAC or as required by the AHJ.

B. Authorization to change. No change or modification may be made to the approved submittal documents for which a permit has been issued without the express, written authorization of the AHJ. All work authorized by a permit must be performed in accordance with the approved submittal documents for which the permit was issued. Changes in the work, occupancy type, occupant load or kind of structure authorized by a permit must be reflected in an amended set of submittal documents, which must be resubmitted for approval by the AHJ.

[14.5.2.11 NMAC - Rp, 14.5.2.11 NMAC, 3/10/2022]

14.5.2.12 VALIDITY OF PERMIT:

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of the New Mexico construction codes or any other applicable law or rule. Permits presuming to give authority to violate or cancel the provisions of the New Mexico construction codes or any other applicable law or rule shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the AHJ from requiring the correction of errors in the construction documents and other data.

[14.5.2.12 NMAC - Rp, 14.5.2.12 NMAC, 3/10/2022]

14.5.2.13 SUSPENSION, CANCELLATION, OR REVOCATION OF PERMIT:

A. The TBC or CBO is authorized to suspend, cancel or revoke a permit issued pursuant to the code for which the official has responsibility for the following causes:

(1) whenever the permit is issued in error, or on the basis of incorrect, inaccurate, incomplete, or fraudulent information or in violation of any provision of Title 14 of the NMAC;

(2) when a job is abandoned as determined by the division pursuant to the CILA and its rules;

(3) failure to correct code violations for which a notice of correction or stop work order has been issued;

(4) change in the person or entity performing the work;

(5) payment of any amount due to an AHJ with a "non-sufficient funds" check;

(6) aiding or abetting an unlicensed contractor or journeyman;

(7) at the written request of the permittee.

(8) upon written notification of the termination of the contract with the permittee, from the project owner.

B. A suspended permit may be reactivated upon approval of the appropriate AHJ and payment of all assessed fees.

[14.5.2.13 NMAC - Rp, 14.5.2.13 NMAC, 3/10/2022]

14.5.2.14 EXPIRATION AND DEACTIVATION OF PERMIT:

A. Expiration. Every permit issued by the AHJ shall expire and be void if the work authorized by the permit is not commenced within 180 days from the issuance date.

B. Cancellation. If the work authorized by a permit is suspended, delayed or abandoned after the work is commenced and such suspension, delay or abandonment

continues for greater than 180 days, the permit shall be cancelled. In order for work on the project to continue, a new permit application must be submitted, a new, full permit fee must be remitted, and a new permit issued. The AHJ may require re-submittal of documents.

C. Extension of time. The CBO or TBC may extend the time of an active permit for an additional period not to exceed 180 days on receipt of a written request from the permit holder showing that circumstances beyond the control of the permittee have caused delay in the permitted work.

D. Penalties. Any work performed after a permit expires, cancels or becomes inactive shall be considered a violation pursuant to Subsection A of 14.5.2.8 NMAC and subject to discipline and to the provisions of 4.5.2.16 NMAC. [14.5.2.14 NMAC - Rp, 14.5.2.14 NMAC, 3/10/2022]

14.5.2.15 DENIAL OF PERMIT:

A. The AHJ may deny the issuance of a permit and associated inspections for good cause. Good cause shall include, without limitation:

- (1) failure to pay all or part of a permit fee or penalty when due;
- (2) an outstanding balance on any amounts due to the division or an AHJ that has accrued without approval of the director or the AHJ.
- (3) Failure to fully comply with a commission order.
- (4) Failure to comply with the Parental Responsibility Act.
- (5) Requesting a permit without the proper license classification for the work to be performed.
- (6) Applying for a permit on behalf of another entity.
- (7) Allowing another other than the licensee to use the license to obtain a permit.

B. After one receipt by an AHJ of a “non-sufficient funds” check, the AHJ may require payment by cashier’s check or certified funds. [14.5.2.15 NMAC - Rp, 14.5.2.15 NMAC, 3/10/2022]

14.5.2.16 FAILURE TO OBTAIN PERMIT:

If any work, is performed by a licensee, for which a permit is required, and is commenced prior to obtaining the necessary permit, the AHJ may assess a fee in the amount of twice the usual permit and inspection fees for the first violation with all subsequent violations disciplined pursuant to Subsection A of Section 60-13-23.1 NMSA 1978, or referring the violation to CID for disciplinary action.

[14.5.2.16 NMAC - Rp, 14.5.2.16 NMAC, 3/10/2022]

14.5.2.17 TEMPORARY STRUCTURES:

A. Permits. The appropriate TBC or the CBO of an AHJ is authorized to issue a permit for temporary structures and temporary uses. Such permits shall specify an expiration date not to exceed one year from the date of issuance. The building official is authorized to grant extensions for good cause supported by credible evidence.

B. Conformance. Pursuant to Section 108.2 of the IBC temporary structures and uses shall comply with the requirements of Section 3101.

C. Temporary power. A permit may be issued by the appropriate TBC or AHJ for the installation and energizing of a temporary electric pole or electrical service as specified in Paragraph (5) of Subsection K of 14.5.2.10 NMAC, for a period not to exceed one year from the date of issuance. When the temporary use of the temporary electric pole or electrical service is no longer required or at the end of the authorized year, the property owner shall notify the appropriate AHJ or inspector. Upon receipt of written notice of such cancellation,

the appropriate AHJ shall notify the utility and the utility shall discontinue service to such system. Service shall not be resumed until a new permit for the work on the system is issued.

D. Temporary service. A permit, for a period not to exceed one year from the date of issuance, may be issued by the appropriate TBC or AHJ authorizing a connection of a temporary system for supplying water, gas, or sewage service, after inspection and testing as applicable by the inspector. When the temporary use of such system is no longer required or at the end of the authorized year, the permittee shall notify the appropriate AHJ. Upon written receipt of such a request to cancel the temporary service, the AHJ shall, either cancel the permit and notify the utility with the utility discontinuing service to such system or work may continue under the issued permit on a non-temporary basis once the temporary use is no longer required. The temporary work permit may be canceled at any time within one year after the permit is issued by the AHJ.

E. Termination of approval. The AHJ is authorized to terminate a permit for a temporary structure when the TBC or CBO deems that it is in the best interests of health, safety and welfare to do so. See 14.5.1.12 NMAC.

[14.5.2.17 NMAC - Rp, 14.5.2.17 NMAC, 3/10/2022]

14.5.2.18 HOMEOWNER’S PERMIT:

A. A homeowner permit allows homeowners to obtain permits for constructing or altering their primary residence without becoming a licensed contractor is strictly limited to construction and alteration of their primary residence. Any other use of a homeowner’s permit shall result in cancellation of the current homeowner permit and denial of any subsequent request for a homeowner permit.

B. The homeowner licensing exemption requires conformity with CILA, its rules, standards and codes. This includes

a homeowner acting as a general contractor for the project.

C. The homeowner's permit authorizes the homeowner to physically perform the work, alone or with legal employees, or act as a general contractor and subcontract portions of the work to licensed contractors. In order to qualify for the homeowner permit the major portion of the work to be performed, based on dollar amount, must be completed by the homeowner.

D. A homeowner may apply for a homeowner's building, plumbing or electrical permit to construct a residence or to remodel or construct an addition to an existing residence. A homeowner's permit may only be issued to a property owner and only for the property owner's primary residence occupied or intended to be occupied by the homeowner. A permit is required for all construction related work for which a permit is required by statute or rule.

E. Homeowner's permits are limited to single-family dwellings, appurtenant structures to single-family dwellings such as private garages, carports, and sheds and are issued only to the property owner providing proof of ownership. All homeowner permit applications are subject to approval by the AHJ.

F. A person applying for a homeowner's permit in order to construct or alter a primary, personal residence in accordance with Paragraph (10) of Subsection D of CILA, Section 60-13-3 NMSA 1978 must provide the following to the AHJ:

(1) A completed AHJ approved homeowner permit application.

(2) A signed and notarized homeowner's permit responsibility sheet acknowledging legal responsibility, verification of the major portion of the work based on dollar amount being completed by the homeowner and the liability of the homeowner for the construction that is completed by subcontractors.

(3) A signed acknowledgement of receipt of the

instructions form for obtaining a homeowner permit.

(4) Zoning approval from the local planning and zoning department.

(5) Flood plain determination from the local flood plain department.

(6) Proof of identity and ownership of the property for which the permit is sought.

(7) Payment of all required fees.

G. The AHJ shall issue separate homeowner's permits for general building construction, mechanical/plumbing and electrical work as appropriate. Each permit authorizes work at the primary residence only and does not apply to rental property, other owned property or to any commercial work or property.

H. The homeowner is responsible for requesting inspections, correcting code violations and requesting required re-inspections to obtain a certificate of occupancy or final inspection as applicable. If the homeowner has hired subcontractor(s) to complete the plumbing, mechanical and electrical work, the sub-contractor(s) remains responsible for obtaining permits, requesting inspections and correcting code violations and requesting required re-inspections prior to the homeowner being able to obtain a certificate of occupancy or final inspection.

I. The homeowner building permit limits the homeowner to perform the work authorized by the permit personally or with employees paid by the homeowner and issued a W-2 form, or to subcontract a portion of the work while self-performing a significant portion of the work.

J. All work subcontracted must be subcontracted to licensed contractors who must apply for the appropriate permits for their work and pass all required inspections.

K. A homeowner's permit is not valid and may not be used to permit a project for which a GB-2 or GB-98 licensed contractor

is contracted to manage, supervise or act as the general contractor for a project. If a homeowner's permit has been issued for such a project it shall become invalid and the contractor acting as the general contractor must obtain the appropriate building permits and shall be responsible for all work performed at this site including subcontracted work.

L. Single-scope projects, including but not limited to, roofing or window installations are not eligible for a homeowner's permit if the work is to be subcontracted and is not performed by the homeowner, either personally or with the aid of valid employees who are issued a W-2 form.

M. A homeowner may apply for a homeowner's permit for plumbing work by complying with Subsection D and by demonstrating sufficient knowledge as determined by the appropriate TBC or CBO. The TBC or CBO shall determine minimum competency by reviewing plans submitted by the homeowner for the proposed work. Completion of a written examination with a minimum passing score of seventy-five percent may be required. Failed examinations may not be repeated sooner than 30 days after the date of the failed exam. Plumbing work pursuant to the homeowner permit shall be performed only by the permittee.

N. A homeowner may apply for a homeowner's electrical permit by complying with Subsection D and submitting plans or drawings showing the electrical equipment on the floor plan and the panel schedule. Once the plans are approved, the permit may be issued to the homeowner only if the homeowner passes the electrical exam for homeowners, with a minimum passing score of seventy-five percent, administered by CID. Failed examinations may not be repeated sooner than 30 days after the date of the failed exam. Electrical work pursuant to the homeowner permit shall only be performed by the permittee.

O. A homeowner's permit shall not be issued for HVAC,

natural gas or LP gas installations. All such work, except LP gas installations, shall require a properly licensed contractor and shall be permitted and inspected pursuant to the requirements of the AHJ. LP gas installations shall require a properly licensed contractor and shall be permitted and inspected pursuant to the requirements of the LP gas trade bureau.

P. Homeowner’s permit projects may not be placed on the market for sale while under construction. Such an action violates the requirements of Paragraph (10) of Subsection D of CILA, Section 60-13-3 NMSA 1978, and will result in the automatic voiding of the permit by the AHJ. A violation may also result in initiation of unlicensed contracting charges against the homeowner in accordance with the requirement of CILA Section 60-13-52 NMSA 1978.

Q. No more than one homeowner’s permit for a single-family dwelling shall be issued to the same property owner within any 12-month period. [14.5.2.18 NMAC - Rp, 14.5.2.18 NMAC, 3/10/2022]

14.5.2.19 ANNUAL PERMIT:

A. Commercial:
(1) Types and scopes:

(a) Electrical repair maintenance commercial (ERMC) permits. The scope of this permit includes the repair or maintenance performed on existing electrical systems in commercial facilities. Repair and maintenance means work that is necessary to maintain an established, approved electrical, which work is required to keep the system operating in its original approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved electrical system, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion

or alteration of an electrical system or any portion thereof. Life safety systems include systems intended to protect the occupants of the structure such as fire protection, controls for smoke evacuation systems, energy, and egress lighting systems, except replacement of light bulbs and batteries in emergency lights and exit signs.

(b) Mechanical repair maintenance commercial (MRMC) permits.

The scope of this permit includes the repair or maintenance performed on existing mechanical/plumbing systems in commercial facilities. Repair and maintenance means work that is necessary to maintain an established, approved mechanical/plumbing system, which work is required to keep the system operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved mechanical/plumbing system, but does not include work on systems that are generally considered in the industry to be related to be life safety systems, or work that entails new construction, relocation, expansion or alteration of a mechanical/plumbing system or any portion thereof. Life safety systems include systems intended to protect the occupants of the structure such as fire protection and smoke evacuation systems.

(c) General construction repair and maintenance work that is required as a direct consequence of, or that is necessary to, work performed pursuant to a commercial annual permit is considered incidental work and is authorized under the ERMC and the MRMC permits. All such general construction work must be reported pursuant to Paragraph (6), below, and whether or not general construction work is covered by commercial annual permit will be determined by the division. If there is a question as to whether general construction repair and maintenance is incidental work and therefore allowed within the confines of an annual

permit, the permit holder shall contact the general construction bureau chief to determine if the work properly falls within the annual permit. General construction work that is not covered by a commercial annual permit will subject the permit holder to penalties as provided in the Act and the CID rules.

(2) Issuance.

Commercial annual permits may be issued to:

(a)

A commercial entity duly authorized to conduct business in New Mexico, employing certified journeymen; or-

(b)

a licensed contractor holding one of the following classifications of license that has a written contract with a commercial entity to perform work for the commercial entity covered by an commercial repair and maintenance annual permit:

(i)

for an ERMC permit: EE98, EL1, ES3, ES7;

(ii)

for an MRMC permit: MM1, 2, 3, 4 and MM98;

(iii)

allowed work is limited to the scope of the classification.

(c)

Work to be performed under a commercial annual permit may only be performed by a journeyman, pursuant to Subsection A of 14.6.6.10 NMAC or Subsection A of 14.6.6.11 NMAC, properly certified by the division in the classification of work to be performed pursuant to the permit, who is an employee of the authorized entity, or of the licensee, to whom the permit was issued. In no case shall experience gained under an annual permit count for more than one-fourth of the experience requirement for a qualifying party or a journeyman certification.

(3) Duration.

(a)

Commercial annual permits are valid for 12 months from the date of issuance and are renewable upon submission of a completed approved application. ERMC and MRMC permits automatically expire on the

first day of the 13th month after the month of issuance. Permits are subject to the provisions of:

(b) 14.5.2.13 NMAC Suspension, cancellation, revocation.

(c) 14.5.2.14 NMAC Expiration and deactivation of permits.

(4) **Denial.** See 14.5.2.15 NMAC.

(5) **Failure to obtain permit.** See 14.5.2.16 NMAC.

(6) **Report log.** All work performed pursuant to a commercial annual permit must be recorded by the permit holder in a log that contains, at a minimum, the following information:

(a) the location of the work with sufficient specificity that an inspector can locate the work;

(b) the date the work was performed;

(c) a description of the work performed;

(d) the name of the individual who performed the work and the individual's journeyman classification and certificate number;

(e) the entity permit, or the contractor license number, to whom the permit covering the work was issued.

(7) **Audit and Inspections.** All work performed under a commercial annual permit is subject to audit and inspection by CID and must comply with all applicable codes and rules. Each quarter, all annual permit holders shall submit copies of their report logs to the appropriate trade bureau of all work performed through use of the annual permit. Upon review of the audit materials, the specific trade bureau shall determine if an in-person inspection is necessary and, if appropriate, shall arrange for the inspection.

(8) **Violations.**
(a) If, upon audit and subsequent inspection of annual permit work, any permitted work is found not to

be in full compliance with annual permit requirements or applicable codes, the inspector shall serve a written notice on the permittee citing the violation observed and ordering that the violation be corrected. The permittee is responsible for notifying the inspector when all corrections have been made and the work is ready for re-inspection. Failure to comply with a correction, or other written notice within the time required by the inspector or, if no time is specified, within a reasonable time, is a violation of the CID rules and may result in disciplinary action by the division.

(b) If the work inspected is not recorded fully and accurately on the log, the inspector shall provide a written report to the TBC for appropriate action. If the failure constitutes a health or safety hazard the inspector shall take appropriate action pursuant to Section 60-13-42 NMSA 1978, if appropriate and also immediately notify the TBC. The annual permit is subject to cancellation and the holder may not be eligible to apply for another annual permit for one year thereafter.

(c) If the work inspected or logged in is not authorized by the terms and conditions of the annual permit, the inspector shall notify the TBC for appropriate action. If the violation constitutes a health or safety hazard the inspector shall take action pursuant to Section 60-13-42 NMSA 1978, if appropriate and also immediately notify the TBC. The annual permit is subject to cancellation and the holder may not be eligible to apply for another annual permit for one year thereafter.

(9) **Limitation.** Commercial annual permits may only be issued by CID.

(10) Commercial buildings that are classified pursuant to the NMCBC as having an industrial use will be considered as commercial buildings for annual permit purposes.

**B. SCHOOL:
(1) Types.**

(a) **Electrical repair maintenance schools (ERMS) permit.** The scope of this permit includes the repair or maintenance performed on existing 120-volt (277-volt lighting circuits) or less, de-energized electrical systems in a school, and is intended to allow a like-for-like exchange of a portion or portions of an existing electrical system. It does not include:

(i) work on life safety systems which are intended to protect the occupants of the structure such as fire protection, controls for smoke evacuation systems, energy, and egress lighting systems, except replacement of light bulbs and batteries in emergency lights and exit signs;

(ii) work that entails new construction, relocation, expansion or alteration of an electrical system or any portion thereof;

(iii) work on energized electrical systems of any kind;

(iv) boilers; or

(v) work product or process that is hazardous to the maintenance technician, the occupants of a school or the public.

(b) **Mechanical repair maintenance schools (MRMS) permits.** The scope of this permit includes the repair or maintenance performed on existing plumbing or mechanical systems that are necessary to maintain an established, approved mechanical/plumbing system, which work is required to keep the installation operating in its approved function and configuration. Repair and maintenance includes a like-for-like exchange of a portion or portions of an approved mechanical/plumbing system in a school. It does not include:

(i) work on life safety systems which are intended to protect the occupants of the structure such as fire protection and smoke evacuation systems;

(ii) venting;

(iii) work that entails new construction, relocation, expansion or alteration of a mechanical or plumbing system or any portion thereof;

(iv) work on gas piping systems of any kind, except repair of low-pressure gas leaks downstream of the isolation valve to the appliance, limited to supply tubes or connections to gas valves or fuel train;

(v) repair or replacement of gas valves, regulators or fuel train;

(vi) boilers;

(vii) work product or process that is hazardous to the maintenance technician, the occupants of the school or the public.

(c) **General repair maintenance schools (GRMS) permits.**

The scope of this permit includes the repair and maintenance of existing structures in a school and is intended to allow for the exchange of like parts or components in an existing structure. The scope of this permit is limited to the maintenance and repair of non-structural facility components: drywall and ceiling surfaces, room partitions, wall and window replacement; patching roof surfaces not to exceed 100 square feet; asphalt, concrete, playground and athletic equipment, and site drainage. It does not include new construction of any kind, or work that modifies egress, affects fire resistance or structural integrity of a wall, or any work product or process that is hazardous to the maintenance technician, the occupants of the school or the public.

(2) **Issuance.**
(a)

School annual permits authorized for electrical and mechanical/plumbing work by this section may be issued to a school that employs at least one journeyman who holds a valid certification in the classification covering the work to be performed.

(b) Electrical and mechanical/plumbing work to be performed under the school annual permit shall only be performed by a journeyman pursuant to Subsection A of 14.6.4.8 NMAC or an apprentice pursuant to Subsection H of Section 60-13-2 NMSA 1978 of the CILA under the supervision of a licensed journeyman at a ratio of one to one. In no case shall experience gained under an annual permit count for more than one-fourth of the experience requirement for a qualifying party or journeyman certificate.

(c)

There are no certification requirements for general repair maintenance school permit work.

(3) **Duration.**

(a)

Permits authorized by this rule are valid for 12 months from the date of issuance and are renewable upon submission of a completed approved application. These permits automatically expire on the first day of the thirteenth month following the month of issuance. Permits are subject to the provisions of

(b)

14.5.2.13 NMAC Suspension, cancellation, revocation.

(c)

14.5.2.14 NMAC Expiration and deactivation of permit.

(4) **Denial, see**

14.5.2.15 NMAC.

(5) **Failure to**

obtain permit, see 14.5.2.16 NMAC.

(6) **Report**

log. All work performed pursuant to a permit issued according to this rule must be recorded by the permit holder in a log that contains, at a minimum, the following information:

(a)

the location of the work with sufficient specificity that an inspector can locate the work;

(b)

the date the work was performed;

(c) a

description of the work performed;

(d)

the name of the individual who performed the work and the

individual's journeyman classification and certificate number;

(e)

the entity permit number issued to the school for the work performed.

(7) **Audit**

and Inspection. All work performed under a school annual permit issued pursuant to this rule is subject to audit and inspection by CID and must comply with all applicable codes and rules. Each quarter annual permit holders shall submit copies of their report logs to the appropriate trade bureau of all work performed through use of the annual permit.

The appropriate trade bureau shall determine, upon review of the audit materials, if an in-person inspection is necessary and, if appropriate, shall arrange for the inspection.

(8) **Violations**

(a)

If, upon an inspection of the annual permitted work, any work is found not to be in full compliance with annual permit requirements, the inspector shall serve a written notice on the permittee citing the violation observed and ordering that the violation be corrected. The permittee is responsible for notifying the inspector when all corrections have been made and the work is ready for re-inspection. Failure to comply with a correction, or other written, notice within the time required by the inspector or, if no time is specified, within a reasonable time is a violation of the CID rules and may result in disciplinary action by the division.

(b)

If the work inspected is not recorded fully and accurately on the log, the inspector shall provide a written report to the TBC for appropriate action. If the failure constitutes a health or safety hazard the inspector shall take appropriate action pursuant to Section 60-13-42 NMSA 1978, if appropriate and also immediately notify the TBC. The annual permit is subject to cancellation and the holder may not be eligible to apply for another annual permit for one year thereafter.

(c)

If the work inspected or logged in

is not authorized by the terms and conditions of the annual permit, the inspector shall notify the TBC for appropriate action. If the violation constitutes a health or safety hazard the inspector shall take appropriate action pursuant to Section 60-13-42 NMSA 1978, if appropriate and also immediately notify the TBC. The annual permit is subject to cancellation and the holder may not be eligible to apply for another annual permit for one year thereafter.

(9)

Limitations. School annual permits may only be issued by CID. [14.5.2.19 NMAC - Rp, 14.5.2.19 NMAC, 3/10/2022]

14.5.2.20 EMERGENCY WORK: Where equipment replacement or repairs must be performed in an emergency, application to the appropriate AHJ for the required permit must be made on the next working business day or as determined by the particular TBC or AHJ.

[14.5.2.20 NMAC - Rp, 14.5.2.20 NMAC, 3/10/2022]

14.5.2.21 CONNECTION OF SERVICE UTILITIES: No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by the New Mexico construction codes until approved by the appropriate AHJ.

[14.5.2.21 NMAC - Rp, 14.5.2.21 NMAC, 3/10/2022]

HISTORY OF 14.5.2 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11/25/1970;
CIC 72-4, General Construction Classifications, filed 02/16/1972;
CIC 76-2, Rules and Regulations, filed 05/05/1976;
CID 78-2, Rules and Regulations, filed 12/05/1978;
CID 79-1, Rules and Regulations, filed 06/06/1979;

CID 82-1, Construction Industries Rules and Regulations, filed 04/14/1982;

CID 85-1, Construction Industries Rules and Regulations, filed 02/04/1985;

CID 90-1, Construction Industries Rules and Regulations, filed 05/31/1990.

History of Repealed Material:

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 9/2/1997), repealed effective 12/1/2000.

14.5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 10/16/2000), repealed effective 7/1/2004.

14.5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 5/27/2004), repealed effective 11/15/2016.

14.5.2 NMAC, Permits (filed 11/15/2016), was repealed and replaced by 14.5.2 NMAC, Permits, effective 3/10/2022.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 05/31/1990

-- renumbered, reformatted and amended to 14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits, effective 09/14/1996.

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 09/03/1996) replaced by 14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits, effective 09/23/1997.

14 NMAC 5.2, Housing and Construction - Construction Industries General Provisions - Permits (filed 09/02/1997) replaced by 14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits, effective 12/1/2000.

14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits (filed

10/16/2000), and those applicable portions of 14.7.2 NMAC, Section 10 (filed 10/16/2000); 14 NMAC 9.2, Subpart I, Sections 100-105 (filed 10/30/1998); 14 NMAC 9.2, Subpart II, Section 100 (filed 10/30/1998); 14.10.4 NMAC, Section 8 (filed 7/1/2002); and 14.5.3 NMAC (filed 10/16/2000), Section 8 - replaced by 14.5.2 NMAC, Housing and Construction - Construction Industries General Provisions - Permits, effective 7/1/2004.

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

TITLE 14 HOUSING AND CONSTRUCTION CHAPTER 5 CONSTRUCTION INDUSTRIES GENERAL PROVISIONS PART 3 INSPECTIONS

14.5.3.1 ISSUING

AGENCY: Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.5.3.1 NMAC - Rp, 14.5.3.1 NMAC, 3/10/2022]

14.5.3.2 SCOPE: This rule applies to all contracting work performed in New Mexico after March 10, 2022, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

[14.5.3.2 NMAC - Rp, 14.5.3.2 NMAC, 3/10/2022]

14.5.3.3 STATUTORY

AUTHORITY: Sections 60-13-9, 60-13-41, 60-13-10.3, 60-13-45, 60-13-46 and 60-13-47 NMSA 1978.

[14.5.3.3 NMAC - Rp, 14.5.3.3 NMAC, 3/10/2022]

14.5.3.4 DURATION:

Permanent.

[14.5.3.4 NMAC - Rp, 14.5.3.4 NMAC, 3/10/2022]

14.5.3.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section.
[14.5.3.5 NMAC - Rp, 14.5.3.5 NMAC, 3/10/2022]

14.5.3.6 OBJECTIVE:
The purpose of this rule is to set forth requirements for inspections of construction contracting work in New Mexico that is subject to the jurisdiction of CID.
[14.5.3.6 NMAC - Rp, 14.5.3.6 NMAC, 3/10/2022]

14.5.3.7 DEFINITIONS:
See 14.5.1.7 NMAC for definitions.
[14.5.3.7 NMAC - Rp, 14.5.3.7 NMAC, 3/10/2022]

14.5.3.8 GENERAL PROVISIONS:

A. Application.
All work for which a permit is issued must be inspected. Pursuant to Paragraph (2) of Subsection H of 14.5.2.8 NMAC and 14.7.2.45 NMAC, baby changing facilities in new restrooms shall not require a separate permit but shall be inspected as part of the building permit inspection process.

B. Inspections. No inspections of work will be performed until the required fees have been paid.

C. Code compliance.
The inspections necessary to ensure that permitted work complies with applicable codes shall be performed by the appropriate inspector under the direction of the AHJ responsible for the inspection.

D. Notification. It is the responsibility of the permittee, or the permittee's duly authorized agent, to timely notify the appropriate AHJ personnel when work is ready for inspection, and to provide access to and the means to perform inspections of, the work. Requirements for inspections shall be made as specified on the permit or in other instructions required by the AHJ or the division, but in no event shall such notification be given less than 24 hours before the work is to be inspected.

E. Violations. If, upon inspection, any permitted work is not in full compliance with applicable codes, the inspector shall issue to the permittee a written correction notice citing the code violations observed and ordering that the violations be corrected. The permittee is responsible for notifying the appropriate AHJ personnel when all corrections have been made and the work is ready for re-inspection. Failure to comply with a correction notice within the time required by the AHJ or the inspector, or, if no time is specified, within a reasonable time, is a violation of the CID rules and may result in disciplinary action by the AHJ.

F. Covered and unapproved work. Work must be visible to be inspected and shall not be covered or used before approval is given by the inspector. Work that is covered before it is inspected, tested if applicable, and approved may be ordered uncovered by the inspector or AHJ. No work shall be performed beyond what is required for the next inspection without approval of the inspector.
[14.5.3.8 NMAC - Rp, 14.5.3.8 NMAC, 3/10/2022]

14.5.3.9 INSPECTIONS:
The following inspections are required unless otherwise indicated or as determined in the discretion of the TBC or CBO.

- A. For work subject to the NMCBC.**
- (1) Footing and foundation inspection, see Section 110 of the IBC.
 - (2) Concrete slab or under floor inspection, see Section 110 of the IBC.
 - (3) Lowest floor elevation, see Section 110 of the IBC.
 - (4) Frame inspection, see Section 110 of the IBC.
 - (5) New and re-roofs, roof assembly inspection including decking, application of roof systems and application of roof coatings.

- (6) Exterior wall opening flashings.
- (7) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.
- (8) Lath and gypsum board, see Section 110 of the IBC.
- (9) Fire and smoke-resistant penetrations, see Section 110 of the IBC.
- (10) Energy efficiency inspection, see Section 110 of the IBC.
- (11) Other inspections required by the AHJ building official, see Section 110 of the IBC.
- (12) Special inspections, see Section 110 of the IBC.
- (13) Final inspection, see Section 110 of the IBC, including baby changing facilities pursuant to 14.5.3.8 NMAC.

B. For work subject to the NMRBC.

- (1) Footing and foundation inspection, see Section 109.1.1 of the IRC.
- (2) Concrete slab or under floor inspection, see Section 109 of the IRC.
- (3) Frame and masonry inspections, see Section 109.1.4 of the IRC.
- (4) New and re-roofs, roof assembly inspection including decking, application of roof systems and application of roof coatings.
- (5) Exterior wall opening flashings.
- (6) Weather resistive barrier inspection is to be made after installation of the appropriate weather resistive barrier and before such barrier is covered.
- (7) Energy efficiency inspections
- (8) Lath and gypsum board, see Section 109.1.5 of the IRC.
- (9) Other inspections required by the AHJ, see Section 109 of the IRC.

(10) Fire resistance rated construction inspection, see Section 109.1.5.1 of the IRC.

(11) Final inspection, see Section 109.1.6 of the IRC.

C. For work subject to the NMEC.

(1) Temporary pole (if applicable).

(2) Underground or under-slab (if applicable).

(3) Rough-in: (a) on residential projects, all wiring must be installed and connections made-up; (b) on commercial projects, perform inspections as required.

(4) Service pre-final (if applicable).

(5) Final (electrical system is complete and energized).

D. For work subject to the NMMC.

(1) Rough inspection of all mechanical work covered by permit after work has been installed and before it is covered or concealed.

(2) Temporary heat (if applicable).

(3) Final inspection after all mechanical work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(4) Operation of mechanical equipment installed to replace existing equipment or fixtures. See the existing installations section of the currently adopted UMC.

E. For work subject to the NMPC.

(1) Rough inspection of all plumbing work covered by permit after work has been installed and before it is covered or concealed.

(2) Top-out inspection of all vented piping above floor and all extensions through the roof and walls.

(3) Water distribution including all water piping inside and under a building.

(4) Water service piping from a service meter to a connection outside the building.

(5) Final inspection after all plumbing work covered by permit has been installed and covered and after fixtures and appliances have been attached.

(6) Operation of plumbing equipment to replace existing equipment or fixtures, see the existing installations section of the currently adopted UPC.

F. Additional inspections. In addition to required inspections, the AHJ or CBO is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of the applicable New Mexico construction codes.

G. Re-inspections.

(1) A re-inspection fee shall not be assessed when the required code corrections resulting from an initial inspection is properly corrected and subsequently re-inspected and approved.

(2) A re-inspection fee shall be assessed for each inspection or re-inspection when such portion of work for which an inspection is called is not complete, when the required corrections have not been made or work is covered prior to inspection.

(3) No additional permits may be issued and no additional inspections conducted until the required fees have been paid.

(4) Re-inspection fees may be assessed when the approved plans are not readily available to the inspector, or there is a deviation from plans without the approval of the AHJ.

(5) Re-inspection fees may be assessed for failure to provide access to the property and to the facility where the inspection is to occur on the date for which the inspection is scheduled. [14.5.3.9 NMAC - Rp, 14.5.3.9 NMAC, 3/10/2022]

14.5.3.10 STOP WORK ORDERS: Whenever contracting is being performed contrary to the CID

rules, the inspector, after verification of the TBC or other AHJ, may order that the work be stopped and shall give written notice of such order to the person performing the work or causing the work to be performed and the owner of the property. If the inspector discovers a life safety issue contrary to CID rules, the inspector may order that the work be stopped, giving written notice of such order to the person performing the work or causing the work to be performed, the owner of the property and the specific trade bureau chief. The person performing the work or causing the work to be performed when receiving such notice shall cease and desist from performing, or causing the performance of the work, until authorized to proceed in writing, by the AHJ or the inspector. The following conditions for which a stop work order may be issued include, but are not limited to:

A. inspection determined as a health or safety hazard;

B. continuing work without all correction notice violations being corrected;

C. work deviating from the approved plans or materials

D. contractor not properly licensed;

E. working beyond the scope of licensure;

F. work not properly permitted;

G. improper journeyman ratios.

[14.5.3.10 NMAC - Rp, 14.5.3.10 NMAC, 3/10/2022]

14.5.3.11 AUDIT AND INSPECTION OF WORK ON ANNUAL PERMIT: Pursuant to the provisions of Paragraph (7) of Subsection A of 14.5.2.19 NMAC the specific bureau chief shall determine, based on the review of the annual report logs, which items in the report logs require an in-person inspection.

A. If, upon audit or inspection, any permitted work is found not to be in full compliance with an applicable code, the inspector shall serve a written notice on

the permittee citing the violation observed and ordering that the violation be corrected. The permittee is responsible for notifying the appropriate AHJ personnel when all violations have been corrected and the work is ready for re-inspection. Failure to comply with the correction of a cited violation, or other written notice within the time required by the inspector, or if no time is specified, within a reasonable time is a violation of the CID rules, codes and standards, and may result in disciplinary action by the division.

B. If the work inspected is not recorded fully and accurately on the log, the inspector shall notify the TBC for appropriate action.

C. If the work inspected or logged in is not authorized by the terms and conditions of the annual permit, the inspector shall notify the TBC for appropriate action.

D. If a violation constitutes a health or safety hazard the inspector shall take action pursuant to Section 60-13-42 NMSA 1978, if appropriate and also immediately notify the TBC. The annual permit is subject to suspension, cancellation or revocation pursuant to 14.5.2.13 NMAC and the holder may not be eligible to apply for another annual permit for up to one year thereafter as determined by the division director.

[14.5.3.11 NMAC - Rp, 14.5.3.11 NMAC, 3/10/2022]

14.5.3.12 PRODUCT STANDARDS AND APPROVALS:

A. Product approval. Construction or installations shall not be approved as code compliant unless the products and materials used meet the standards set forth in the New Mexico construction codes or as approved by the specific TBC pursuant to Subsection D of 14.5.1.11 NMAC.

B. Procedures for determining compliance. The appropriate TBC has the authority to establish the procedures necessary to determine whether products and

materials meet the standards set forth in the New Mexico construction codes.

C. Marking systems. Marking/labeling of a listing agency (accredited conformity assessment body) for equipment or materials shall identify products that comply with the standards set forth in the applicable New Mexico construction codes.

D. Approval of listing agencies. A listing agency shall not be approved for certifying, marking/labeling products for use in New Mexico that does not comply with the American national standards institute (ANSI) or other accredited certifying agencies as recommended by the appropriate TBC and approved by the commission.

[14.5.3.12 NMAC - Rp, 14.5.3.12 NMAC, 3/10/2022]

14.5.3.13 CERTIFICATES OF OCCUPANCY OR FINAL INSPECTION:

A. Occupancy. No building, or portion thereof, on which construction has been undertaken shall be occupied until the appropriate inspector has issued a C/O or an approved final inspection, as applicable.

B. Issuance. No C/O shall be issued by the CBO or the inspector until all of the required inspections have been performed and the appropriate inspectors have approved the work.

C. Homeowner's permit. A C/O issued for new construction or final inspection approved for a remodel of a residence constructed pursuant to a homeowner's permit shall expressly state that the residence was so constructed or remodeled pursuant to a homeowner permit.

D. Temporary certificate of occupancy.

(1) The appropriate inspector may issue a temporary C/O for a 30-day period or greater period if approved by the TBC or CBO when:

- (a)** an analysis of the circumstances in any specific case determined by the

AHJ indicates that a temporary C/O is appropriate; and

(b) life, safety or health will not be adversely affected by doing so;

(2) Upon receipt of a written request for an extension of a current, valid temporary C/O, and good cause being shown, the temporary certificate of occupancy can be extended for up to a maximum of 12 months.

E. Effect. The issuance of a C/O shall not be construed as an approval of an unrecognized violation of the provisions of the New Mexico construction codes or of other applicable codes. If a code violation is discovered after the C/O is issued or after, an approved final inspection, the C/O or final inspection is invalid until all code violations are corrected and the C/O is re-issued or final inspection approved. No C/O or approved final inspection shall be interpreted to certify compliance with the requirements of any other regulatory agency that may or might have jurisdiction over aspects of a project or that are overseen by other regulatory agencies. Such aspects include, but are not limited to, compliance with fire code standards enforced by the state fire marshal, or any local fire code enforcement agency; the state environment department; the state health department, the state human services department, homeland security and emergency management department, the transportation department, the public regulation commission, or any other state or local regulatory agency.

F. Revocation or suspension.

(1) The general construction TBC or a CBO of an AHJ who issued the C/O is authorized to suspend or revoke a C/O or reverse an approved final inspection if:

- (a)** the certificate was issued in error or on the basis of incorrect information; or
- (b)** the work violates an applicable

New Mexico construction code or applicable provisions of the CILA or its rules.

(2) A

suspended C/O or reversed final inspection may be reinstated upon approval of the appropriate CBO and payment of any fee assessed pursuant to 14.5.5 NMAC, Fees or local ordinance.

[14.5.3.13 NMAC - Rp, 14.5.3.13 NMAC, 3/10/2022]

14.5.3.14 INSPECTION

AGENCIES: A privately-operated inspection agency that satisfies the requirements of Subsection H of Section 60-13-41 NMSA 1978, and 14.6.7 NMAC may be approved by the division to conduct inspections on behalf of the division for modular structures, provided such agency employs certified inspectors who exclusively inspects for each manufacturer for general construction, mechanical and electrical specialties, meets the requirements of 14.6.7.11 NMAC, and are qualified and certified pursuant to 14.6.5 NMAC, Inspectors. [14.5.3.14 NMAC - Rp, 14.5.3.14 NMAC, 3/10/2022]

14.5.3.15 CONNECTION APPROVAL:

A. Plumbing. No person shall connect, or reconnect, any plumbing system to an energy or water source or to a sewer system until the AHJ or appropriate inspector has given approval to do so.

B. Mechanical. No person shall connect, or reconnect, any mechanical system or equipment to an energy, fuel or other power source until the AHJ or appropriate inspector has given approval to do so.

C. Electrical. No person shall connect, or reconnect any electrical wiring to an energy source until the AHJ building official or appropriate inspector has given approval to do so.

D. Exception. A public or private utility may make a connection from a supply of water or gas to an installation if, the appropriate AHJ has failed to approve or disapprove the work or installation

to which the connection will be made within seven working days after receiving notification that the work is ready to inspect.

[14.5.3.15 NMAC - Rp, 14.5.3.15 NMAC, 3/10/2022]

HISTORY OF 14.5.3 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

CIC 70-2, General Construction Classifications, filed 11/25/1970; CIC 72-4, General Construction Classifications, filed 2/16/1972; CIC 76-2, Rules and Regulations, filed 5/5/1976; CID 78-2, Rules and Regulations, filed 12/5/1978; CID 79-1, Rules and Regulations, filed 6/6/1979; CID 82-1, Construction Industries Rules and Regulations, filed 4/14/1982; CID 85-1, Construction Industries Rules and Regulations, filed 2/4/1985; CID 90-1, Construction Industries Rules and Regulations, filed 5/31/1990.

History of Repealed Material:

14 NMAC 5.3, Housing and Construction - Construction Industries General Provisions - Inspections (filed 9/2/1997), repealed 12/1/2000.

14.5.3 NMAC, Housing and Construction - Construction Industries General Provisions - Inspections (filed 10/16/2000), repealed 7/1/2004.

14.5.3 NMAC, Inspections (filed 5/27/2004), repealed 11/15/2016.

14.5.3 NMAC, Inspections (filed 11/15/2016) was repealed and replaced by 14.5.3 NMAC, Inspections, effective 3/10/2022.

Other History:

That portion of CID 90-1, Construction Industries Rules and Regulations, filed 5/31/1990 - renumbered, reformatted and amended to 14 NMAC 5.3, Housing and Construction - Construction Industries General Provisions - Inspections, filed 9/3/1996.

14 NMAC 5.3, Housing and

Construction - Construction Industries General Provisions - Inspections (filed 9/3/1996) replaced by 14 NMAC 5.3, Inspections, effective 9/23/1997.

14 NMAC 5.3, Inspections (filed 9/2/1997) replaced by 14 NMAC 5.3, Inspections, effective 12/1/2000.

14.5.3 NMAC, Inspections (filed 10/16/2000) and those applicable portions of 14.7.2 NMAC, 1997 Uniform Building Code (filed 10/16/2000); 14 NMAC 9.2, 1997 New Mexico Plumbing and Mechanical Codes (filed 10/20/1998); and 14.10.4 NMAC, State of New Mexico Electrical Code (filed 7/1/2002) replaced by 14.5.3 NMAC, Inspections, effective 7/1/2004.

**REGULATION AND LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 6 CONSTRUCTION
INDUSTRIES LICENSING
PART 3 CONTRACTOR'S
LICENSE REQUIREMENTS**

14.6.3.1 ISSUING

AGENCY: The Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.6.3.1 NMAC - Rp, 14.6.3.1 NMAC, 3/10/2022]

14.6.3.2 SCOPE: This rule applies to individuals seeking to obtain a license or certificate issued by CID.

[14.6.3.2 NMAC - Rp, 14.6.3.2 NMAC, 3/10/2022]

14.6.3.3 STATUTORY

AUTHORITY: Sections 60-13-9, 60-13-12, 60-13-14, 60-13-18, 70-5-6, 70-5-9, 70-5-12, 70-5-17 and 40-5A-1 through 9 NMSA 1978.

[14.6.3.3 NMAC - Rp, 14.6.3.3 NMAC, 3/10/2022]

14.6.3.4 DURATION:

Permanent.

[14.6.3.4 NMAC - Rp, 14.6.3.4 NMAC, 3/10/2022]

14.6.3.5 EFFECTIVE DATE: March 10, 2022, unless a later date is cited at the end of a section.
 [14.6.3.5 NMAC - Rp, 14.6.3.5 NMAC, 3/10/2022]

14.6.3.6 OBJECTIVE: The objective of 14.6.3 NMAC is to set forth general provisions governing contractor licensing in New Mexico.
 [14.6.3.6 NMAC - Rp, 14.6.3.6 NMAC, 3/10/2022]

14.6.3.7 DEFINITIONS:
 [14.6.3.7 NMAC - Rp, 14.6.3.7 NMAC, 3/10/2022]
 See Section 60-13-3 NMSA 1978 and 14.5.1.7 NMAC for definitions.

14.6.3.8 LICENSE AND QUALIFYING PARTY REQUIREMENTS.

A. General information.

(1) To act in the capacity of a contractor as defined in Section 60-13-3 NMSA 1978, an entity must be issued a license.

(2) No business entity, the majority of which is owned by an individual who is 17 years of age or younger, is eligible for licensure.

(3) Contractor licenses issued by CID:

(a) Are issued only to qualified business entities which employ or are owned by one or more qualifying parties validly certified by CID to perform the classification of contracting in which the licensee intends to engage;

(b) Grant only the authority to engage in contracting in the classification specified on the license issued to the entity, and on the certificate issued to its qualifying party;

(c) Are not transferable and may not be used by any person other than the entity to which it is issued, and any entity that permits another person to use its license, or knows that its license is being used by another person and fails to promptly notify CID of such use, shall be subject

to disciplinary action, up to and including revocation of the license; and

(d) Authorize only the entity as named on the license to engage in contracting and no licensee may engage in contracting using a name other than the name that is shown on the license issued to it.

(4) No license shall be issued to an entity that is using a name containing word(s) identifying a construction or contracting trade, craft, discipline or expertise that is not covered by the classification of license for which the entity is qualified.

(5) In the event a licensee loses its qualifying party, through termination of employment or otherwise, both the licensee and the qualifying party must notify CID or its designee in writing of the separation within 30 days thereof.

(6) CID shall address all written communication with a licensee to its address of record which is the address shown on the application or any different address of which CID has received written notice from the licensee. A licensee shall report in writing to CID or its designee any change of address within 30 days after such change. Failure to do so is cause for disciplinary action.

(7) For additional information regarding journeyman certification, please see 14.6.4 NMAC.

B. Types of entities.
(1) Corporations, limited liability companies (LLC), Limited partnership (LP) and limited liability partnerships (LLP).

(a) Corporations, LLCs, LPs and LLPs are each required to be licensed even though one or more stockholders, members or partners have a license or qualifying party certificate.

(b) Corporations, LLCs, LPs and LLPs must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(c) Any license issued to a corporation, LLC, LP or LLP shall automatically cancel when the entity ceases to exist under New Mexico law.

(2) Joint ventures.

(a) No two or more persons shall submit a joint bid or jointly engage in contracting unless operating as a validly licensed joint venture.

(b) To be eligible to apply for, renew or retain a license, each entity comprising the joint venture must hold a valid New Mexico contractor license and be legally authorized to do business in New Mexico.

(c) Any license issued to a joint venture entity shall automatically cancel when the entity ceases to exist under New Mexico law.

(3) Partnerships.

(a) A partnership must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b) Any license issued to a partnership shall automatically cancel when the partnership ceases to exist under New Mexico law.

(4) Sole proprietorships.

(a) A sole proprietorship must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b) On the death of a sole proprietor, the license shall automatically cancel.

C. Proof of financial responsibility.

(1) Upon initial licensure and as a condition of renewal each applicant shall furnish to the division a bond in the amount of ten thousand dollars (\$10,000) underwritten by a corporate surety authorized to transact business in New Mexico.

(2) The date of effectiveness of the bond shall

cover the entire period of licensure for initial application and each renewal cycle. Maintaining the bond for the entire period of licensure is a condition of licensure.

(3) Payment from a bond required by Section 60-13-49 NMSA 1978, shall be used to cure division certified code violations caused and not corrected by the licensee.

(4) Claims against the bond shall be made within two years following final inspection or within two years of issuance of a certificate of occupancy, whichever is earlier.

(5) The surety for such a bond shall remain in effect and liable, for the entire term of potential liability, under the provisions of the bond for all obligations of the principal pertaining to bond terms that occur before the bond is canceled, expires or otherwise becomes ineffective.

(6) The bond carrier shall provide to the division and to the licensee thirty days prior written notice of intent to cancel a bond as required pursuant to Section 60-13-49 NMSA 1978. The division shall notify the licensee that a new bond is required. If the licensee has not provided a new bond according to the statute, action shall be taken immediately for cancellation of the license.

D. Application for licensure or certification.

(1) Every application for licensure, certification, and all requests for formal action to be taken on a license or certificate, such as renewal or addition of a classification, must be made on the applicable form issued by CID or its designee and accompanied by the applicable fee as required by 14.5.5 NMAC.

(2) An incomplete or insufficient application shall be rejected and returned to the applicant, with a statement of the reason for the rejection.

(3) All requirements for licensing or certification must be met within six

months from the date the application is received by CID or its designee. Any application not completed within the six month period shall expire and any fees paid in connection with the expired application shall automatically forfeit.

(4) An application for licensure or certification may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

(5) CID may deny an application on the basis of an applicant's conduct to the extent that such conduct violates the Construction Industries Licensing Act, the LP and CNG Act or their accompanying rules, 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 F below.

E. Qualifying party certificates.

(1) Qualifying party certificates issued by CID:

(a) Are issued only to individuals who are 18 years of age or older;

(b) Grant only the authority for the licensee to engage in contracting in the classification specified on the certificate;

(c) Are not transferable and may not be used by any individual other than the individual to whom it is issued, and any individual who permits another person to use his certificate, or knows that his certificate is being used by another person and fails to promptly notify CID of such use, shall be subject to disciplinary action, up to and including revocation of the certificate.

(2) While validly attached to, and qualifying a license, no qualifying party shall accept or engage in any employment that would conflict with his responsibilities as a qualifying

party for, or conflict with his ability to adequately supervise the work performed by, the licensee.

(3) No individual may qualify more than one licensed entity, other than a joint venture, unless there is at least thirty percent common ownership among the qualified entities. CID may require evidence of such ownership that is satisfactory to the director.

(4) A qualifying party may only perform work authorized by the qualifying party certificate while validly attached to a validly licensed entity.

F. Potential denial of licensure based on disqualifying criminal conviction(s).

(1) Pursuant to Section 28-2-4 NMSA 1978, the division may refuse to grant or renew a license or certificate if an applicant has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) To deny an application for licensure or certification based on a disqualifying criminal conviction the following must be considered:

(a) CID shall not consider an applicant's criminal conviction to deny licensure or certification unless the conviction is one of the disqualifying criminal convictions listed in Paragraph (4) below.

(b) Should an applicant be denied a license or certificate based on a disqualifying criminal conviction, the applicant may submit a written justification providing evidence of mitigation or rehabilitation for reconsideration by the division.

(c) Should CID deny the license or certification after receipt of the written justification stated above, the denial may be appealed and subject to a hearing pursuant to the Uniform Licensing Act to determine whether the denial is properly based upon a disqualifying criminal conviction.

(3) In connection with an application for

licensure, the division shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (a) A conviction that has been sealed, dismissed, expunged or pardoned;
 - (b) a juvenile adjudication; or
 - (c) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph (4), Subsection F of this rule.
- (4) Disqualifying felony criminal convictions that may allow the denial of licensure or certification or the denial of renewal of licensure or certification, whether in New Mexico or their equivalent in any other jurisdiction include:
- (a) conviction involving attempts to evade or defeat payment of a tax that is owed or may be lawfully assessed;
 - (b) conviction involving physical harm to a person or for an attempt, conspiracy or solicitation to commit such crimes;
 - (c) robbery, larceny, burglary, fraud, forgery, embezzlement, arson, theft of identity, extortion, racketeering or receiving stolen property or for an attempt, conspiracy or solicitation to commit such crimes;
 - (d) conviction involving bribery of a public officer or public employee or for an attempt, conspiracy or solicitation to commit such crimes.

G. Qualifying party certification process.

(1) Except for individuals seeking expedited licensure as military service members, an individual applying for a qualifying party certificate must provide proof of work experience, as required in the act and Title 14, NMAC, in the classification of contracting for which application is made. Training that is classified as technical training by an accredited college, university, manufacturer’s accredited training program, technical vocational institute

or an accredited apprenticeship program will be considered in lieu of work experience. Each year of equivalent training shall be applied as one-half year of experience, but in no case shall accredited training exceed one-half of the total work experience requirement.

- (2) Examination Procedure.
 - (a) No applicant for a qualifying party certificate is eligible to take a qualifying examination until providing satisfactory work experience, as to four years within the 10 years immediately prior to application, documentation to the division.
 - (b) Examinations shall be administered by CID, or its designee.
 - (c) A passing exam score is seventy-five percent or higher.
 - (d) An applicant who fails to appear for a scheduled exam or fails to attain a passing score of seventy-five percent or higher may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee and does not repeat the exam more than twice in any 30-day period.
 - (e) If CID or its designee determines that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, and any license or certificate issued on the basis of that exam shall be automatically and immediately voided. The applicant will not be eligible to take any exam administered by CID, or its designee, for one year after the date of such an event.

H. Qualifying party process for expedited certification for military service members.

- (1) The applicant shall submit a completed division approved qualifying party application.
- (2) In lieu of work experience verification the applicant shall provide the following documentation satisfactory to the division:

- (a) Applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;
- (b) applicant has met the minimal licensing or certification requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the certification requirements for New Mexico; and
- (c) submit the following documentation:
 - (i) For military service member: copy of military orders;
 - (ii) for spouse of military service members: copy of service member’s military orders, and copy of marriage license;
 - (iii) for spouses of deceased military service members: copy of deceased service member’s DD214 and copy of marriage license;
 - (iv) for dependent children of military service members: copy of military orders listing dependent child, or a copy of service member’s military orders and one of the following: copy of birth certificate of the dependent child, military service member’s federal tax return or other governmental or judicial documentation establishing dependency;
 - (v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.
- (3) The certificate shall be issued by the division as soon as practicable but no later than 30 days after a qualified military service member, spouse, dependent child, or veteran files a completed division approved application and provides a background check, if required, for the certification.
- (4) Military service members and veterans shall not be charged a fee for the first three

years for a license or certificate issued pursuant to this rule. The three-year exemption for licensing fees does not include fees for copies of documents, replacement licenses or other expenses related to a license, which fees shall be charged according to the division's fees currently in effect. A license issued pursuant to this section shall be valid for a three-year period subject to renewal requirements of Subsection I below.

I. License renewals.

(1) CID or its designee shall mail to every licensee a renewal application form at least 30 days prior to the expiration of the license to the current address of record for that licensee. Whether or not the application form is received, it is the sole duty and responsibility of each licensee to timely renew its license.

(2) The filing date of the renewal application shall be the date the envelope is postmarked or, if hand delivered, the date it is received by CID or its designee.

(3) The signatures of all current qualifying parties on each license must appear on the renewal form.

(4) If a renewal application is not timely received, or if received but is rejected for failure to comply with renewal requirements, the license shall be suspended and subject to cancellation pursuant to Subsections E and F of Section 60-13-18 NMSA 1978, of the Act.

(5) An application for renewal of a license or certificate may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsections F of 14.6.3.8 NMAC.

J. Change of name.

(1) The licensee must submit a written request for a name change accompanied by:

(a) An amended registration certificate from the New Mexico department of taxation and revenue.

(b) A rider from the bonding company;

(c) If a corporation, LLC, LP or LLP, a copy of the New Mexico certificate of amendment or other document issued by the state showing that the name change has been officially recorded.

(2) A change of name is not effective until approved and posted by CID. Conducting business under the new name prior to CID's approval and notification within CID's licensee database may constitute a violation of Subsection K of Section 60-13-23 NMSA 1978, of the Act.

K. Validity of licenses and certificates.

(1) The following events may cause a license or certificate to be, or to become, invalid:

(a) Failure to renew pursuant to Sections 60-13-18 and 60-13-39 NMSA 1978, of the Act.

(b) Failure to maintain proof of financial responsibility pursuant to Section 60-13-49 NMSA 1978, of the Act.

(c) Failure to comply with workers' compensation laws pursuant to Section 60-13-23 NMSA 1978, of the Act.

(d) Failure to comply with the Parental Responsibility Act.

(e) Failure of a license to be qualified by a qualifying party certificate.

(f) Loss of authorization to conduct business in New Mexico.

(g) Death of a sole proprietor.

(f) Revocation or suspension of a license pursuant to Section 60-13-23 NMSA 1978, of the Construction Industries Licensing Act, the Criminal Offender Employment Act or 14.5.8 NMAC.

(g) Revocation or suspension of a certificate pursuant to Section 60-13-24 and 36 NMSA 1978, of the Construction Industries Licensing Act,

the Criminal Offender Employment Act or 14.5.8 NMAC.

(2) When a license ceases to be qualified by a qualifying party certificate, the license will be automatically cancelled and the licensee may not bid or commence any new work in that classification. Any bid or new work commenced after a license is cancelled pursuant to this rule shall be considered unlicensed and will subject the licensee to disciplinary action. Work in progress at the time of the cancellation may continue for not more than 120 days. After 120 days, any permit that was issued to the licensee for work in the affected classification shall be automatically cancelled, no inspection shall be conducted pursuant to any such cancelled permit, and any work continued or undertaken shall be deemed to be unlicensed activity and will subject the licensee to prosecution pursuant to Section 60-13-52 NMSA 1978, of the Act.

(3) A qualifying party certificate that is not qualifying a valid license will automatically expire as follows:

(a) A new qualifying party certificate that does not qualify a valid license within 12 months from the date on which the exam score was reported to CID, or its designee, shall automatically expire.

(b) A qualifying party who does not qualify a valid license for any consecutive two - year period shall lose-eligibility as a qualifying party and the certificate shall automatically expire. Any individual who wishes to become recertified in the same classification after the expiration of the certificate pursuant to this rule must apply, retest, and pay all applicable fees. The director may waive the exam requirement for an additional 12 months if the applicant submits documentation of work experience indicating technical and business knowledge equivalent to that indicated by exam scores.

(4) Any work in progress at the time a sole

proprietor dies or an entity ceases to exist or be authorized to do business, as described in subpart B. of this rule, may continue for not longer than 120 days provided that CID receives written notice of the death or event that causes the entity to lose its authorization to do business within 30 calendar days thereafter. At the end of the 120 days, all permits issued to the entity shall be cancelled, no inspections on such permits shall be performed, and any work performed thereafter by the entity shall be deemed unlicensed activity and may be prosecuted under Section 60-13-52 NMSA 1978, of the Act. If the licensee, or the licensee's representative fails to notify CID as required in this rule, any work performed after the death of the sole proprietor or the termination of the entity's authorization to do business in New Mexico shall constitute unlicensed activity under the act and may be prosecuted by CID.

L. Compliance with Parental Responsibility Act.

(1) Pursuant to the Parental Responsibility Act (PRA), any person who fails to come into compliance with all court ordered child support obligations within 30 days after receiving notice of non-compliance from CID will be subject to revocation of all licenses and certificates, pursuant to the due process requirements of the Uniform Licensing Act.

(2) The only proof of compliance with the PRA is a certificate of compliance issued to the license or certificate holder by the human services department (HSD certificate).

(3) If a license or certificate has been suspended or revoked pursuant to the requirements of the PRA and this rule, it shall be re-instated upon receipt by CID of an HSD certificate and payment of any fines, fees or other amounts owing to CID, subject to the following conditions:

(a) If more than 90 days have elapsed since the expiration date of a revoked license, the license shall not be

reinstated. The respondent will be required to apply for a new license pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the act shall not apply.

(b) If more than 180 days have elapsed since the expiration of a revoked certificate of competence, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the Act shall not apply.

(c) If a more than two years have elapsed since the date of an order revoking a qualifying party certificate, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the act and these rules; provided, however, that the one year waiting period required by Section 60-13-16 NMSA 1978, of the act shall not apply.

(d) Nothing in this rule or the PRA shall require CID to reinstate a license or certificate if cause exists to suspend or revoke the license or certificate on other grounds.

[14.6.3.8 NMAC - Rp, 14.6.3.8 NMAC, 3/10/2022]

14.6.3.9 PAYMENT OF ADMINISTRATIVE PENALTIES.

A. A person whose license or certificate has been suspended or revoked pursuant to Section 60-13-23, 24 or 36 NMSA 1978, of the act shall not be eligible for reinstatement of the license or certificate until all fees and administrative penalties assessed have been paid in full, except as allowed in Subsection B, below.

B. The commission may authorize CID to establish a payment plan for administrative penalties assessed against a licensee. If the licensee demonstrates good faith in making payments, CID may

issue a new license or certificate or reinstate a suspended license or certificate before full payment has been made. If a licensee obtains a license or certificate pursuant to this provision, and thereafter fails to remain current on payments, the licensee may be subject to additional disciplinary action, including suspension, revocation of the license or certificate and additional administrative penalties.

C. Nothing in this rule shall enable a person to apply for or be issued a license or certificate if ineligible for licensure under any other provision of the act or Title 14, NMAC.

[14.6.3.9 NMAC - Rp, 14.6.3.9 NMAC, 3/10/2022]

14.6.3.10 [RESERVED]

[14.6.3.10 NMAC - N, 1/1/2010; Repealed, 11/1/2013]

History of 14.6.3 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: CIC 70-2, General Construction Classifications, filed 11/25/1970; CIC 72-4, General Construction Classifications, filed 02/16/1972; CIC 76-2, Rules And Regulations, filed 05/05/1976; CID 78-2, Rules And Regulations, filed 12/05/1978; CID 79-1, Rules And Regulations, filed 06/06/1979; CID 82-1, Construction Industries Rules And Regulations, filed 04/14/1982; CID 85-1, Construction Industries Rules And Regulations, filed 02/04/1985; CID 90-1, Construction Industries Rules And Regulations, filed 05/31/1990.

History of Repealed Material:

14 NMAC 6.3, Housing and Construction - Construction Industries Licensing - Contractor's License Requirements (filed 9/2/1997) repealed 12/1/2000.
14.6.3, Housing and Construction

- Construction Industries Licensing
 - Contractor's License Requirements
 (filed 10/16/2000) repealed 2/01/2006.

Other History:

That portion of CID 90-1,
 Construction Industries Rules
 And Regulations, filed 05/31/1990
 -- renumbered, reformatted and
 amended to 14 NMAC 6.3, Housing
 and Construction - Construction
 Industries Licensing - Contractor's
 License Requirements, effective
 09/14/1996.
 14 NMAC 6.3, Housing and
 Construction - Construction Industries
 Licensing - Contractor's License
 Requirements (filed 09/03/1996)
 replaced by 14 NMAC 6.3, Housing
 and Construction - Construction
 Industries Licensing - Contractor's
 License Requirements, effective
 09/23/1997.
 14 NMAC 6.3, Housing and
 Construction - Construction Industries
 Licensing - Contractor's License
 Requirements (filed 09/02/1997)
 replaced by 14.6.3, Housing and
 Construction - Construction Industries
 Licensing - Contractor's License
 Requirements, effective 12/01/2000.
 14.6.3 NMAC, Contractor's License
 Requirements (filed 10/16/2000)
 was replaced by 14.6.3, Contractor's
 License Requirements, effective
 2/01/2006.
 14.6.3 NMAC, Contractor's License
 Requirements (filed 2/01/2006) was
 replaced by 14.6.3, Contractor's
 License Requirements, effective
 3/10/2022.

**REGULATION AND
 LICENSING DEPARTMENT
 CONSTRUCTION INDUSTRIES
 DIVISION**

**TITLE 14: HOUSING AND
 CONSTRUCTION
 CHAPTER 6: CONSTRUCTION
 INDUSTRIES LICENSING
 PART 5: INSPECTORS**

14.6.5.1 ISSUING
AGENCY: The Construction
 Industries Division (CID) of the

Regulation and Licensing Department
 (RLD).
 [14.6.5.1 NMAC - Rp, 14.6.5.1
 NMAC, 3/10/2022]

14.6.5.2 SCOPE: This
 rule applies to inspectors employed
 by the CID and inspectors employed
 by municipalities and political
 subdivisions of the state and subject
 to the jurisdiction of the Construction
 Industries Licensing Act (CILA)
 and the Liquefied and Compressed
 Gases (LPG & CNG Act). Note:
 The provisions of 14.6.5 NMAC
 are different from the requirements
 specified by State Personnel for
 employees (inspectors) of CID.
 [14.6.5.2 NMAC - Rp, 14.6.5.2
 NMAC, 3/10/2022]

**14.6.5.3 STATUTORY
 AUTHORITY:** Sections 60-13-9,
 60-13-41, 60-13-42 NMSA 1978.
 [14.6.5.3 NMAC - Rp, 14.6.5.3
 NMAC, 3/10/2022]

14.6.5.4 DURATION:
 Permanent.
 [14.6.5.4 NMAC - Rp, 14.6.5.4
 NMAC, 3/10/2022]

**14.6.5.5 EFFECTIVE
 DATE:** March 10, 2022, unless
 a later date is cited at the end of a
 section.
 [14.6.5.5 NMAC - Rp, 14.6.5.5
 NMAC, 3/10/2022]

14.6.5.6 OBJECTIVE: The
 objective of is to promote the general
 welfare of the people of New Mexico
 by providing for the protection of life
 and property through standards that,
 when complied with, will result in
 an installation essentially free from
 hazards.
 [14.6.5.6 NMAC - Rp, 14.6.5.6
 NMAC, 3/10/2022]

14.6.5.7 DEFINITIONS:
 See 14.5.1.7 NMAC for definitions.
 [14.6.5.7 NMAC - Rp, 14.6.5.7
 NMAC, 3/10/2022]

14.6.5.8 INSPECTORS:
A. Qualifications:
(1)
 Qualifications for inspectors shall

be prescribed by the Construction
 Industries Commission.
(2) Applicants
 shall submit to a background check as
 prescribed by the commission.
(3) The
 request to certify an applicant must be
 initiated by an AHJ to fill an inspector
 position.
(4) To qualify
 as an inspector for general building,
 electrical, mechanical or LP gas a
 candidate shall meet the following
 minimum qualifications:
(a)
 Mechanical-plumbing trade and
 electrical trades: three years of
 journeyman or foreman level
 experience;
(b)
 General construction: three years of
 foreman experience;
(c)
 LP gas: three years of experience in
 design, construction or operation of
 LP gas installations;
(d)
 Candidates for a mechanical,
 electrical, or general construction
 inspector position may substitute
 technical, university, or college
 training in a mechanical, electrical
 or general construction field for
 up to two years of the three years
 journeyman or foreman level
 experience. The remaining year must
 be directly related journeyman or
 foreman level field experience. The
 equivalency shall be calculated such
 that one year of technical, university
 or college training shall equal 1/2
 year of journeyman or foreman level
 experience.
(e)
 Candidates for a mechanical,
 electrical or general construction
 inspector position may substitute
 a minimum of five years of work
 experience as a certified inspector
 from a recognized jurisdiction for one
 year of the experience requirement,
 and at least two years of related trade
 experience or construction related
 technical, university or college
 training.
**B. Potential denial
 of inspector certification based on
 disqualifying criminal conviction(s).**

(1) Pursuant to Section 28-2-4 NMSA 1978, the division may refuse to grant or renew a license or certificate if an applicant has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) To deny an application for certification based on a disqualifying criminal conviction the following must be considered:

(a) CID shall not consider an applicant's criminal conviction to deny certification unless the conviction is one of the disqualifying criminal convictions listed in Paragraph (4) below.

(b) Should an applicant be denied a certificate based on a disqualifying criminal conviction, the applicant may submit a written justification providing evidence of mitigation or rehabilitation for reconsideration by the division.

(c) Should CID deny the certification after receipt of the written justification stated above, the denial may be appealed and subject to a hearing pursuant to the Uniform Licensing Act to determine whether the denial is properly based upon a disqualifying criminal conviction.

(3) In connection with an application for certification, the construction industries division shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

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

(b) a juvenile adjudication; or

(c) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph 4 of Subsection F of this rule.

(4) Disqualifying felony criminal convictions that may allow the denial of certification or the denial

of renewal of certification, whether in New Mexico or their equivalent in any other jurisdiction include:

(a) conviction involving attempts to evade or defeat payment of a tax that is owed or may be lawfully assessed;

(b) conviction involving physical harm to a person or for an attempt, conspiracy or solicitation to commit such crimes;

(c) robbery, larceny, burglary, fraud, forgery, embezzlement, arson, theft of identity, extortion, racketeering or receiving stolen property or for an attempt, conspiracy or solicitation to commit such crimes;

(d) conviction involving bribery of a public officer or public employee or for an attempt, conspiracy or solicitation to commit such crimes;

C. Certification:

(1) The trade bureau shall ascertain, by written communication from current or previous employers, the experience qualifications and knowledge of an applicant.

(2) The experience must have been gained within four years of the 10 years immediately preceding the application.

(3) Each applicant shall pass the specific trade bureau's inspector examination with a minimum passing score of seventy-five percent prior to conducting any inspections.

(4) If all inspector application requirements are satisfactorily completed, the inspector certificate will be issued; however, the division reserves the right to deny the issuance of the certificate for reasonable and just cause.

(5) Each inspector must pass the examination of a national certifying organization, if appropriate, recognized by the division within one year of employment; and remain current by such verifying organization to maintain state inspector certification.

(a) Electrical inspectors shall pass

the certification test administered by the international code council, or international association of electrical inspectors, or as determined appropriate by the electrical bureau.

(b) Mechanical inspectors shall pass the certification test administered by the international association of plumbing and mechanical officials or the international code council, or as determined appropriate by the mechanical bureau.

(c) General construction inspectors shall pass the certification test administered by the international code council, or as determined appropriate by the general construction bureau.

(6) Inspectors shall meet the minimum continuing education requirements as prescribed by the nationally recognized code organization for each trade bureau jurisdiction and provide proof of such credits to the division upon application for or renewal of certification. The division shall certify and issue a statewide inspectors certification to any person who meets the requirements established by CID and the nationally recognized code organization for certification. The certificate shall list all trade bureaus for which the inspector is certified to inspect and shall be valid for a term of three years.

D. General requirements:

(1) As required in the CILA Section 60-13-8 NMSA 1978, any person employed or placed under contract by the division or by any county or municipality for the purpose of carrying out the provisions of the CILA who holds any contractor's license or certificate of competence issued by the division, shall, as a condition of employment surrender the contractor's license or certificate of competence to the division to be held in inactive status. The division shall place the license or certificate on hold effective from the date the employment or contract begins until the date the employment or contract terminates.

(2) Suspension shall be immediate and automatic for any inspector who fails to surrender his contractor's license or certificate of competence as required above.

(3) An inspector shall be employed by a county, municipality or other political subdivision in order to inspect work under permits issued in the trade bureau for which the inspector is certified; provided that the county, municipality, or other political subdivision has a certified building official in its employ and has adopted the current minimum code standards as established by the commission.

(4) A certificate issued pursuant to this subsection may be suspended or revoked if the certificate holder has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Paragraph (4) of Subsection B of 14.6.5.8 NMAC and 14.5.8 NMAC.

E. Inspectors with multiple certifications inspecting in a second discipline: An inspector properly qualified and certified in a primary discipline may conduct inspections in a secondary discipline provided the following qualification requirements are met:

(1) The inspector must pass the respective state certification examination in the second discipline;

(2) The inspector must become nationally certified in the secondary discipline within one year of obtaining the state multiple certification;

(3) The inspector shall successfully complete a minimum of 40 hours of classroom training determined by the appropriate trade bureau chief;

(4) The inspector shall successfully complete a minimum of 80 hours of field training approved by the appropriate trade bureau chief;

(5) The inspector shall perform only residential inspections in the secondary discipline, except as provided below in Paragraph (8) of

Subsection D of 14.6.5.8 NMAC;

(6) The building department for which the inspector intends to work in the capacity of a secondary inspector shall have a full time inspector on staff as a properly certified primary inspector in the discipline, who shall provide supervision and oversight of the inspector working in the secondary discipline;

(7) The inspector serving as a multiple shall remain currently certified in the secondary discipline;

(8) The inspector serving as a multiple inspector that has verifiable field experience in commercial work, or has received approved hands-on training in commercial under a commercial primary inspector in the discipline at issue, and the field experience or hands on training curriculum meets the approval of the appropriate bureau chief, the secondary inspector may perform residential and commercial inspectors in the secondary discipline under the approval of a primary residential and commercial inspector.

[14.6.5.8 NMAC - Rp, 14.6.5.8 NMAC, 3/10/2022]

14.6.5.9 BUILDING OFFICIALS:

A. Authority having jurisdiction:

(1) CID has statewide authority over the regulation of permitting and inspections of all general construction, mechanical-plumbing, electrical and liquefied petroleum construction, alteration, repair, installation and demolition unless a county, municipality, or political subdivision has a current building department which provides permitting and inspections.

(2) Certain counties, municipalities and political subdivisions have exercised their legal authority to establish full-service building departments for permitting and inspections of general construction, mechanical-plumbing and electrical trades. This authority does not include work in the liquefied

petroleum industry over which CID has exclusive authority.

(3) Certain counties, municipalities and political subdivisions were established as an AHJ as of July 1, 2009, with authority over specific trades, without establishing a full-service building department. These counties, municipalities and political subdivisions are allowed to continue as an AHJ for those specific trades.

(4) In order to establish and maintain a building department allowing permitting and inspections the county, municipality or political subdivision must establish a full-service building department including general construction, mechanical-plumbing and electrical trades, must employ a full-time certified building official and employ sufficient CID certified inspectors to inspect for each trade.

(5) CID shall conduct all inspections if a county, municipality or other political subdivision does not have a certified building official in its employ.

B. General requirements:

(1) When a certified building official leaves the employ of a county, municipality or other political subdivision, the plan review, permitting and inspections overseen by that certified building official shall transfer to the state unless the county, municipality or other political subdivision, within 60 days or a longer period as approved by the division, replaces that certified building official or enters into a memorandum of understanding with another county, municipality or other political subdivision.

(2) If the county, municipality or political subdivision does not replace its certified building official within the allowable time period approved by the division the county, municipality or political subdivision shall lose its authority to maintain a building department with all plan review, permitting and inspections transferred to CID pursuant to Subsection F of Section 60-13-41 NMSA 1978.

(3) Should the county, municipality or political subdivision wish to re-establish a new building department employing a full-time certified building official and certified inspectors, it must be as a full-service building department including plan review, permitting and inspections of the general construction, mechanical-plumbing and electrical trades.

(4) A county, municipality or other political subdivision may enter into a memorandum of understanding to share a certified building official and inspectors operating under that certified building official with another county, municipality or other political subdivision; provided that the certified building official is employed in the same county, in an adjacent county, within 100 miles of the county, municipality or other political subdivision or as approved by the division.

[14.6.5.9 NMAC - Rp, 14.6.5.9 NMAC, 3/10/2022]

History of 14.6.5 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: CIC 70-2, General Construction Classifications, filed 11/25/1970; CIC 72-4, General Construction Classifications, filed 02/16/1972; CIC 76-2, Rules And Regulations, filed 05/05/1976; CID 78-2, Rules And Regulations, filed 12/05/1978; CID 79-1, Rules And Regulations, filed 06/06/1979; CID 82-1, Construction Industries Rules And Regulations, filed 04/14/1982; CID 85-1, Construction Industries Rules And Regulations, filed 02/04/1985; CID 90-1, Construction Industries Rules And Regulations, filed 05/31/1990.

Other History:

That portion of CID 90-1, Construction Industries Rules

And Regulations, filed 05/31/1990 -- renumbered, reformatted and amended to 14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, filed 09/03/1996.

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, filed 09/02/1997

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, amendment filed 10/22/1997

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, amendment filed 04/17/2000

14.6.5 NMAC, Housing and Construction - Construction Industries Licensing - Inspectors, effective 12/1/2000

14.6.5 NMAC, Housing and Construction - Construction Industries Licensing - Inspectors, amendment filed 05/01/2014.

History of Repealed Material:

14 NMAC 6.5, Housing and Construction - Construction Industries Licensing - Inspectors, repealed effective 12/1/2000.

14.6.5 NMAC – Inspectors, filed 12/1/2000 was repealed and replaced by 14.6.5 NMAC – Inspectors, effective 3/10/2022.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**TITLE 14 HOUSING AND
CONSTRUCTION
CHAPTER 6 CONSTRUCTION
INDUSTRIES LICENSING
PART 6
CLASSIFICATIONS AND
SCOPES**

14.6.6.1 ISSUING

AGENCY: The Construction Industries Division (CID) of the Regulation and Licensing Department.

[14.6.6.1 NMAC - Rp, 14.6.6.1 NMAC, 3/10/2022]

14.6.6.2 SCOPE: This rule applies to any person who engages in contracting pursuant to the Construction Industries Licensing Act (CILA) Section 60-13-3NMSA 1978, in New Mexico.

[14.6.6.2 NMAC - Rp, 14.6.6.2 NMAC, 3/10/2022]

14.6.6.3 STATUTORY

AUTHORITY: Section 60-13-9 NMSA 1978.

[14.6.6.3 NMAC - Rp, 14.6.6.3 NMAC, 3/10/2022]

14.6.6.4 DURATION:

Permanent.

[14.6.6.4 NMAC - Rp, 14.6.6.4 NMAC, 3/10/2022]

14.6.6.5 EFFECTIVE

DATE: March 10, 2022, unless a later date is cited at the end of a section.

[14.6.6.5 NMAC - Rp, 14.6.6.5 NMAC, 3/10/2022]

14.6.6.6 OBJECTIVE: The

objective of this rule is to set forth the classifications of licenses and certificates issued by CID.

[14.6.6.6 NMAC - Rp, 14.6.6.6 NMAC, 3/10/2022]

14.6.6.7 DEFINITIONS:

See Section 60-13-3 NMSA 1978 and 14.5.1.7 NMAC for definitions.

[14.6.6.7 NMAC - Rp, 14.6.6.7 NMAC, 3/10/2022]

[See Sections 60-13-2 and 3 NMSA 1978 of the act.]

14.6.6.8 GENERAL INFORMATION:

A. Any license issued pursuant to the CILA and Title 14 NMAC authorizes contracting only in the scope of work authorized by the classification(s) of the issued license: Work performed outside that scope constitutes a violation of the CILA and its rules and constitutes grounds for disciplinary action.

B. Bidding as a prime contractor:

(1) A validly licensed person may bid and contract as the prime contractor of a project

only if the major portion of the work, based on dollar amount, is authorized by the classification of the prime contractor's license. Any work outside the scope of the prime contractor's license classification(s) must be subcontracted to a validly licensed contractor.

(2) A GB-98 contractor may bid and contract as the prime contractor of a mechanical, plumbing or electrical project as determined in Paragraph (1) above that includes work authorized by the GB-98 license classification, regardless of the percentage of GB-98 work. Work outside the scope of the prime contractor's license classification(s) must be subcontracted to an entity validly licensed in the appropriate classification(s).

(3) A GB-98 contractor shall not bid and contract as the prime contractor of an entire project if the major portion of the work to be performed, based on dollar amount, is covered by the scope of any GA classification or any of the following GF classifications: GF-1, GF-2, GF-3, GF-4, GF-6, GF-8, and GF-9.

C. All work subcontracted by a prime contractor shall be performed by an entity that is validly licensed in the classification(s) of the work that is to be performed.

D. Contractors are assigned identifying symbols, as letters and numbers, indicating the license classification in which the licensee is authorized to engage.

(1) The field is designated by a letter and shall be the first letter of the identifying symbol, for example:

(a) G indicates General Construction.

(b) E indicates Electrical.

(c) M indicates Mechanical/Plumbing.

(2) The type of work designation shall be the second letter of the identifying symbol, for example

(a) A indicates asphalt.

(b) B indicates building.

(c) F indicates fixed works.

(d) S indicates specialties.

(3) The number following the letters designates the specific trade, for example: Classification GB-2 indicates the contractor is licensed in the General Construction field (G), Building Construction type of work (B), Residential Building (2). [14.6.6.8 NMAC - Rp, 14.6.6.8 NMAC, 3/10/2022]

14.6.6.9 GENERAL CONSTRUCTION CLASSIFICATIONS:

A. **GA. Asphalt, bitumen and concrete construction:** Applies to surfaces used by vehicular traffic, not airborne craft; construction or maintenance of unpaved private rural roads or rural unpaved parking areas that are located on private property not intended for use by the general public and for which there is no public access is exempt from licensing requirements.

(1) **GA-1. Streets, roads and highways, including tunnels, parking lots, alleys, seal coat and surfacing.**

Requires two years' experience. Clear, align, fill, compress, compact, build up or remove earth and do all work necessary to prepare, within the assigned rights-of-way, the land to accept a streets, roads, highways including culverts and tunnels, and alleys; includes parking lots, sidewalks or driveways; place and finish concrete or bituminous materials and apply sealcoat. This classification includes the scopes of work authorized by GA-2 and GA-3.

(2) **GA-2. Maintenance and repair.** Requires two years' experience. Fix, maintain, repair, patch, mend, cover, fill or replace with materials of like substances to that currently existing on streets, roads, highways, parking lots, driveways, sidewalks and alleys; apply seal coat to driveways and parking lots. Install rumble strips.

(3) **GA-3. Curbs, gutters and driveway culverts.** Requires two years' experience. Form, place and finish concrete curbs, gutters, driveway culverts, public sidewalks and bituminous ridge curbs for the deflection of water.

(4) **GA-4. Striping.** Requires two years' experience. Paint directional stripes on paved roads, streets, highways, alleys and parking lots; install auto parking bumpers or stops and highway lane markers/reflectors.

(5) **GA-5. Highway signs and guard rails.** Requires two years' experience. Erect and stabilize signs and guard rails along public highways, streets, roads and alleys, which are used for the direction and safety of vehicular traffic. Electrical signs must be installed by a properly licensed electrical contractor.

(6) **GA-98. Asphalt, bitumen and concrete construction.** Indicates licensure in classifications GA-1 through GA-5; and covers all work authorized in those classifications.

B. **Residential and commercial building.**

(1) **GB-2. Residential.** Requires two years' of foreman level practical or related trade experience. Erect, alter, repair or demolish residences and apartment houses accommodating not more than four family units, Groups R-1, R-2 and R-3, as those groups are defined in 14.7.2 NMAC; items included in Group U, as defined in 14.7.2 NMAC, when incidental to these structures; includes all work described by the GS specialty classifications, provided the work is limited to residential construction as defined under this provision.

(2) **GB-98. General building.** Requires four years of foreman level practical or related trade experience of which at two years must be commercial experience. Erect, alter, repair or demolish residential and commercial buildings, and certain structures; includes all work authorized by

the GB-2, GF-5, GF-7 and GS classifications; seal coating and striping of driveways and parking lots; excludes those structures covered by the EE, MM, GA or GF classifications.

C. Fixed works.

Construct, alter or repair fixed or public works facilities; provided, however, that work in any trade or craft that is authorized by any one, or a combination of, the mechanical, electrical, or general building or LP Gas classifications must be performed by an entity validly licensed in the appropriate classification. Except as may be expressly provided in a specific classification description, fixed works licensees may not construct buildings that are primarily for the use and occupancy of the general public, but may bid and contract for such buildings when they are incidental to a fixed works project; however, such work must be subcontracted pursuant to Subsection B of 14.6.6.8 NMAC, above.

Incidental storage buildings used exclusively for storage and not for occupancy are allowed within these classifications.

(1) GF-1.

Airports. Requires two years' experience. Construct, alter and repair airports, including excavating, grading, compacting, sub-surfacing, surfacing (dirt or bitumen and concrete), marking and other work on surfaces to be used for aircraft traffic, landing, take-off and taxi.

(2) GF-2.

Bridges. Requires two years' experience. Erect, construct, alter, repair or demolish any bridge, overpass or underpass, culvert or ramp, generally used for vehicular traffic.

(3) GF-3.

Canals, reservoirs, dams and irrigation systems. Requires two years' experience. Construct, erect, alter, repair, or demolish canals, dams, reservoirs irrigation systems; excavate, ditch, fill, compact and place pre-cast components, waterproof membranes and liners, concrete reinforcement, abutments and buttresses in connection

therewith; install tanks, pumps, pipelines and substations incidental to the project; irrigation activities and piping when applicable solely to the production of agriculture or maintenance of livestock on a farm or ranch, excluding electrical work, are exempt from licensing requirements.

(4) GF-4.

Drainage or flood control systems.

Requires two years' experience. Construct, erect, install, repair and alter drainage or flood control systems; dig, excavate, fill, prepare embankments for such purposes, place pre-cast components, concrete reinforcement and perform all other work incidental to these projects; install storm sewers, including trenching, boring, shoring, backfilling, compacting, and paving.

(5) GF-5.

Recreation areas. Requires two years' experience. Construct, prepare, clear, repair or alter facilities for use as recreation areas, including but not limited to golf courses, driving ranges, water parks, tennis courts, playgrounds, outdoor athletic facilities, miniature golf courses, pitch-and-putt golf courses; prepare the area by excavation, fill, including foundations, retaining walls, sprinkler systems, rest benches, shade and rain shelters and foot bridges relative to recreation areas; public campgrounds and parks or similar facilities, including toilet facilities and lean-tos.

(6) GF-6.

Railroad and tunnel construction.

Requires two years' experience. Construct railroad lines, including clearing, filling, shaping, compacting, placing rip-rap, stabilizing, setting roadbeds, ties, tie plates, rails, rail connectors, frogs, switch plates, switches, and all appurtenances necessary for an operational railroad line, including bridges, culverts, tunnels, retaining walls, dikes, gates, tool sheds and landing or parking platforms for equipment. Includes welding operations necessary for rail construction.

(7) GF-7.

Tanks and towers. Requires two years' experience. Construct or fabricate on site and install tanks

for the storage of solids or liquids, above or below ground, and towers such as radio, television and telecommunications towers, including all necessary site-work, excavation and construction of concrete tanks, pads and foundations, cutting, welding, placement of structural members, engineered structural support systems for elevated tanks, and engineered or prefabricated towers; includes the repair and placement of liners in tanks, and incidental storage buildings.

(8) GF-8.

Transmission lines, tanks and substations (non-electrical).

Requires two years' experience. Build, construct and place lines for the transmission or conveyance of natural gas or petroleum, water and other fluid substances, including the application of protective coatings, trenching, boring, shoring, backfilling, compacting, paving and surfacing necessary and incidental to the completion of the installation of such facilities. Includes incidental buildings, tanks, and substations required for the project; construct, alter or repair industrial plants, including, but not limited to, refineries and power generation plants.

(9) GF-9.

Utility lines and systems (sewage, water, natural gas and underground telephone cables).

Requires two years' experience. Construct, install, alter or repair utility lines and utility systems for the transmission of sewage, natural gas and water, including excavating, grading, trenching, boring, shoring, backfilling, compacting, paving and surfacing; includes tanks, pumps, lift-stations and substations incidental to the project; construct, alter, or repair treatment plants and facilities incidental thereto; install direct burial communications cable by trenching, direct plowing or pulling direct burial cable through existing raceways and install vaults as directed by the telecommunications utility; associated excavating, trenching, boring, shoring, backfilling, compacting, paving and surfacing. Shall not perform installation

of electrical raceways including directional boring or pipe jacking methods, splicing, termination, installation of load pots, installation of integrated services digital network cross connect equipment, installation of VoIP switching technology equipment, overhead cabling work, or other activities considered under the scope of the ES-7, EL-1, ES-3 or EE-98 electrical classifications.

(10) GF-98.

Construct, alter or repair fixed works facilities. Requires four years' experience; indicates licensure in classifications GF-1 through GF-9 and authorizes all work described in these classifications.

D. General Specialty classifications. General construction includes numerous specialties. Therefore, CID has established the GS classification series to enable entities that perform this kind of work to be licensed in their respective areas of expertise. The most common of these specialties are described below. Any classification not listed below and regulated by CID shall be issued a GS-29.

(1) GS -1.

Acoustical insulation and insulation. Requires two years' experience. Install any insulating material, including urethane foam and approved waterproof membranes and coatings, in or on buildings, structures and on piping for the purpose of energy conservation, temperature and sound control, and fireproofing. Does not include the installation of urethane roof systems.

(2) GS-2.

Awnings and canopies. Requires two years' experience. Construct, erect and install awnings and canopies, attached to buildings and structures or free standing, including, but not limited to carports and service station canopies, and including necessary excavation and foundation work. All electrical work shall be performed by a properly licensed electrical contractor.

(3) GS-4.

Concrete, cement, walkways and driveways. Requires two years' experience practical trade

experience, one year of which must be foreman level. Mix, pour, place, and finish concrete; includes all necessary preparatory work including excavation, form work, and placing of reinforcement materials; includes the installation on private property of curbs, gutters, sidewalks, and driveway culverts; may not perform this work in public rights-of-way unless subcontracted to a validly licensed GA licensee.

(4) GS-5.

Demolition. Requires two years' experience. Demolish all or any portion of a buildings and structures authorized by the GB-98 classification, including demolition to portions of buildings and structures allowing additions and alterations to be completed to the remaining portions of the building or structure.

(5) GS-7.

Drywall installation and texture. Requires two years' experience. Installation of gypsum wallboard, and gypsum sheathing; includes taping, bedding and coating the surfaces of the wallboard and sheathing with gypsum joint systems, tape and drywall mud, or a combination of other materials to create a permanent surface or coating and of walls and ceilings; install steel or wood stud systems (non-structural) and channel iron work to provide a base for the application of drywall.

(6) GS-8.

Earthmoving, excavating and ditching. Requires two years' experience. Perform earthwork associated with or incidental to construction projects regulated by CID, using hand or power tools, machines that use air, fluids, or other material under pressure, or heavy equipment, in such a manner that cutting, filling, excavating, grading, trenching, backfilling, boring and any similar excavating activity can be executed; earthmoving, excavating and ditching activities applicable to the preparation and production of agriculture or maintenance of livestock on a farm or ranch are exempt from licensing requirements.

(7) GS-9.

Elevators, escalators, and related

machinery (non-electrical).

Requires two years' experience. Erect, install or repair elevators, escalators and related machinery, including sheave beams, sheaves, cable and wire rope, guides, cab, counterweights, doors, including sidewalk elevators, automatic and manual controls, signal systems and all other devices, apparatus, machinery and equipment (including fabrication on job site) essential to the safe and efficient installation and operation of electrical, hydraulic and manually operated elevators and escalators and conveyors designed specifically for the transportation of people.

(8) GS-13.

Framing. Requires two years of foreman level practical or related trade experience; cut, join, install wood, metal or other products approved by the division and utilized for the framing of a structure or building, including bearing and non-bearing walls, rafters, headers, trusses, joists, studs, door and window rough frames, and roof decks, including repair to any of the above.

(9) GS-14.

Windows, doors and skylights. Requires two years' experience. Fabricate and install windows and doors in buildings and structures, including the necessary installation of window, door and skylight framing, and the installation of necessary hardware; cut, assemble and install glass work, and execute the glazing of frames, panels, sash and doors; fabricate and install storm doors, windows, and skylights including flashing; does not include structural alterations to enlarge any opening.

(10) GS-15.

Caissons, piers and pile driving. Requires two years' experience. Install piers, caissons and pilings through the use of pile driving equipment and machinery, including necessary excavation, grading and clearing for site preparation for pile driving activities; cut, weld, join and fabricate caissons or piles; install all necessary concrete and reinforcing steel within the caissons to create a structural member; soil stabilization and rock-fall mitigation.

(11) GS-16.

Masonry. Requires two years' experience. Install or erect brick and other baked clay products, rough cut and dressed stone, artificial stone and pre-cast blocks, structural glass brick or block adobe, laid at random or in courses, with or without mortar, to form masonry walls, anchored stone or masonry veneer, including building walls, freestanding walls six feet or higher from ground level and retaining walls measuring thirty-six inches or more measured from the bottom of the footing; does not include the execution, fabrication and erecting of poured cement and concrete, except as a foundation for a wall.

(12) GS-21.

Roofing. Requires two years of foreman level practical or related trade experience. Install, alter or repair roof systems on new or existing roof decks to create a weatherproof and waterproof protective membrane, with or without insulation, using asphalt, pitch, tar, sealants, felt, shakes, shingles, roof tile, slate, urethane or any other approved materials including the preparatory work necessary to bring a roof deck or an existing roof to a condition where roofing can be installed, and sealed or repaired; includes cutting, shaping, fabricating, and installing of sheet metal such as cornices, flashing, skylights (excluding alterations to structural framing), roof coatings, gutters, leaders, rainwater downspouts, pans, prefabricated chimneys, at or near roof lines, metal flues, or doing any part of any combination thereof, which relate to and are incidental to roofing projects.

(13) GS-23.

Sign construction (non-electrical). Requires two years' experience. Fabricate on site, install and erect signs of wood, steel, plastic or any material, or any combination of materials, which are to be embedded in the earth, in concrete or other base material, or attached to buildings or structures using anchors, attached cables, bars or similar devices and appurtenances; electrified signs shall only be installed by contractors

holding an ES-1 or an EE-98 classification.

(14) GS-24.

Structural steel erection. Requires two years of foreman level practical or related trade experience. Fabricate on site and erect structural steel shapes and plates, of any profile, perimeter or cross-section that may be used as structural members for buildings and structures, including riveting and welding; does not authorize construction of concrete foundations or complete buildings.

(15) GS-25.

Swimming pools (non-plumbing, mechanical or electrical). Requires two years' experience. Construct and repair swimming pools including excavation, installation of reinforcing steel or mesh, application of concrete and special coatings; shall not perform any scope of work which is authorized by a plumbing, mechanical, electrical or LP Gas classification.

(16) GS-30.

Plastering, stucco and lathing. Requires two years' experience. Prepare wall and ceiling surfaces, interior or exterior, with wood, metal lath, wallboard or other properly prepared surfaces which will accept and hold a mixture of sand, plaster (including gypsum plaster), lime and water, or sand and cement with water or any combination of materials to create a permanent surface coating; these coatings may be applied manually or mechanically on surfaces which will support such coating; install steel or wood or other division approved stud systems (non-structural), channel iron work and affix lath or any other materials or products, prepared or manufactured to provide a base for such coatings.

(17) GS-31.

Siding. Requires two years' experience. Apply, replace, or repair siding consisting of slate, gypsum, wood, plastics or other products, including the application of furred up networks on which the siding can be installed.

(18) GS-32.

Miscellaneous sheet metal. Requires two years' experience. Fabricate

on site and install sheet metal (galvanized iron) such as cornices, flashing, gutters, leaders, rainwater downspouts, pans, and prefabricated chimneys; shall not install heating, ventilation & air conditioning (HVAC) duct systems, vents, grease hoods, or other appurtenances that are authorized by mechanical or plumbing classifications.

(19) GS-34.

Concrete coring, drilling and slab sawing. Requires two years' experience. Coring, boring, drilling, cutting, and sawing concrete, including the removal or demolition of the material; does not include the installation of electrical wiring or plumbing in such bored, drilled, cut or sawed concrete.

(20) GS-29

Specialties. Requires up to four years' experience as determined on a case-by-case basis. The GS-29 classification is a sub-category of the general specialty classifications. It is a miscellaneous classification that is used to identify specific specialties on a case-by-case basis.

[14.6.6.9 NMAC - Rp, 14.6.6.9 NMAC, 3/10/2022]

14.6.6.10 ELECTRICAL CLASSIFICATIONS:**A. General**

information. May bid and contract as the prime contractor of an entire project provided the electrical contractor's portion of the contract, based on dollar amount, is the major portion of the contract.

(1) A

journeyman certificate of competence in the appropriate trade classification is required of all individuals performing electrical wiring; provided however, that an apprentice, as defined in Section 60-13-2 NMSA 1978, may work under the direct supervision of a validly certified journeyman, as defined in Section 60-13-2 NMSA 1978. Journeyman certification shall be issued such that the certificates parallel the electrical license classification numbers and scopes. A journeyman may engage in the trade authorized by the certificate of competence issued to the

journeyman only when employed by an entity: (1) that is validly licensed to perform the type of work for which the journeyman is certified; or, (2) holding a valid annual permit authorizing the entity to engage in the type of work for which the journeyman is certified.-

(2) The ratio of certified journeyman to apprentices must not exceed:

(a) one journeyman supervising and overseeing the work of two apprentices on commercial or industrial work;

(b) one journeyman supervising and overseeing the work of two apprentices on commercial or industrial special systems low-voltage work;

(c) one journeyman supervising and overseeing the work of three apprentices on residential work.

(3) Raceway installation: All raceway installations within, or on, buildings shall be performed by a contractor holding an EE-98 license. Specialty electrical license holders (ES-1, 2, 3, 7, 10R and 10) shall not install raceways within, or on, buildings.

(a) Exception 1: ER Licensees and journeymen may install raceways that are incidental to residential wiring;

(b) Exception 2: ES-1 licensees and journeymen may install raceways that are required to connect to sign or outline lighting circuit. Not to exceed 10 feet.

(4) Electrical contracting defined: The definition of contracting is set forth in Section 60-13-3 NMSA 1978, of the CILA, and nothing in this rule shall be construed to conflict with that definition. However, for the purposes of clarity in this rule, contracting is understood to include installations, alterations, repairs, servicing and maintenance involving electrical systems. Refer to Section 60-13-32 NMSA 1978, for the definition of electrical wiring in reference to these classifications.

(5) Electrical customer-owned distribution systems are subject to all adopted codes, standards, and regulations. Customer-owned distribution systems include all (non-utility owned or operated) overhead or underground primary or secondary voltage electrical power line construction, installation, alteration, repairs, and maintenance.

B. License classifications.

(1) **Residential and commercial.**

(a) **EE-98. Residential, and commercial and industrial electrical wiring 5000 volts, nominal or less.**

Requires four years' experience. Includes all electrical systems and wiring methods operating at 5000 volts, nominal, or less; electrical systems and wiring methods identified in electrical specialty classifications ES-1, ES-2, ES-3 and ES-7 ES-10R, or ES-10 residential electrical systems and wiring methods identified in classification ER-1; trenching and ductwork associated with classification EL-1; associated excavating, trenching, boring, shoring, backfilling, compacting for all electrical systems and wiring methods of 5000 volts, nominal or less. Does not include electrical wiring defined in the EL-1 classification other than trenching and duct work as specified above.

(b) **ER-1. Residential electrical wiring 5000 volts, nominal or less.**

Requires two years' experience. Includes electrical systems and wiring methods of 5000 volts, nominal or less at residential one and two-family dwelling units; multi-family dwellings when all such units are all on the ground floor with no occupancies above or below, as set forth in 14.10.4 NMAC. Does not include wiring for commercial use, such as motels, hotels and similar occupancies. May not contract for more than four dwelling units in any single building or structure.

(c) **EL-1. Electrical distribution and transmission systems over 5000**

volts, nominal. Requires four years' experience. Includes all electrical systems and wiring methods operating at over 5000 volts, nominal; overhead or underground electrical distribution and transmission circuits; equipment; associated towers, tower foundations and other supporting structures; associated excavating, trenching, boring, shoring, backfilling, compacting and ductwork; substations and terminal facilities. Does not include any electrical wiring specified or other electrical classifications EE-98, ER-1, ES-1, ES-2, ES-3, ES-7, ES-10R or ES-10.

(2) **Electrical Specialty licenses.**

(a) **ES-1. Electrical signs and outline lighting.** Requires two years' experience. Installation at commercial locations only. Outline lighting is an arrangement of LED, incandescent lamps, or gaseous tubes to outline and call attention to certain features such as the shape of a building or the decoration of a window and may or may not contribute to the general illumination of an area. Includes commercial electrical wiring methods of 5000 volts, nominal or less required to complete the installation of the sign or outline lighting where a "sign circuit" or outline lighting circuit has been provided within 10 feet of the roof or wall of the structure supporting the sign or outline lighting; concrete for the foundation of poles; build structures for the support of such signs associated excavating, trenching, boring, shoring, backfilling, compacting; installation of underground electrical wiring methods of 5000 volts, nominal or less required to complete the installation of the "sign circuit" not to exceed 10 feet from the foundation of the sign.

(b) **ES-2. Cathodic protection and lightning protection systems.** Requires two years' experience. Includes interior and exterior cathodic protection and lightning protection systems at commercial and residential locations; electrical wiring methods of

5000 volts, nominal or less required to complete a cathodic grounding protection system only; electrical wiring methods of 5000 volts, nominal or less required to complete a lightning protection system only. May not install the service riser, main service or service grounding.

(c)

ES-3. Low voltage special systems (under 50 volts). Requires two years' experience. Interior and exterior special systems, cabling and interconnections at commercial and residential locations, privately and publically owned operating at 50 volts or less; includes telecommunications systems; fire alarm systems, CATV systems; audio and visual systems; security systems; door and gate operated control circuits; temperature control circuits, other low voltage specialty systems operating at 50 volts or less; low voltage special systems cables installed in plenum or non-plenum rated walls or ceilings; low voltage special systems cables in existing raceways installed by others as defined at Paragraph (2) of Subsection A of 14.6.6.10 NMAC; direct burial low voltage special systems cables; overhead low voltage special systems cabling to structures; terminations and splicing of low voltage special system conductors; associated excavating, trenching, boring, shoring, backfilling, compacting; installation of underground electrical wiring methods required to complete any of the special systems listed above. An installer of television receive-only (TVROs) (dishes) is not required to have a contractor's license when the installation is in a single-family dwelling and does not require the use of 120 volts for tracking. Does not include interior or exterior wiring of circuits operating above 50 volts which requires an EE-98 or ER-1 classification.

(d)

ES-7. Telephone communication systems. Requires two years' experience. Interior and exterior telecommunications cabling and interconnections at commercial and residential locations, in publicly or

privately owned buildings; includes telecommunication cables installed in plenum or non-plenum rated walls or ceilings; telecommunication cables in existing raceways installed by others as defined at Paragraph (2) of Subsection A of 14.6.6.10 NMAC; direct burial telecommunication cables; overhead telecommunication cabling to structures; terminations and splicing of communication conductors; associated excavating, trenching, boring, shoring, backfilling, compacting, installation of underground electrical wiring methods required to complete the installation of telecommunications systems; terminal facilities; installation of integrated services digital network cross connect equipment; installation of VoIP switching technology equipment, repeaters, including the installation of instruments at their terminating locations. Does not include Interior or exterior wiring of circuits operating above 50 volts which requires an EE-98 classification.

(e)

ES-10R. Residential water well pump installer. Requires two years' experience. Residential water well pumps, 120/240 volts or less, single phase 15 HP or less. Includes the installation, maintenance, repairing or replacement of electrical equipment, wiring, and accessories directly associated with water well pump systems; single phase variable frequency drives; subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure; branch circuit or feeder conductors from the service equipment or panel board to the well pump location; incidental excavation, trenching; solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment; does not include electrical systems over 240 volts, pumps over 15 HP, electrical services, building wiring or any other electrical wiring.

(f)

ES-10. Water well pump installer. Requires two years' experience. Commercial water well pumps, 600 volts or less, single or three phase.

Includes the installation, maintenance, repairing or replacing electrical equipment, wiring, and accessories directly associated with water well pump systems; variable frequency drives; subpanels, luminaires, and receptacle outlets installed within the well pit or well enclosure; branch circuit or feeder conductors from the service equipment or panel board to the well pump location; incidental excavation and trenching; solar photo-voltaic arrays 5 kW or less when dedicated to pumping equipment. Does not include systems over 600 volts, electrical services, building wiring or any other electrical wiring.

C. Journeyman

classifications.

(1) EE-98J.

Journeyman residential and commercial electrical. Requires four years' experience. Can work under EE-98, ER-1 and all electrical specialty licenses. If working under an ER-1 or a specialty license the journeyman holding this certification may perform work only within the scope of the contractor's license.

(2) ER-1J.

Journeyman residential wiring. Requires two years' experience. Can work under an EE-98 or an ER-1 license.

(3) EL-1J.

Journeyman electrical distribution systems, including transmission lines. Requires four years' experience. Can work under an EL-1 license.

(4) ES-1J.

Journeyman electrical signs and outline lighting. Requires two years' experience. Can work under an ES-1 or an EE-98 license.

(5) ES-2.

Journeyman cathodic protection and lightning protection systems. Requires two years' experience. Can work under an ES-2 or an EE-98 license.

(6) ES-3J.

Journeyman sound, intercommunication, electrical alarm systems, and systems 50 volts and under. Requires two years' experience. Can work under an ES-3, ER-1 or an EE-98 license.

(7) **ES-7J.**
Journeyman telephone communication systems and telephone interconnect systems. Requires two years' experience. Can work under an ES-7, ER-1 or EE-98 license.

(8) **ES-10RJ.**
Journeyman residential water well pump installer. Requires two years' experience. Can work under an ES-10R, ER-1 or EE-98 license.

(9) **ES-10J.**
Journeyman water well pump installer. Requires two years' experience. Can work under an ES-10, ER-1 or EE-98 license. [14.6.6.10 NMAC - Rp, 14.6.6.10 NMAC, 3/10/2022]

14.6.6.11 MECHANICAL AND PLUMBING CLASSIFICATIONS:

A. General information.

(1) A journeyman certificate of competence in the appropriate trade classification is required of all individuals performing mechanical and plumbing work; provided however, that an apprentice, as is defined in Section 60-13-2 NMSA 1978, may work under the direct supervision of a validly certified journeyman as that term is defined in Section 60-13-2 NMSA 1978. Journeyman certificates are classified according to the type of work the journeyman is certified to perform. A journeyman may engage in the trade authorized by the certificate of competence issued to the journeyman only when employed by an entity: (1) that is validly licensed to perform the type of work for which the journeyman is certified or, (2) that holds a valid annual permit authorizing the entity to engage in the type of work for which the journeyman is certified.

(2) Ratio of unregistered apprentices. The ratio of certified journeyman to unregistered apprentices must not exceed:

(a) one journeyman supervising and overseeing the work of two unregistered apprentices on

commercial or industrial work;
 (b) one journeyman supervising and overseeing the work of three unregistered apprentices on residential work.

(3) Contracting of mechanical or plumbing work includes installations, alterations, repairs, servicing and maintenance which clarifies Section 60-13-3 NMSA 1978.

(4) Refer to Section 60-13-32 NMSA 1978, for the definitions of plumbing, fixtures and gas-fitting in referenced to these classifications.

B. License classifications. Residential and commercial.

(1) **MM-1. Plumbing.** Requires four years' experience. Install, alter, repair, service, and maintain plumbing, plumbing fixtures, and piping, includes incidental concrete supports, and excavating, trenching and backfilling; includes hot water heating systems not exceeding 30 p.s.i. or 400,000 b.t.u./hour input; piping for fuel, oil and gasoline; piping and appurtenances for solar thermal energy systems; potable water irrigation sprinkler systems; swimming pools and spas; includes pneumatic or electric controls and control wiring not greater than 24 volts; septic tanks, manholes and sewer lines; does not include installation of natural gas fired appliances or natural gas piping; piping and agricultural sprinkler irrigation system installation and maintenance on farm or ranch property that moves water for livestock use or irrigation purposes from a privately owned well or pipeline, not connected to a public potable water supply are exempt from licensing requirements. When connected to a potable water source all connections must be downstream of an approved back flow prevention device. If a backflow prevention device is required it shall be permitted and installed by a properly certified journeyman employed by an appropriately licensed contractor.

(2) **MM-2. Natural gas fitting.** Requires four years' experience. Install, alter, repair, service and maintain natural gas piping and fittings; install hot water heating systems not exceeding 30 p.s.i. or 400,000 b.t.u./hour input; steam and hot water boilers; may connect water to existing valved outlets; warm air heating systems including chimney connections, flues, refractories, burners, fittings valves, thermal insulation, accessories and incidental piping; warm air appliances and other listed gas appliances; incidental controls and control wiring, pneumatic control systems; includes all required excavating, trenching and backfilling. May not install LP Gas systems.

(3) **MM-3. Heating, ventilation & air conditioning (HVAC).** Requires four years' experience. Install, alter, repair, service and maintain HVAC air handling and refrigeration equipment and piping, including fans, coils, condensing units, self-contained packaged air conditioning or heating units, evaporative cooling units, and ductwork and accessories including solar air heating and cooled mechanical air handling and ventilation applications; may connect water to existing valved outlets, and install controls, and control wiring not to exceed 24 volts; may bid and contract for structural alterations, electrical wiring and other work incidental to this scope of work, provided such work is performed by a validly licensed contractor.

(4) **MM-4. Heating, cooling and process piping.** Requires four years' experience. Install, alter, repair, service and maintain hydronic heating, cooling and process piping, piping and appurtenances for steam and hot water systems of any temperature or pressure range, chilled water systems, condensing water systems and other process piping systems; includes air handling equipment, pressure vessels, heat exchangers, boilers, refrigeration water chillers, cooling towers, fuel oil tanks and fuel oil piping; electric controls and control wiring not to

exceed 24 volts; install high pressure and process piping solar thermal energy systems of any temperature or pressure range conveying gas or fluids other than potable water; water based fire protection sprinkler systems, dry chemical fire protection systems.

(5) MM-98.

Mechanical. Requires four years' experience. Indicates licensure in individual classifications MM-1 through MM-4 and covers all work described in these classifications, as well as work described in the MS-3, MS-6, MS-12 and MS-14.

C. Mechanical

Specialty classifications:

(1) MS-3.

Septic tanks & sewer. Requires two years' experience. Install, alter, repair, service or maintain septic tanks and private sewage disposal systems, manholes and sewer lines, beginning at a connection to a public or private utility and ending at a point five feet beyond the outside wall of a building or structure; excavate, trench, backfill and grade as necessary; install or repair incidental plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(2) MS-6.

Lawn sprinklers. Requires two years' experience. Install, alter, repair, service or maintain potable water sprinkler systems; excavate, trench, backfill and grade as necessary; backflow prevention devices incidental plug-in type electrical control panels, controls and control wiring not to exceed 24 volts.

(3) MS-12.

Fire protection sprinkler systems. Requires four years' experience. Install alter, repair, service or maintain water-based fire protection systems required pressure or storage tanks, controls and control wiring up to 24 volts; excavate and backfill and install piping from structure to off-site water supply adjacent to fire protection system property; bid or contract for structural alterations, electrical wiring, etc., incidental to the system installation, provided such work is performed by a validly licensed contractor.

(4) MS-14.

Dry chemical fire protection.

Requires four years' experience. Install, alter, repair, or service or maintain gaseous or chemical based fire protection systems including carbon dioxide (CO), or clean agents; pressurized storage tanks, valves, temperature sensing devices, solenoid or safety shut-off devices and other incidental controls and control wiring up to 24 volts; bid or contract for structural alterations, electrical wiring, etc., incidental to the system installation, provided such work is performed by a properly licensed contractor.

D. Journeyman

classifications. Requires two years' experience.

(1) JP.

journeyman plumber. Can work under a MM-1 or MM-98 license.

(2) JPF.

journeyman pipe fitter. Can work under a MM-1, MM-2, MM-4 or MM-98 license.

(3) JG.

journeyman natural gas fitter. Can work under an MM-2 or MM-98 license.

(4) JPG.

journeyman plumber and natural gas fitter. Can work under a MM-1, MM-2 or MM-98 license.

(5) JR.

journeyman refrigeration. Must demonstrate compliance with environmental protection agency (EPA) recovery requirements prior to a certificate-being issued. Can work under an MM-3 or MM-98.

(6) JS.

journeyman sprinkler. Can work under a MS-6, MM-1 or MM-98 license.

(7) JSM.

journeyman sheet metal. Can work under a MM-3 or MM-98 license.

(8) JW.

journeyman welder. Must obtain either a JP, JG, JPG, JPF or JSM certification and demonstrate compliance with the American society of mechanical engineers (ASME) section 9 certification. Can work under an MM-1, MM-2, MM-3, MM-4 or MM-98 license when

holding the appropriate journeyman certification for the license classification.

(9) JMG.

journeyman medical gas installer.

Must obtain either JP, JG, JPG or JPF certification and demonstrate compliance with medical gas certification as referenced in 14.9.5 NMAC. Can work under an MM-1, MM-2, MM-4 or MM-98.

(10) MS-12J.

journeyman fire protection

sprinkler systems. Requires four years' experience Can work under a MS-12, MM-4 or MM-98 license.

(11) MS-14J.

journeyman dry chemical fire

protection. Requires four years' experience. Can work under a MS-14, MM-4 or MM-98 license.

(12) BO1.

journeyman boiler operator. Low pressure only. Requires six months' experience. Can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

(13) BO2.

journeyman boiler operator. Low and high pressure. Requires six months' experience. Can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

[14.6.6.11 NMAC - Rp, 14.6.6.11 NMAC, 3/10/2022]

History of 14.6.6 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as: CIC 70-2, General Construction Classifications, filed 11/25/1970; CIC 72-4, General Construction Classifications, filed 2/16/1972; CIC 76-2, Rules And Regulations, filed 5/5/1976; CID 78-2, Rules And Regulations, filed 12/5/1978; CID 79-1, Rules And Regulations, filed 6/6/1979; CID 82-1, Construction Industries Rules And Regulations, filed 4/14/1982; CID 85-1, Construction Industries

Rules And Regulations, filed 2/4/1985;
CID 90-1, Construction Industries Rules And Regulations, filed 5/31/1990.

History of Repealed Material:

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 9/2/1997), repealed effective 12/1/2000.

14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes (filed 10/16/2000), repealed 7/1/2004.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 5/27/2004), repealed 2/1/2006.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1/3/2006), repealed 1/1/2014.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 12/2/2013), repealed 1/1/2014.

Other History:

That portion of CID 90-1, Construction Industries Rules And Regulations, filed 5/31/1990 - renumbered, reformatted and amended to 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes, effective 9/14/1996.

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications And Scopes (filed 9/03/1996) replaced by 14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 9/23/1997.

14 NMAC 5.6, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, filed 9/2/1997 replaced by 14.5.6 NMAC, Housing and Construction - Construction Industries General Provisions - Classifications and Scopes, effective 12/1/2000.

14.5.6 NMAC, Housing and Construction - Construction Industries

General Provisions - Classifications and Scopes (filed 10/16/2000), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 7/1/2004.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 5/27/2004), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 2/1/2006.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1/3/2006), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 1/1/2014.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 12/2/2013), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 1/1/2014.

14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes (filed 1/1/2014), replaced by 14.6.6 NMAC, Housing and Construction - Construction Industries Licensing - Classifications and Scopes, effective 3/10/2022.

**REGULATION AND
LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.5.8 NMAC, amending Sections 7, 8 and 9, effective March 10, 2022.

14.5.8.7 DEFINITIONS:

See 14.5.1.7 NMAC for definitions.

[A. "Authority Having Jurisdiction (AHJ)": means the entity with permitting authority in the political subdivision where the property is located, which may be the division, a municipality or a county.

B. "Code": means the

statewide construction codes adopted by the commission.

C. "Code Bond": means the construction license bond required in Section 60-13-49 NMSA 1978, for correction of code violations certified by the division.

D. "Completion": means the date of the issuance of a certificate of occupancy or the date of the final inspection by the governmental entity having jurisdiction over code enforcement.

E. "Informal Hearing": means a hearing held pursuant to Subsection C of Section 60-13-27 NMSA 1978.

F. "Formal Hearing": means a hearing held under the ULA, Section 60-1-1 through 60-1-33 NMSA 1978.

G. "Notice of Contemplated Action (NCA)": means the official notice to a licensee that the commission is seeking to take action against a licensee for alleged violations of the CHA or rules promulgated by the commission.

H. "Prime contractor": means the licensed contractor who contracted with the property owner to oversee the construction project and act as the owner's agent as defined in Subsection B of 14.6.6.8 and Subsection A of 14.6.6.9 NMAC.

I. "Sub-contractor": means a licensed contractor who is hired by the prime contractor, regardless if the sub-contractor obtains its own permit or works under the permit obtained by the prime contractor.

J. "Surety": means the insurance company authorized by the NM department of insurance to transact business in New Mexico and acts as the underwriter of a contractor's code bond.

K. "CVD": means a code violation determination report prepared by a division employee.

L. "NOI": means a notice of investigation prepared by a division employee.

M. "ULA": means the Uniform Licensing Act, Sections 60-1-1 through 60-1-33 NMSA 1978.

~~N. "Gross incompetence or gross negligence" means, but shall not be limited to, a significant departure from the prevailing industry standard, manufacturer specifications or any provision of CILA, ULA or rule adopted by the commission.]~~
[14.5.8.7 NMAC - N, 12/13/2014; A, 3/10/2022]

14.5.8.8 VIOLATIONS:

A. An action by a licensee or certificate holder that is contrary to any of the following provisions, the CILA, the Liquefied Petroleum Gas and Compressed Natural Gas Act, Sections 70-5-1 through 70-5-23 NMSA 1978, the Manufactured Housing Act, Sections 60-14-1 through 60-14-20, NMSA 1978, or any rule promulgated by the commission, may subject the licensee to disciplinary action.

- (1) Gross incompetence or gross negligence.
- (2) Failure to maintain financial responsibility.
- (3) Failure to maintain worker compensation insurance.
- (4) Performing, or holding one- self out as able to perform, professional services beyond the scope of one's license and field or fields of competence.
- (5) Contracting without displaying his/her full name as it appears on the license issued by the division.
- (6) Advertising a classification or trade in which a contractor is not licensed by the division.
- (7) Advertising a service in a false, fraudulent or misleading manner.
- (8) The use of a false, fraudulent or deceptive statement in any document connected with construction bids, licensing, inspections or permitting.
- (9) Fraud, deceit or misrepresentation in any application.
- (10) Violation of any order of the commission.

(11) Cheating on an examination for licensure.

(12) Failure to cooperate in an investigation.

(13) Obstruction of an investigator or an inspector in carrying out their duties.

~~(13)~~ (14) Aiding and abetting unlicensed contracting.

~~(14)~~ (15) Contract or job abandonment activity as determined by a court of competent jurisdiction.

(15) (16) Failure to meet and maintain requirements for crossover licensure for multidisciplinary registration, certificates or licenses.

(16) (17) Failure to be in compliance with the Parental Responsibility Act.

B. If the commission or an informal hearing officer determines that a licensee violated any provision of this subsection, the commission or an informal hearing officer may: issue letter of reprimand, deny, revoke, suspend, or otherwise limit a license; assess an administrative penalty; require licensees to fulfill continuing education hours within limited time constraints; or any combination of the above.

C. Potential suspension or revocation of a license or certification based on a disqualifying criminal conviction.

(1) Pursuant to Section 28-2-4 NMSA 1978, the construction industries commission may revoke or suspend a license or certificate if the licensee or certificate holder has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) The construction industries commission shall not revoke or suspend a license or certificate on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (4) of this rule.

(3) In connection with the suspension or

revocation of a license or certificate, the commission shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

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

(b) a juvenile adjudication; or

(c) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph (4) of this rule.

(4) Disqualifying felony criminal convictions that may allow the denial of licensure or certification or the denial of renewal of licensure or certification, whether in New Mexico or their equivalent in any other jurisdiction include:

(a) conviction involving attempts to evade or defeat payment of a tax that is owed or may be lawfully assessed;

(b) conviction involving physical harm to a person or for an attempt, conspiracy or solicitation to commit such crimes;

(c) robbery, larceny, burglary, fraud, forgery, embezzlement, arson, theft of identity, extortion, racketeering or receiving stolen property or for an attempt, conspiracy or solicitation to commit such crimes;

(d) conviction involving bribery of a public officer or public employee or for an attempt, conspiracy or solicitation to commit such crimes.

(5) A licensee or certificate holder may submit a written justification providing evidence of mitigation or rehabilitation for consideration by the construction industries commission should discipline proceed or be anticipated based on a disqualifying criminal conviction.

(6) A licensee or certificate holder has a right, pursuant to the Uniform Licensing Act, to request a hearing should a claim be made against the license or certificate based solely on the

disqualifying criminal conviction as enumerated in Subparagraphs (a), (b) and (c) of Paragraph (4) above.

(7) Should the construction industries commission suspend or revoke a license or certificate, based solely upon a disqualifying criminal conviction, the licensee or certificate holder has the right to appeal to the district court pursuant to the rules of civil procedure to determine whether the revocation or suspensions is properly based upon a disqualifying criminal conviction.

(8) Nothing herein prevents the construction industries commission from disciplining a licensee or certificate holder on the basis of a licensee's or individual's conduct to the extent that such conduct violated the Construction Industries Licensing Act or the Liquefied Petroleum and Compressed Natural Gas Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the licensee or individual was convicted is listed as one of the disqualifying criminal convictions listed in Paragraph (4) above.
[14.5.8.8 NMAC - N, 12/13/2014; A, 3/10/2022]

14.5.8.9 ADMINISTRATIVE INVESTIGATIONS AND ENFORCEMENT:

A. Complaints:

Administrative disciplinary proceedings may be initiated by the filing of a complaint by any person, including members of the commission or division staff, against any licensee, registrant or certified holder. The division will assign an employee to investigate the alleged violations.

B. Notice of investigations (NOI): A NOI shall be sent to the address on record according to the licensee's file. The licensee is required to respond within 15 calendar days from the date the NOI was sent by the division and provide the information or documents requested by the commission or division. Failure to respond in writing and supply information or

documentation requested may subject the licensee to disciplinary actions.

C. Investigative

[subpoenas] Subpoenas: The division director or the commission is authorized to issue investigative subpoenas and to employ experts with regard to pending investigations. The recipient of an investigative subpoena is obligated to reply with the requested information no later than 30 calendar days after receipt of the subpoena unless otherwise specified in the subpoena. Failure to comply with the subpoena may subject a licensee or certificate holder to disciplinary action or be cause for the division or the commission to seek enforcement of the subpoena in a court of law.

[14.5.8.9 NMAC - N, 12/13/2014; A, 3/10/2022]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.6.4 NMAC, amending Sections 7 and 8, effective March 10, 2022.

14.6.4.7 DEFINITIONS.

See Section 60-13-2 NMSA 1978 and 14.5.1.7 NMAC for definitions.

[14.6.4.7 NMAC - Rp, 14.6.4.7 NMAC, 2/1/2006; A, 3/10/2022]

14.6.4.8 JOURNEYMAN CERTIFICATION.

A. General information.

(1) A journeyman :certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing electrical wiring, or mechanical and plumbing work; provided however, that an apprentice, as defined in Section 60-13-2 NMSA 1978, of the act, may work under the direct supervision of a validly certified journeyman, as defined in Section 60-13-2 NMSA 1978, of the act, who is employed by a validly licensed person, as defined by Section 60-13-2

NMSA 1978, of the act, or a holder of a valid annual permit. [Journeyman certifications shall be issued such that the certificates parallel the contractor classifications and scopes:

~~(2)~~

Journeyman certifications shall be issued such that each certificate parallels the license classification numbers and scopes set forth in 14.6.6 NMAC:

~~(3)~~ **(2) A**

journeyman certificate of competence is issued to an individual only and is not transferable or assignable.

~~(4)~~ **(3) No**

individual under the age of 18 shall be issued a certificate of competence.

~~(5)~~ **(4)**

Journeyman certificates are classified according to the type of work the journeyman is certified to perform.

A journeyman may engage in the trade authorized by the certificate of competence issued to [him/her] the journeyman only when employed by a licensed entity: (1) that is validly licensed to perform the type of work for which the journeyman is certified; or, (2) holding a valid annual permit authorizing the entity to engage in the type of work for which the journeyman is certified.

~~(6)~~ **(5) For**

information regarding compliance with the Parental [Responsibilities] Responsibility Act, revocations and suspensions and administrative penalties, please see Subsections H and I of 14.6.3.8 NMAC and 14.6.3.9 NMAC.

B. Application.

(1)

An application submitted for a journeyman certificate of competence shall be on a form approved by CID and shall be accompanied by the prescribed certification fee.

(2) An

incomplete or insufficient application shall be rejected and returned to the applicant with a statement of the reason for the rejection.

(3) All

requirements for certification must be met within six months after the date the application is received by CID or its designee. Any application

not completed within the six month period shall expire and any fees paid in connection with the expired application shall automatically forfeit.

(4) The applicant must submit proof of the required experience with the application on form(s) approved by CID [No applicant shall be eligible to take an examination for a certificate of competence before proof of experience is submitted and approved] or must meet all of the requirements for expedited certification for a military service member as defined 60-1-34 NMSA 1978.

(5) —

Examination:

(a) No applicant for a journeyman certificate is eligible to take an exam until documentation establishing satisfaction of the applicable work experience requirement has been received and approved by CID or its designee.

(b) Examinations shall be administered by CID or its designee according to a schedule which shall be published.

(c) A passing examination score is seventy percent (75%) or above.

(d) An applicant who fails to appear for a scheduled examination or fails to attain a passing score of at least 75% may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee, and does not repeat the exam more than twice in any 30-day period.

(e) If CID or its agent has determined that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, any certificate issued on basis of that examination shall be automatically and immediately voided, and the applicant will not be eligible to take any examination administered by CID or its designee for one (1) year after the date of such event.]

(5) An application for certification may be denied if the applicant has been convicted of a felony enumerated as

a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

C. Journeyman certification process.

(1) Except for individuals seeking expedited licensure as military service members, an individual applying for a journeyman certificate must provide proof of four years of work experience within the 10 years immediately prior to application, as required in the act and Title 14, NMAC, in the classification for which application is made. Training that is classified as technical training by an accredited college, university, manufacturer's accredited training program, technical vocational institute or an accredited apprenticeship program will be considered in lieu of work experience. Each year of equivalent training shall be applied as one-half year of experience, but in no case shall accredited training exceed one-half of the total work experience requirement.

(2) **Examination procedure.**

(a) No applicant for a journeyman certificate is eligible to take an examination until providing satisfactory work experience documentation to the division.

(b) Examinations shall be administered by CID, or its designee.

(c) A passing exam score is seventy-five percent or higher.

(d) An applicant who fails to appear for a scheduled exam or fails to attain a passing score of seventy-five percent or higher may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee and does not repeat the exam more than twice in any 30-day period.

(e) If CID or its designee determines that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, and any license or certificate issued on the basis of

that exam shall be automatically and immediately voided. The applicant will not be eligible to take any exam administered by CID, or its designee, for one year after the date of such an event.

D. Journeyman process for expedited certification for military service members.

(1) The applicant shall submit a completed division approved journeyman application.

(2) In lieu of work experience verification the applicant shall provide the following documentation satisfactory to the division:

(a) applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensure or certification requirements in that jurisdiction and the minimal licensing or certification requirements in that jurisdiction are substantially equivalent to the certification requirements for New Mexico; and

(b) submit the following documentation: (i) for military service member: copy of military orders;

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

(iii) for spouses of deceased military service members: copy of deceased service member's DD214 and copy of marriage license;

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

(v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

(3) The certificate shall be issued by the division as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a completed division approved application and provides a background check, if required, for the certification.

(4) Military service members and veterans shall not be charged a fee for the first three years for a certificate issued pursuant to this rule. The three-year exemption for certification fees does not include fees for copies of documents, replacement certificates or other expenses related to a certificate, which fees shall be charged according to the division's fees currently in effect.

(5) A certificate issued pursuant to this section shall be valid for a three-year period subject to renewal requirements of Subsection E below.

E. Electrical journeyman classifications. Requires two years of experience unless otherwise specified.

(1) **EE-98J. Journeyman residential and commercial electrical.** Requires four years of experience. Can work under EE-98, ER-1 and all electrical specialty licenses. If working under an ER-1 or a specialty license the journeyman holding this certification may perform work only within the scope of the contractor's license.

(2) **ER-1J. Journeyman residential wiring.** Can work under an EE-98 or an ER-1 license.

(3) **EL-1J. Journeyman electrical distribution systems, including transmission lines.** Requires four years of experience. Can work under an EL-1 license.

(4) **ES-1J. Journeyman electrical signs and outline lighting.** Can work under an ES-1 or an EE-98 license.

(5) **ES-2. Journeyman cathodic protection and lightning protection systems.** Can work under an ES-2 or an EE-98 license.

(6) **ES-3J. Journeyman sound, intercommunication, electrical alarm systems, and systems 50 volts and under.** Can work under an ES-3, ER-1 or an EE-98 license.

(7) **ES-7J. Journeyman telephone communication systems and telephone interconnect systems.** Can work under an ES-7, ER-1 or EE-98 license.

(8) **ES-10RJ. Journeyman residential water well pump installer.** Can work under an ES-10R or EE-98 license.

(9) **ES-10J. Journeyman water well pump installer.** Can work under an ES-10 or EE-98 license.

F. Mechanical-plumbing journeyman classifications. Requires two years of experience unless otherwise specified.

(1) **JP. Journeyman plumber.** Can work under an MM-1, MS-3, MS-6 or MM-98 license.

(2) **JPF. Journeyman pipe fitter.** Can work under an MM-1, MM-2, MM-4 or MM-98 license.

(3) **JG. Journeyman natural gas fitter.** Can work under an MM-2 or MM-98 license.

(4) **JPG. Journeyman plumber and natural gas fitter.** Can work under an MM-1, MM-2 or MM-98 license.

(5) **JR. Journeyman refrigeration.** Must demonstrate compliance with environmental protection agency (EPA) recovery requirements before certificate may be issued. Can work under an MM-3, MM-4 or MM-98 or JSM license.

(6) **JS. Journeyman sprinkler.** Can work under an MS-6, MM-1 or MM-98 license.

(7) **JSM. Journeyman sheet metal.** Can work under an MM-3 or MM-98 license.

(8) **JW. Journeyman welder.** Must obtain either a JP, JG, JPG, JPF or JSM certification and show American society of mechanical engineers (ASME) section 9 certification. Is not required to test separately for this certificate of competence. Can work under an MM-1, MM-2, MM-3, MM-4 or MM-98 license.

(9) **JMG. Journeyman medical gas installer.** Must obtain either JP, JG, JPG or JPF certification and show approved medical gas certification as referenced in 14.9.5 NMAC. Can work under an MM-1, MM-2, MM-4 or MM-98 license.

(10) **BO1. Journeyman boiler operator.** Low pressure only. Requires six months experience; can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

(11) **BO2. Journeyman boiler operator.** Low and high pressure. Requires six months experience; can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

(12) **MS-12J. Journeyman fire protection sprinkler systems.** Requires four years of experience. Can work for an MS-12, MM-4, or an MM-98 license.

(13) **MS-14J. Journeyman dry chemical fire protection.** Requires four years of experience. Can work for an MS-14, MM-4 or MM-98 license.

[E] **G. Renewal.**

(1) **CID,** or its designee, shall mail to every certificate holder a renewal application form at least 30 days prior to the expiration of such certificate to the certificate holder's current address of record. Whether or not the application is received, it is the sole duty and responsibility of each certificate holder to timely renew his/her certificate. Incomplete or inaccurately completed renewal applications shall be rejected.

(2) No journeyman certificate shall be renewed in the absence of proof of compliance with the continuing education requirements set forth in Subsection D of this section.

(3) The filing date of the renewal application shall be the date the envelope is postmarked or, if it is hand delivered, the date it is received by CID, or its designee.

(4) If an application for renewal is not timely received or, if it is received but rejected for failure to comply with renewal requirements, the certificate shall be suspended and shall be subject to cancellation pursuant to Subsection C of Section 60-13-39 NMSA 1978, of the act.

(5) An application for renewal of a certificate may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

[D] H. Continuing education requirements.

(1) The continuing education requirements for renewal of a journeyman certificate apply to the following journeyman classifications:

(a) plumbing journeyman plumber (JP), journeyman pipefitter (JPF), journeyman gas (JG), journeyman plumber-gas (JPG);

(b) mechanical - journeyman sheet metal (JSM), journeyman sprinkler (JS), journeyman refrigeration (JR), journeyman fire protection (MS-12J or MS-14J); and

(c) electrical - journeyman electrician (JE98 also referred to as EE98-J) and journeyman lineman (EL-1J).

(2) Prior to renewal [~~or reinstatement~~] of a journeyman certificate of competence in the applicable classification, the applicant for renewal or reinstatement is required to complete a minimum of 16 hours of approved course work. Proof of completion of such course

work, in a form satisfactory to the division, must be submitted with the application for renewal.

(3) A minimum of eight hours of approved course work must cover the current CID code that is enforced by each journeyman classification to be renewed or reinstated.

[E] I. Application [of] for approval of continuing education courses and instructors.

(1) Each applicant for course approval must submit to CID an application for course and instructor approval on a form approved by the division.

(2) Application for course approval must be received by CID no later than 120 days before the date on which the course is proposed to begin.

(3) Each application for course and instructor approval must be complete and legible. Incomplete or illegible applications will not be processed and will be returned to the applicant.

(4) To qualify for approval, continuing education courses must comply with the following standards:

(a) the course content must be relevant to either the plumbing, mechanical or electrical trades and be consistent with all current applicable laws and rules of the state of New Mexico;

(b) the course must be conducted in a classroom, seminar or in [a ~~home-study~~] an online format; and

(c) the course must be taught by an approved instructor.

(5) To qualify for approval as an instructor, an individual must either be currently teaching, or must have taught within the two years prior to application, at least one course in the electrical, mechanical or plumbing trades in one of the following programs.

(a) a plumbing, mechanical, or electrical trades training program that is approved by the vocational education division of the state of New Mexico

department of public education and offered in the curriculum of an accredited New Mexico trade school, college or university;

(b) a plumbing, mechanical or electrical trade training program that is offered through a professional association or organization representing licensees in the plumbing, mechanical and electrical trades;

(c) an apprenticeship program approved by the state of New Mexico apprenticeship council or the bureau of apprenticeship and training;

(d) a plumbing, mechanical or electrical trade training program offered by a nationally recognized testing laboratory, or product manufacturer, and the applicant has at least five years practical experience in the subject taught;

(e) a plumbing, mechanical or electrical trade training program sponsored by an organization that provides continuing education unit courses in the plumbing, mechanical or electrical trades, and the instructor has at least five years of practical experience in the subject taught; or

(g) a plumbing, mechanical, or electrical trades training program offered by CID.

[F] J. Approval of continuing education courses and instructors

(1) Each application for course and instructor approval will be reviewed by the appropriate bureau chief and the technical advisory council for that bureau each calendar month.

(2) The reviewing bureau chief shall provide to the commission at each commission meeting the bureau chief's recommendation for approval or denial on each application received and reviewed by the bureau chief since the last commission meeting.

(3) The commission shall receive and consider the recommendation of the bureau chief before voting on approval of an application.

(4) Commission approval of a continuing education course and instructors shall be effective for three years from the date of approval; provided, however, that approval of any course that is not offered for 24 consecutive months shall automatically expire.

(5) On the date that is three years after the date on which approval of a course or instructor was issued, the approval will automatically expire and, without further notice from CID, such course or instructor shall no longer be approved. Application to renewal course or instructor approval must be received no less than 120 days prior to the date on which the approval period expires.

(6) The decision of the commission regarding the approval or denial of an application is final and is not subject to review.

(7) Once approved, and as a condition of continuing approval, a course provider must submit to CID the following information for each journeyman certificate holder, who successfully completes an approved course, within 30 days of the completion of the course:

(a) the name of the course, approval number, and the name of the instructor;

(b) the date on which the course was completed by the certificate holder; and

(c) the address and CID journeyman certificate number of the certificate holder.

(8) Approval of an instructor or a course will be subject-matter specific. Approval to teach courses in more than one trade or code will require the applicant to meet the experience criteria for each trade or code.

[14.6.4.8 NMAC - Rp, 14.6.4.8 NMAC, 2/1/2006; A, 12/14/2009; A, 3/10/2022]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.7.2 NMAC, amending Sections 2, 3, 5, 9, 19 and adding new Section 45, effective March 10, 2022.

14.7.2.2 SCOPE: This rule applies to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of every building or structure or any appurtenances connected or attached to such building or structure performed in New Mexico on or after [November 15, 2016] March 10, 2022, that is subject to the jurisdiction of CID, unless performed pursuant to a permit for which an application was received by CID before that date.

A. Exception

1. Detached one and two-family dwellings and multiple single-family dwellings (town houses) not more than three stories high with separate means of egress, and their accessory structures shall comply with the 14.7.3 NMAC, currently adopted New Mexico Residential Building Code (NMRBC).

B. Exception 2.

Existing buildings, not subject to the NMRBC, undergoing a change of occupancy, repair, alterations or additions shall comply with either 14.7.2 NMAC, currently adopted New Mexico Commercial Building Code, or 14.7.7 NMAC, currently adopted New Mexico existing Building Code, as applicable.

[14.7.2.2 NMAC - Rp, 14.7.2.2 NMAC, 11/15/2016; A, 3/10/2022]

14.7.2.3 STATUTORY AUTHORITY: Sections 60-13-9, 60-13-10.3 and 60-13-44 NMSA 1978, [14.7.2.3 NMAC - Rp, 14.7.2.3 NMAC, 11/15/2016; A, 3/10/2022]

14.7.2.5 EFFECTIVE DATE: November 15, 2016, unless a later date is cited at the end of a section.

[14.7.2.5 NMAC - Rp, 14.7.2.5

NMAC, 11/15/2016; A, 3/10/2022] [From the date of publication of this rule in the New Mexico register, until July 1, 2017, permits may be issued under either the previously adopted rule, or this rule. After July 1 2017, permits may be issued only under this rule.]

14.7.2.9 CHAPTER 1 - ADMINISTRATION:

A. Section 101 -

General.

(1) 101.1

- **Title.** Delete this section of the IBC and substitute: This code shall be known as the 2015 New Mexico Commercial Building Code (NMCBC).

(2) 101.2 -

Scope. Delete this section of the IBC and see 14.7.2.2 NMAC, Scope.

(3) 101.2.1

- **Appendices.** This rule adopts the following appendices as amended herein:

(a)

Appendix C - Group U - Agricultural Buildings;

(b)

Appendix E - Supplementary Accessibility Requirements;

(c)

Appendix G - Flood-Resistant Construction;

(d)

Appendix H - Signs;

(e)

Appendix I - Patio Covers; and

(f)

Appendix J - Grading.

(4) 101.3 -

Intent. Delete this section of the IBC and see the scope section above, at 14.7.2.6 NMAC, Objective.

(5) 101.4

- **Referenced codes.** The codes referenced in the NMCBC are:

(a)

101.4.1 - Electrical. Delete this section of the IBC and substitute: the [2014] currently adopted New Mexico Electrical Code (NMEC) applies to all electrical wiring as defined in CILA Section 60-13-32. All references in the IBC to the ICC Electrical Code are deemed references to the NMEC.

(b)
101.4.1 - Gas. Delete this section of the IBC and substitute: the [2012] currently adopted New Mexico Mechanical Code (NMMC) applies to “gas fittings” as that term is defined in CILA Section 60-13-32. All references in the IBC to the International Fuel Gas Code are deemed references to the NMMC or the LPG standards, 19.15.40 NMAC and Section 70-5-1 et seq. NMSA 1978, collectively. Gas piping, systems and appliances for use with liquefied propane gas (LPG), or compressed natural gas (CNG), shall be governed by the LPG standards.

(c)
101.4.2 - Mechanical. Delete this section of the IBC and substitute: The [2012] currently adopted NMMC applies to the installation, repair and replacement of mechanical systems including equipment, appliances, fixtures, fittings and appurtenances including ventilating, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems. All references in the IBC to the International Mechanical Code are deemed references to the NMMC.

(d)
101.4.3 - Plumbing. Delete this section of the IBC and substitute: the [2012] currently adopted New Mexico Plumbing Code (NMPC) applies to the installation, alterations, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. All references in the IBC to the International Plumbing Code are deemed references to the NMPC.

(e)
101.4.4 - Property Maintenance. Delete this section of the IBC.

(f)
101.4.5 - Fire Prevention. Delete this section of the IBC.

(g)
101.4.6 - Energy. Delete this section of the IBC and substitute: the provisions of the 2009 New Mexico Energy Conservation Code (NMECC)

shall apply to the energy conservation aspects of general commercial construction.

B. Section 102 - Applicability.

(1) **Section 102.1 - General.** Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(2) **Section 102.2 - Other Laws.** Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(3) **Section 102.3 - Application of References.** Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(4) **Section 102.4 - Referenced Codes and Standards.** Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(5) **Section 102.5 - Partial Invalidity.** Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

(6) **Section 102.6 - Existing Structures.** Delete this section of the IBC and substitute: the legal occupancy of any structure existing on the effective date of this rule shall be permitted authorized to continue without change, except as is specifically provided otherwise in this rule, in the [2015] currently adopted New Mexico existing Building Code, or by the building official in consideration of the general safety and welfare of the occupants of any such building and the general public.

C. Section 103 - Department of Building Safety. Delete this section of the IBC.

D. Section 104 - Duties and Powers of Building Official. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

E. Section 105 - Permits. Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

F. Section 106 - Floor and Roof Design Loads. See this section of the IBC.

G. Section 107 - Submittal Documents. Delete this section of the IBC and see 14.5.2

NMAC, Permits.

H. Section 108 - Temporary structures and uses. Delete this section of the IBC and see 14.5.2 NMAC, Permits

I. Section 109 - Fees. Delete this section of the IBC and see 14.5.5 NMAC, Fees.

J. Section 110 - Inspections. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

(1) **110.1 - General.** Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(2) **110.2 - Preliminary Inspection.** Delete this section of the IBC except as provided in 14.5.2 NMAC, Permits.

(3) **110.3 - Required Inspections.** Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(4) **110.4 - Inspection Agencies.** Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

(5) **110.5 - Inspection Requests.** Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

(6) **110.6 - Approval Required.** Delete this section of the IBC except as provided in 14.5.3 NMAC, Inspections.

K. Section 111 - Certificate of Occupancy. Delete this section of the IBC and see 14.5.3 NMAC, Permits.

L. Section 112 - Service Utilities. Delete this section of the IBC and see 14.5.2 NMAC, Permits.

M. Section 113 - Board of Appeals. Delete this section of the IBC and see 14.5.1 NMAC, General Provisions.

N. Section 114 - Violations. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

O. Section 115 - Stop Work Order. Delete this section of the IBC and see 14.5.3 NMAC, Inspections.

P. Section 116 - Unsafe Structures and Equipment.

Delete this section of the IBC and see 14.5.1 NMAC, General Provisions. [14.7.2.9 NMAC - Rp, 14.7.2.9 NMAC, 11/15/2016; A, 3/10/2022

14.7.2.19 CHAPTER 11 - ACCESSIBILITY:

A. Section 1101 - General. See this section of the IBC.

B. Section 1102 - Definitions. See this section of the IBC and add the following definition: **primary entrance** means the entrance through which most people enter the building or facility. A building may have more than one primary entrance.

C. Section 1103 - Scoping Requirements. See this section of the IBC.

D. Section 1104 - Accessible Route. See this section of the IBC except as provided below. Delete the text to Exception Number 1 of Section 1104.4 and substitute with the following: At least one accessible route shall connect each accessible story and mezzanine in multilevel buildings and facilities. **Exception:** 1. an accessible route is not required to stories and mezzanines that have an area of not more than 3,000 square feet (278.7 m2) per story and are located either above or below

the accessible levels in buildings or facilities that are less than three stories. This exception shall not apply to:

- (1) 1.1 Multiple tenant facilities of Group M occupancies containing five or more tenant spaces used for the sales or rental of goods and where at least one such tenant space is located on a floor level above or below the accessible levels;
- (2) 1.2 stories or mezzanines containing offices of health care providers (Group B or I);
- (3) 1.3 passenger transportation facilities and airports (group A-3 or group B); or
- (4) 1.4 government owned or leased buildings;
- (5) 2. stories or mezzanines that do not contain accessible elements or other spaces as determined by Section 1107 or 1108 are not required to be served by an accessible route from an accessible level;
- (6) 3. in air traffic control towers, an accessible route is not required to serve the cab and the floor immediately below the cab;

(7) 4. where a two-story building or facility has one story or mezzanine with an occupant load of five or fewer persons that does not contain public use space, that story or mezzanine shall not be required to be connected by an accessible route to the story above or below.

E. Section 1105 - Accessible Entrances. See this section of the IBC except as provided below. Delete the text of Section 1105.1, public entrances, and substitute: in addition to accessible entrances required by Sections 1105.1.1 through 1105.1.7, at least sixty percent of all public entrances, but not less than one primary entrance shall be accessible. **Exceptions:**

- (1) an accessible entrance is not required to areas that are not required to be accessible;
- (2) loading and service entrances that are not the only entrance to a tenant space.

F. Section 1106 - Parking and Passenger Loading Facilities. See this section of the IBC except that table 1106.1 is deleted from the IBC and the following table is substituted:

Total Parking Spaces	Total Required Accessible Parking Spaces	Number Required to be Van Accessible
1-25	1	1
26-35	2	1
36-50	3	1
51-100	4	1
101-300	8	2
301-500	12	2
501-800	16	3
801-1000	20	4
1,001 and over	20 spaces plus 1 space for every 100 spaces, or fraction thereof, over 1,000	1 of every 6 accessible parking spaces, or fraction thereof

G. Section 1107 - Dwelling Units and Sleeping Units. See this section of the IBC except as provided below.

- (1) **Table 1107.6.1.1 - Accessible Dwelling and Sleeping Units.**
- (2) The following provision is inserted after table 1107.6.1.1: for publicly funded projects, the total number of accessible dwelling units and sleeping units shall be five percent, or fraction thereof. Of these accessible dwelling units and sleeping units, one percent, or fraction thereof, shall be provided with roll-in showers.

(3) Delete the text of Section 1107.6.2.2 and substitute: In occupancies in group R-2 containing more than 20 dwelling units or sleeping units, at least two percent, but not less than one of the units shall be a type A unit. In type A unit, one in five, but not less than one of the units shall provide a roll-in shower including a permanently mounted folding shower seat. All units on a site shall be considered to determine the total number of units and the required number of type A unit. Type A units shall be dispersed among the various classes of units.

H. Section 1108 - Special Occupancies. Add new section to read as follows; **1108.2.5 - Designated aisle seats.** At least five percent, but not less than one, of the total number of aisle seats provided shall be designated aisle seats and shall be the aisle seats located closest to accessible routes. **Exception:** Designated aisle seats are not required in team or player seating serving areas of sport activity. Section 1108.2.5.1 - **Location.** At least one of each four required designated aisle seats shall be located not more than two rows from an accessible route serving such seats. See this section of the IBC except **1108.4.1.4 - Employee Work Stations.** See this section of the IBC except delete the last sentence of this section without substitution.

I. Section 1109 - Other Features and Facilities. See this section of the IBC except as provided below.

(1) **1109.2 - Toilet and Bathing Facilities.** See this section of the IBC except.

(a) Insert the following sentence at the end of Section 1109.2: when 20 or more fixtures of any type are installed in an *accessible* toilet room or bathing room, at least two of that type shall be accessible.

(b) Add the following provision to the exceptions to Section 1109.2: Exception 6: toilet fixtures and bathing facilities that are in excess of those required by the minimum number of plumbing fixtures pursuant

to the New Mexico construction codes and located in private restricted areas in other than government owned or leased facilities.

(c) With respect to construction of any new restroom in a place of public accommodation as defined in 14.5.2 NMAC, see 14.7.2.45 NMAC, Baby Changing Facilities.

(2) **Section 1109.7:** Add the following: limited-use/limited-application elevators may be used to access spaces or areas that have five or fewer occupants.

(3) **Section 1109.8 - Lifts:** Delete Item 5 without substitution.

J. Section 1110.4.15 - Play Areas. Add this section; play areas containing play components designed and constructed for children shall be accessible and be located on an accessible route.

K. Section 1111 - Signage. See this section of the IBC except as provided below.

(1) Amend Section 1111.1 - Items.

(a) 1.1 *Accessible* parking spaces shall be identified by a sign centrally located at the head of each parking space.

(b) 1.2 Van accessible parking spaces shall have an additional sign mounted below the international symbol of access identifying the space as “van accessible”. **Exception:** Where all the accessible parking spaces comply with the standards for van accessible parking spaces.

(2) **Section 1111.1:** Add the following exception, Item #4: **Exception:** entrances to individual dwelling units and sleeping units.

(3) **Section 1110.3:** Add the following new provision at the end of Section 1110.3:

(a) 7 accessible parking spaces required by Section 1106 shall provide pavement markings in compliance with the following Sections 7.1 and 7.2;

(b) 7.1 accessible parking spaces shall

be identified by the international symbol of accessibility; a clearly visible depiction of the symbol shall be painted in blue on the pavement surface, except where the total number of parking spaces provided is four or less;

(c) 7.2 the access aisle shall be clearly marked by diagonal, blue pavement striping;

(d) 7.3 at the rear of striped access aisle state “NO PARKING”; lettering shall be one-foot-high minimum and two inches wide minimum. [14.7.2.19 NMAC - Rp, 14.7.2.19 NMAC, 11/15/2016; A, 3/10/2022]

14.7.2.45 BABY CHANGING FACILITIES

A. Construction of a new restroom, intended for use in a place of public accommodation, as defined in 14.5.2 NMAC, shall provide for at least one baby changing facility on each floor that has a public toilet facility and shall accommodate any person needing to utilize a baby changing facility, pursuant to Section 60-13-10.3 NMSA 1978.

B. Baby changing facilities shall be included in all required documentation including plans submitted under submittal documents pursuant to Subparagraph (b) of Paragraph (1) of Subsection A of 14.5.2 10 NMAC and shall be subject to plan review pursuant to Subsection A of 14.5.2.11 NMAC - Permits, and inspections pursuant to Subsection A of 14.5.3.8 NMAC.

C. All requirements for baby changing facilities must be complied with in order for a certificate of occupancy to be issued or a final inspection approved, whichever is appropriate.

D. Baby changing facilities shall comply with the American national standards institute (ANSI) A117.1-2009: Section 603.5 diaper changing tables; Section 305 floor space; Section 308.2.1 unobstructed access; Chapter 7 Communication Elements and Features; Chapter 9 built in furnishings and equipment; and

Subsection K of 14.7.2.19 NMAC, Section 1111, signage. [17.7.2.45 NMAC – N, 3/10/2022]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.8.2 NMAC, amending part name and Sections 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 21, 22, 24 and 29, effective March 10, 2022

PART 2 [2015] 2021 NEW MEXICO PLUMBING CODE

14.8.2.3 STATUTORY AUTHORITY: Section 60-13-9, [and] 60-13-44, 60-13-45, 60-13-46 and 60-13-47 NMSA 1978. [14.8.2.3 NMAC - Rp, 14.8.2.3 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.5 EFFECTIVE DATE: May 15, 2018 unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until September 10, 2022 permits may be issued under either the previously adopted rule, or this rule. After September 10, 2022, permits may be issued only under this rule. [14.8.2.5 NMAC - Rp, 14.8.2.5 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.6 OBJECTIVE: The purpose of this rule is to establish minimum standards for all plumbing, as defined in CILA Section 60-12-32 NMSA 1978, in New Mexico. [14.8.2.6 NMAC - Rp, 14.8.2.6 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the [2015] 2021 Uniform Plumbing Code (UPC) as amended in 14.8.2.10 NMAC. [14.8.2.7 NMAC - Rp, 14.8.2.7 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.8 ADOPTION OF THE [2015] 2021 UNIFORM PLUMBING CODE:

A. This rule adopts by reference the [~~2015 Uniform Plumbing Code~~] 2021 UPC and all appendices, as amended by this rule.

B. In this rule, [~~the internal numbering of~~] each provision is numbered to corresponds with the numbering of the [~~2015 Uniform Plumbing Code~~] 2021 UPC.

C. This rule shall apply in conjunction with the provisions of all applicable New Mexico construction codes, laws and standards.

[14.8.2.8 NMAC - Rp, 14.8.2.8 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.9 CHAPTER 1 ADMINISTRATION: See this chapter of the UPC except as provided below.

A. 101.0 General. (1) 101.1

Title. Delete this section of the UPC and substitute: This code shall be known as the [~~2015~~] New Mexico Plumbing Code (NMPC).

(2) 101.2

Scope. Delete this section of the UPC and see 14.8.2.2 NMAC.

(3) 101.3

Purpose. Delete this section of the UPC [~~except as provided in~~] and see 14.8.2.6 NMAC.

(4) 101.4

Unconstitutional. Delete this section of the UPC and see [~~14.5.1 NMAC~~] the Construction Industries Licensing Act (CILA) and its rules.

(5) 101.5

Validity. Delete this section of the UPC [~~except as provided in 14.5.2 NMAC~~] and see CILA and its rules.

B. 102.0 Applicability.

See this section of this chapter of the UPC except as provided below.

(1) 102.1

Conflicts between codes. Delete this section of the UPC and see Subsection H of Section 60-13-44 NMSA 1978 and 14.5.1.9 NMAC.

(2) 102.2

Existing installations. [~~Delete this section of the UPC~~] See Subsections C and H of Section 60-13-44 NMSA 1978 and 14.7.7 NMAC.

(3) 102.3

Maintenance. Delete this section of the UPC and see 14.5.2 NMAC and 14.6.6 NMAC.

(4) 102.8

Appendices. Delete this section of the UPC and see [~~except in~~] 14.8.2.27 NMAC.

C. 103.0 Duties and powers of the authority having jurisdiction.

(1) 103.1

General. Delete this section of the UPC and see CILA and 14.8.2.10 NMAC.

(2) 103.2

Liability. Delete this section of the UPC and see CILA Section 60-13-26 NMSA 1987.

(3) 103.3

Applications and permits. Delete this section of the UPC [~~except as provided in~~] and see 14.5.2 NMAC.

(4) 103.4

Right of entry. Delete this section of the UPC and see CILA Section 60-13-42 NMSA 1978.

D. 104.0 Permits.

(1) 104.1

Permits required. Delete this section of the UPC, [~~except as provided~~] See 14.5.2 NMAC.

(2) 104.2

Exempt work. See CILA Subsection B of Section 60-13-45 NMSA 1978, and this section of the UPC.

(3) 104.3

Application for permit. Delete this section of the UPC, [~~except as provided in~~] See 14.5.2 NMAC.

(4) 104.4

Permit issuance. Delete this section of the UPC. [~~except as provided in~~] See 14.5.2 NMAC.

(5) 104.5

Fees. Delete this section of the UPC and see 14.5.5 NMAC.

E. 105.0 Inspections and testing. Delete these sections [~~except as provided in~~] and see 14.5.3 NMAC.

F. 106.0 Violations and penalties. Delete this section of the UPC and see CILA Section 60-13-1 [~~et seq.~~] through 60-13-59 NMSA 1978, 14.5.8 NMAC and 14.5.3 NMAC.

[14.8.2.9 NMAC - Rp, 14.8.2.9 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.10 CHAPTER 2

DEFINITIONS: See this chapter of the UPC except as provided below.

A. 203.0 Authority having jurisdiction. Delete the text of this definition and substitute: The authority having jurisdiction is the [construction industries division (CID)] CID and the [bureau chief of the mechanical and plumbing bureau of CID] mechanical-plumbing trade bureau chief for adoption, enactment, interpretation and enforcement of the state adopted plumbing code as the minimum requirement in the state.

B. 214.0 Listing agency. See this definition in the UPC and CILA Subsection B of Section 60-13-44 NMSA 1978. [14.8.2.10 NMAC - Rp, 14.8.2.10 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.11 CHAPTER 3

GENERAL REGULATIONS: See this chapter of the UPC except as provided below.

A. 301.3 Alternate materials and methods of construction equivalency. Delete this section of the UPC and see [14.5.1] 14.5.1.9 and 14.5.1.11 NMAC.

B. 301.5 Alternative engineered design. See this section of the UPC except as provided below.

(1) 301.5.1 Permit application. Delete this section of the UPC and see 14.5.2 NMAC.

(2) 301.5.2 Technical data. See this section of the UPC and [14.5.2] Subsection H of 14.5.2.10 NMAC.

(3) 301.5.3 Design documents. See this section of the UPC and [14.5.2] 14.5.2.10 NMAC.

(4) 301.5.4 Design approval. Delete this section of the UPC and see [14.5.2] 14.5.2.10 NMAC.

(5) 301.5.5 Design review. Delete this section of the UPC and see [14.5.2] 14.5.2.10 NMAC.

(6) 301.5.6 Inspection and testing. Delete this section of the UPC and see 14.5.2

NMAC and 14.5.3 NMAC.
[14.8.2.11 NMAC - Rp, 14.8.2.11 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.12 CHAPTER 4 PLUMBING FIXTURES AND FIXTURE FITTINGS: See this chapter of the UPC except as provided below.

A. 403.0 Accessible plumbing facilities. See this section of the UPC except as provided below.

(1) 403.1 General. Delete this section of the UPC and see [the] Chapter 29, Plumbing Systems and 14.7.2.44 NMAC, Appendix E –Supplementary Accessibility Requirements.

(2) 403.2 Fixtures and fixture fittings for persons with disabilities. Delete this section of the UPC and see [14.7.2] 14.7.2.44 NMAC, Appendix E, Supplementary Accessibility Requirements.

~~**(3) 403.3 Exposed pipes and surfaces.** See this section of the UPC.]~~

B. 405.0 Prohibited fixtures. See this section of the UPC except as follows: [provided below]

~~**(1) 405.1 Prohibited water closets.** See this section of the UPC.]~~

~~**(2) 405.2 Prohibited urinals.** See this section of the UPC.]~~

405.3 Miscellaneous fixtures. See this section of the UPC and add the following: “the authority having jurisdiction reserves the right to require the contractor to install water and drain lines to be used for installation of a flush-type toilet should the chemical-dry toilet fail.

C. 415.0 Drinking fountains. See this section of the UPC with the following exception noted below and see 14.7.2 NMAC. [except as follows: provided below]. **415.2 Drinking fountain alternatives.** Delete this section of the UPC and see [14.7.2] 14.7.2.44 NMAC.

D. 422.0 Minimum number of required fixtures. See this section of the UPC except as provided below.

(1) 422.1

Fixture count. Delete this section of the UPC and see [14.7.2] 14.7.2.37 NMAC.

(2) 422.2

Separate facilities. Delete this section of the UPC.

(3) 422.3

Fixture requirements for special occupancies. Delete this section of the UPC and see 14.7.2 NMAC and 14.7.3 NMAC.

~~**(3) (4) 422.4**~~

Toilet facilities serving employees and customers. Delete this section of the UPC and see [14.7.2] Subsection I of 14.7.2.19 and 14.7.2.44 NMAC.

~~**(4) (5) 422.5**~~

Toilet facilities for workers. Delete this section of the UPC and see [14.7.2] Subsection I of 14.7.2.19 and 14.7.2.44 NMAC.

E. Table 422.1

Minimum plumbing facilities. Delete this table of the UPC and see [14.7.2] 14.7.2.37 NMAC. [14.8.2.12 NMAC - Rp, 14.8.2.12 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.13 CHAPTER 5

WATER HEATERS: See this chapter of the UPC except as provided below.

A. 501.0 General.

501.1 Applicability. See this section of the UPC except delete the following sentence: “The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table [501.1] 501.1(2).”

B. 507.13 Installation in residential garages. At the end of the last sentence delete the following text: “unless listed as flammable vapor ignition resistant”.

C. 508.3 [Access to equipment on roofs.] Appliances on roofs. 508.3.1 Access. See this section of the UPC except after the words “in height” add the following: “except those designated as R-3 occupancies.”

D. [510.2.19] 510.2.20 Chimneys and vents. See this chapter of the UPC except delete the following language: “Where vents extend outdoors above the roof more than 5 feet (1524mm) higher than

required by ~~[Table 509.6.2]~~ Table 509.6.1, and where vents terminate in accordance with Section ~~[509.6.2(1)]~~ 509.6.1(1)(b), the outdoor portion of the vent shall be enclosed as required by this section for vents not considered to be exposed to the outdoors or such venting shall be engineered.”

[14.8.2.13 NMAC - Rp, 14.8.2.13 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.15 CHAPTER 6 WATER SUPPLY AND DISTRIBUTION:

See this chapter of the UPC except as ~~[provided below]~~. follows: 612.0 Residential fire sprinkler systems. See 612.1, Where Required, and additionally reference 60-13-6 NMSA 1978, for residential sprinkler systems in one and two-family dwellings or townhouses. ~~[Delete this section and tables of the UPC].~~

[14.8.2.15 NMAC - Rp, 14.8.2.15 NMAC, 05/15/2018 ; A, 3/10/2022]

14.8.2.16 CHAPTER 7 SANITARY DRAINAGE PART I - DRAINAGE SYSTEMS:

See this chapter of the UPC except as provided below.

A. 704.0 Fixture connections (drainage). 704.3 Commercial ~~[dishwashing machines and] Sinks.~~ Delete the text this section of the UPC and substitute with the following: pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware washing machines, and other similar fixtures shall not be connected directly to the drainage system. Such equipment or fixtures shall be drained by means of indirect waste pipes, as defined in chapter 2 of the UPC, and all wastes drained by them shall discharge through an airgap into an open floor sink or other approved type receptor that is properly connected to the drainage system. Food waste disposal units shall be connected directly to the drainage system. A floor drain shall be provided adjacent to the disposal unit, and the disposal unit shall be connected on the sewer side of the floor drain trap, provided that no other

drainage line is connected between the floor drain waste connection and the disposal unit drain. The floor drain shall be trapped and vented as required in this code.

B. 712.1 Media. See this section of the UPC except add the following text to the end: When testing during weather conditions that could result in damage to piping, adequate provisions shall be made to protect such piping from freezing. [14.8.2.16 NMAC - Rp, 14.8.2.16 NMAC, 05/15/2018; A 3/10/2022]

14.8.2.21 CHAPTER 11 STORM DRAINAGE:

See this chapter of the UPC except as ~~[provided below]~~. follows: 1101.6 Subsoil drains. See this section of the UPC except after the words “Subsoil drains shall be provided” in the first sentence add the following text: “as required by the NMCBC, 14.7.2 NMAC”.

[14.8.2.21 NMAC - Rp, 14.8.2.21 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.22 CHAPTER 12 FUEL PIPING:

See this chapter of the UPC except as provided below.

A. ~~[208.5.2.2]~~ 1208.6.3.2 Copper and copper alloy pipe. Delete this section of the UPC and substitute: Copper and brass pipe shall not be used. Threaded aluminum alloy pipe shall not be used with gases corrosive to such material.

~~[B. ~~1208.5.3.2 Copper and copper alloy.~~~~ Delete this section of the UPC and substitute: Copper and brass pipe shall not be used.]

~~[C] B. ~~[208.5.8.4]~~ 1208.6.10.5 Metallic pipe [fitting] fittings (including valves, strainers, filters).~~ See this section of the UPC except delete “[~~(4)~~] ~~(3)~~ fittings used with copper or copper alloy pipe shall be copper or copper alloy.”

D. ~~[210.11.2]~~ 1210.9.3 Emergency shutoff valves. See this section of the UPC except delete the following: “The emergency shutoff valves shall be plainly marked as such and their locations posted as required by the authority having jurisdiction” and replace with the following text: “For purposes of

isolation and safety, an additional approved gas shut off valve shall be installed downstream of the serving supplier gas meter prior to any distribution of gas into the gas piping system.”

E. 1211.0 Electrical bonding and grounding. Delete this section of the UPC and see 14.10.4 NMAC the New Mexico electrical code (NMEC).

F. ~~[212.10]~~ 1212.11 Liquefied petroleum gas facilities and piping. Delete this section of the UPC and substitute the following: Liquefied petroleum gas facilities shall comply with ~~[19.15.40 NMAC, Liquefied Petroleum Gas Standards, and Section] Sections 70-5-1 through 70-5-23 [et seq.] NMSA 1978, the LPG and CNG Act and with 19.15.40 NMAC, liquefied petroleum gas standards.~~ ~~[liquefied and compressed gasses.]~~

G. 12.13.3 Test pressure. See this section of the UPC except add the following: Exception: An existing gas piping system may be tested at a test pressure equal to one and one-half times the operating pressure of the system, but in no case shall it be tested at less than 3 psi. [14.8.2.22 NMAC - Rp, 14.8.2.22 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.24 CHAPTER 13 HEALTH CARE FACILITIES AND MEDICAL GAS AND VACUUM SYSTEMS PART II - MEDICAL GAS AND VACUUM SYSTEMS: See 14.9.5 NMAC and this chapter of the UPC. ~~[except as provided below: **1312.8 Future piping.** Delete the text of this section of the UPC and replace with the following text: Shutoff valves shall be provided for the connection of future piping, and shall meet the following requirements:~~

~~_____ A. _____ be located in a restricted area;~~

~~_____ B. _____ be locked, closed, and capped;~~

~~_____ C. _____ be identified in accordance with section ~~1312.9~~ (NFPA 99:5.1.4.10).]~~

[14.8.2.24 NMAC - Rp, 14.8.2.24 NMAC, 05/15/2018; A, 3/10/2022]

14.8.2.29 CHAPTER 17
REFERENCED STANDARDS. See this chapter of the UPC.
 [14.8.2.29 NMAC - N, 05/15/2018; A, 3/10/2022]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.9.2 NMAC, amending part name and Sections 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 16, 20, 21 and 28, effective March 10, 2022

PART 2 [2015] 2021 NEW MEXICO MECHANICAL CODE

14.9.2.3 STATUTORY AUTHORITY: Sections 60-13-9, [and] 60-13-44, 60-13-45, 60-13-46 and 60-13-47 NMSA 1978.
 [14.9.2.3 NMAC - Rp, 14.9.2.3 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.5 EFFECTIVE DATE: May 15, 2018, unless a later date is cited at the end of a section. From the date of publication of this rule in the New Mexico register, until September 10, 2022, permits may be issued under either the previously adopted rule, or this rule. After September 10, 2022, permits may be issued only under this rule.
 [14.9.2.5 NMAC - Rp, 14.9.2.5 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.7 DEFINITIONS: See 14.5.1 NMAC, General Provisions and Chapter 2 of the [2015] 2021 Uniform Mechanical Code (UMC) as amended in 14.9.2.10 NMAC.
 [14.9.2.7 NMAC - Rp, 14.9.2.7 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.8 ADOPTION OF THE [2015] 2021 UNIFORM MECHANICAL CODE:

A. This rule adopts by reference the [2015] 2021 UMC, as amended by this rule.

B. In this rule, each provision is numbered to correspond

with the numbering of the [2015] 2021 UMC.

C. This rule shall apply in conjunction with the provisions of all applicable New Mexico construction codes, laws and standards.

[14.9.2.8 NMAC - Rp, 14.9.2.8 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.9 CHAPTER 1 ADMINISTRATION: See this chapter of the UMC except as provided below.

A. 101.0 General.

(1) 101.1

Title Delete this section of the UMC and substitute: This code shall be known as 14.9.2 NMAC, the [2015] 2021 New Mexico Mechanical Code (NMMC).

(2) 101.2

Scope. Delete this section of the UMC and see 14.9.2.2 NMAC.

(3) 101.3

Purpose. Delete this section of the UMC and see 14.9.2.6 NMAC.

B. 102.0 Applicability.

See this section of the UMC except as provided below. **102.1 Conflicts between codes.** Delete this section of the UMC and see [14.5.1 NMAC] Subsection H of Section 60-13-44 NMSA 1978 and 14.5.1.9 NMAC.

C. 103.0 Duties and powers of the authority having jurisdiction.

(1) 103.1

General. Delete this section of the UMC and see Construction Industries Licensing Act (CILA).

(2) 103.2

Liability. Delete this section of the UMC and see CILA Section [60-13-26] 60-13-26 NMSA 1978.

(3) 103.3

Applications and permits. Delete this section of the UMC and see 14.5.2 NMAC.

(4) 103.4

Right of entry. Delete this section of the UMC and see CILA Section [60-13-42] 60-13-42 NMSA 1978.

D. 104.0 Permits. See this section of the [UPC] UMC except as provided below.

(1) 104.1

Permits required. Delete this section of the UMC and see 14.5.2 NMAC.

(2) 104.2

Exempt work. See CILA Section 60-13-45 B NMSA 1978 and this section of the UMC.

(3) 104.3

Application of permit. Delete this section of the UMC and see 14.5.2 NMAC.

(4) 104.4

Permit issuance. Delete this section of the UMC and see 14.5.2 NMAC.

(5) 104.5

Fees. Delete this section of the UMC and see 14.5.5 NMAC.

E. 105.0 Inspections and testing. Delete this section of the UMC and see 14.5.3 NMAC.

F. 106.0 Violations and penalties. Delete this section of the UMC and see CILA [Section 60-13-1 to 59] Sections 60-13-1 through 60-13-59 NMSA 1978, and 14.5.3 NMAC.

G. 107.0 Board of appeals. Delete this section of the UMC and see [14.5.1] 14.5.1.13 NMAC.

H. Table 104.5 Mechanical permit fees. Delete this table from the UMC and see 14.5.5 NMAC.

[14.9.2.9 NMAC - Rp, 14.9.2.9 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.10 CHAPTER 2 DEFINITIONS: See this chapter of the UMC except as provided below.

A. 203.0 Authority having jurisdiction. Delete the text of this definition and substitute: The authority having jurisdiction is the CID and the mechanical-plumbing-trade bureau chief [of the mechanical-and-plumbing-bureau-of-CID] for adoption, enactment, interpretation and enforcement of the state adopted mechanical code as the minimum requirement in the state.

B. 214.0 Listed (Third Party Certified). See this definition in the [UPC] UMC and add the following provision at the end of the definition: A manufacturer may select the independent certification organization of its choice to certify its products, provided that the certification organization has been accredited by the American national

standards institute (ANSI), or another certification organization that CID has approved in writing.

C. 217.0 Occupiable

Space. Delete this section and see 14.7.2 NMAC and 14.7.3 NMAC. [14.9.2.10 NMAC - Rp, 14.9.2.10 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.11 CHAPTER 3 GENERAL REQUIREMENTS:

See this chapter of the UMC except as provided below.

A. 304.3 Access to equipment and appliances on roofs.

304.3.1 Access. See this section of the UMC except after the words “in height” add the following: except those designated as R-3 occupancies.

B. 305.1 Installation in garages. At the end of the last sentence delete the following text: “unless listed as a flammable vapor ignition resistant.”

C. 305.5 Drainage

Pan. See this section of the UMC except after each term “water heater” add the following: or hot-water-heating boiler.

[€] **D. 311.0 Heating and cooling air system.** See this section of the UMC except as follows: **311.3 Prohibited source.** See this section of the UMC except delete the text of Subsection (5) and replace with the following: a closet, bathroom, laundry room, toilet room, kitchen; or where it will pick up objectionable odors, fumes, or flammable vapors.

[Ⓜ] **E. 314.0 Balancing.** Delete this section of the UMC and insert: Heating, ventilating, and air-conditioning systems (including hydronic systems) shall be balanced in accordance with the standards pursuant to UMC chapter 17.

[14.9.2.11 NMAC - Rp, 14.9.2.11 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.12 CHAPTER 4 VENTILATION AIR: See this chapter of the UMC except as provided below.

A. 405.3 Bathroom

Exhaust. See this section of the UMC except add the following: Exception: Residential Occupancies with an operable window located in the same room.

B. 405.4 Kitchen

Exhaust. See this section of the UMC except after the words “directly to the outdoors” add the following: unless listed for recirculation.

[14.9.2.12 NMAC - Rp, 14.9.2.12 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.13 CHAPTER

5 EXHAUST SYSTEMS: See

this chapter of the UMC except as provided below. **511.3 Makeup [air]**

Air. See this section of the UMC except add the following: windows and doors shall not be used for the purpose of providing makeup air. The exhaust and makeup air systems shall be connected by an electrical interlocking switch. A device to sense continued air movement within the makeup air plenum shall be installed initiating a complete system shut-down if air-flow is interrupted.

[14.9.2.13 NMAC - Rp, 14.9.2.13 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.14 CHAPTER 6

DUCT SYSTEMS: See this chapter of the UMC except as [follows] provided below.

A. [603-12] 603.11

Underground installation. See this section of the UMC and add the following to the last sentence, “and be installed so as to support the weight of the concrete during encasement.”

B. [608-0] 609.0

Automatic shutoffs. [608-1] 609.1

Air-moving systems and smoke detectors. See this section of the UMC and add the following to the exceptions: (6) automatic shutoffs are not required on evaporative coolers that derive all of their air from outside the building.

[14.9.2.14 NMAC - Rp, 14.9.2.14 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.16 CHAPTER 8 CHIMNEYS AND [VENT-LOCATIONS] VENTS: See

this chapter of the UMC except as provided below. **803.1.10 Chimney and [vent-locations] Vents.** See this section of the UMC except delete the following language: “Where vents extend outdoors above the roof more than 5 feet (1524mm) higher

than required by Table [802-6-2] 802.6.1, and where vents terminate in accordance with Section [802-6-2(+)] 802.6.1 (1)(b), the outdoor portion of the vent shall be enclosed as required by this section for vents not considered to be exposed to the outdoors or such venting shall be engineered.”

[14.9.2.16 NMAC - Rp, 14.9.2.16 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.20 CHAPTER 12

HYDRONICS: See this chapter of the UMC except as provided below.

1205.2 Pressure testing. See this section of the UMC except delete the first sentence and substitute: system piping shall be tested with a hydrostatic pressure or an air test of not less than 1.5 times operating pressure.

[14.9.2.20 NMAC - Rp, 14.9.2.20 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.21 CHAPTER 13

FUEL GAS PIPING: See this chapter of the UMC except as provided below.

A. 1308.5.2.2 Copper and copper alloy pipe. Delete this section and substitute with the following: Copper and copper alloy pipe shall not be used. Aluminum alloy pipe shall not be used with gases corrosive to such material.

[B. ~~1308.5.3.2 Copper and copper alloy.~~ Delete this section and substitute with the following: Copper and copper alloy pipe shall not be used. Aluminum alloy pipe shall not be used with gases corrosive to such material].

[€] **B. [1311-11-2]**

1310.11.2 Emergency shutoff valves.

See this section of the UMC except delete the following: the emergency shutoff valves shall be plainly marked as such and their locations posted as required by the authority having jurisdiction. [See this section of the UMC except add] Add the following to the end: For purposes of isolation and safety, an additional approved gas shut off valve shall be installed downstream of the serving supplier gas meter prior to any distribution of gas into the gas piping system

[D] C. [1312.0] 1311.0**Electrical bonding and grounding.**

Delete this section of the UMC and see [14.10.4] Subsection G of 14.10.4.11 NMAC.

[E] D. [1313.9] 1312.11**Liquefied petroleum gas facilities and piping.**

Delete this section of the [UPC] UMC and substitute the following: Liquefied petroleum gas facilities shall comply with [19.15.40] ~~NMAC, liquefied petroleum gas standards, and~~ Sections 70-5-1 [to-23] ~~through 70-5-23 NMSA 1978, [liquefied and compressed gasses] the~~ LPG and CNG Act and with 19.15.40 NMAC liquefied petroleum gas standards.

[F] E. [1314.3] 1313.3**Test pressure.**

See this section of the UMC except add the following: Exception: An existing gas piping system may be tested at a test pressure equal to one and one-half times them operating pressure of the system, but in no case shall it be tested at less than 3 psi.

[14.9.2.21 NMAC - Rp, 14.9.2.21 NMAC, 05/15/2018; A, 3/10/2022]

14.9.2.28 [APPENDICES]

APPENDICES: See this section of the UMC except delete appendix A and appendix B.

[14.9.2.28 NMAC - Rp, 14.9.2.28 NMAC, 05/15/2018; A, 3/10/2022]

**REGULATION AND
LICENSING DEPARTMENT
NURSING HOME
ADMINISTRATORS**

The New Mexico Board of Nursing Home Administrators approved, at its 1/14/2022 hearing, to repeal its rule 16.13.4 NMAC, Examination of Approved Applicants, filed 1/25/2001, effective 2/26/2022.

The New Mexico Board of Nursing Home Administrators approved, at its 1/14/2022 hearing, to repeal its rule 16.13.6 NMAC Licensure for Military Service Members, Spouses and Veterans, filed 4/26/2016 and replace it with 16.13.6 NMAC, Licensure for Military Service Members, Spouses,

Dependent Children and Veterans, filed 1/27/2022 and effective 2/26/2022.

**REGULATION AND
LICENSING DEPARTMENT
NURSING HOME
ADMINISTRATORS**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING**

**CHAPTER 13 NURSING HOME
ADMINISTRATORS**

**PART 6 LICENSURE
FOR MILITARY SERVICE
MEMBERS, SPOUSES,
DEPENDENT CHILDREN AND
VETERANS**

16.13.6.1 ISSUING

AGENCY: New Mexico Nursing Home Administrators Board.

[16.13.6.1 NMAC – Rp, 16.13.6.1 NMAC, 2/26/2022]

16.13.6.2 SCOPE:

Part 6 of Chapter 13 sets forth application procedures to expedite licensure for military service members, spouses and veterans.

[16.13.6.2 NMAC – Rp, 16.13.6.2 NMAC, 2/26/2022]

16.13.6.3 STATUTORY

AUTHORITY: Part 6 of Chapter 13 is promulgated pursuant to and in accordance with the Nursing Home Administrators Act, Sections 61-13-1 to 17 NMSA 1978 specific authority to promulgate rules is Section 61-13-6(A) NMSA 1978 and, Section 61-1-34 NMSA 1978.

[16.13.6.3 NMAC – Rp, 16.13.6.3 NMAC, 2/26/2022]

16.13.6.4 DURATION:

Permanent.

[16.13.6.4 NMAC – Rp, 16.13.6.4 NMAC, 2/26/2022]

16.13.6.5 EFFECTIVE

DATE: Month xx, 2021 unless a later date is cited at the end of a section.

[16.13.6.5 NMAC – Rp, 16.13.6.5 NMAC, 2/26/2022]

16.13.6.6 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.

[16.13.6.6 NMAC – Rp, 16.13.6.6 NMAC, 2/26/2022]

16.13.6.7 DEFINITIONS:

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

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

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

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

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

[16.13.6.7 NMAC – Rp, 16.13.6.7 NMAC, 2/26/2022]

16.13.6.8 APPLICATION REQUIREMENTS:

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

B. The applicant shall provide a complete application that includes the following information:

- (1) applicant’s full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) date of birth;
- (5) background check, if required; and

(6) 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 Board of Nursing Home Administrators Act.

[16.13.6.8 NMAC – Rp, 16.13.6.8 NMAC, 2/26/2022]

16.13.6.9 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 16.13.8 NMAC, pursuant to Chapter 61, Article 13 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.
[16.13.6.9 NMAC – Rp, 16.13.6.10 NMAC, 2/26/2022]

HISTORY OF 16.13.6 NMAC:

History of Repealed Material:

16.13.6 NMAC, Licensure for Military Service Members, Spouses and Veterans, (filed 4/26/2016) repealed effective 2/26/2022.

Other History:

16.13.6 NMAC, Licensure for Military Service Members, Spouses and Veterans (filed 4/26/2016) replaced by 16.13.6 NMAC, Licensure for Military Service Members, Spouses, Dependent Children and Veterans effective 2/26/2022

REGULATION AND LICENSING DEPARTMENT NURSING HOME ADMINISTRATORS

This is an amendment to 16.13.1 NMAC, Sections 3, 7, and 12, effective 2/26/2022

16.13.1.3 STATUTORY

AUTHORITY: Chapter 13 of Title 16 is promulgated pursuant to the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-1 through 61-13-17 (1993 Repl. Pam.). Section 9 of Part 1 is authorized by ~~[NMSA 1978]~~ Section 61-13-6 NMAC 1978 (1993 Repl. Pam.). Section 10 of Part 1 is authorized by ~~[NMSA 1978]~~ Section 14-2-1 through 14-2-16 NMAC 1978 (1993 Repl. Pam.). Section 11 of Part 1 is authorized by ~~[NMSA 1978]~~ Subsection C of Section 10-15-1 NMAC 1978 (1993 Repl. Pam.). [2/24/1988; 2/13/1994; 10/31/1995; 16.13.1.3 NMAC - Rn, 16 NMAC 13.1.3, 1/25/2001; A, 2/26/2022]

16.13.1.7 DEFINITIONS:

A. "AAHSA" means the American association of homes and services for the aging.

B. "ACHCA" means the American college of health care administrators.

C. "ACHCE" means the American college of health care executives

D. "AUPHA" means the association of university programs in health care administration.

E. **[RESERVED]**

F. "Administrator" means the chief executive officer.

G. "Applicant" means a person who has applied for a license.

H. "Approval" means the review and acceptance of a specific activity.

I. "Approval body" means the agency, institution, or organization with the authorization to award continuing education credit.

J. "Audit" means an examination and verification of continuing education documents.

K. **[RESERVED]**

L. "Board" means the New Mexico nursing home administrators board.

M. "CE" means continuing education.

N. [RESERVED]
O. “Continuing education Unit (CEU)” means 10 contact hours (60-minute clock hours) of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction.

P. “Contact hours” means a unit of measurement to describe an approved, organized learning experience. One contact hour equals one 60-minute clock hour.

Q. “Continuing education” means a learning experience which enhances professional development.

R. [RESERVED]

S. “Expired license” means a license which has not been renewed or placed on inactive status on or before the expiration deadline, as provided in 16.13.10 NMAC.

T. “Hospital administrator” means the chief executive officer of an acute care facility.

U. “Inactive status” means a license which is in good standing but not current, as provided in 16.13.9 NMAC.

V. “Initial license” means the process of achieving the legal privilege to practice within a professional category upon the completion of educational and other requirements and receiving a passing score on the national licensing examination.

W. “Institution of higher learning” means a college or university.

X. [RESERVED]

Y. “Lapsed license” means an expired or inactive status license which has not been reactivated within the time limitations set forth in these rules, as provided in 16.13.9 NMAC.

Z. “License” means a document identifying the legal privilege and authorization to practice within a professional category.

AA. “Manager” means the individual who is responsible for the planning, organizing, directing, and controlling of the operations

within a department or unit of a nursing home.

BB. “Must” means required.

CC. “NAB” means the national association of [~~boards of examiners for nursing home administrators.~~] long term care administrator boards.

DD. “NCERS” means the national continuing education review service.

EE. “NHA” means nursing home administrator.

FF. “NMAC” means the New Mexico administrative code.

GG. “New Mexico Administrative Code” means the organizing structure for rules filed by New Mexico State agencies. The NMAC is also the body of filed rules and the published versions thereof. The NMAC is structured by title, chapter, and part.

HH. “NMHCA” means the New Mexico health care association.

II. “NMHHA” means the New Mexico hospitals and health systems association.

JJ. “NMSA” means New Mexico statutes annotated.

KK. “National licensing examination” means any examination for licensure as provided by the national association of [~~boards of examiners for nursing home administrators.~~] long term care administrator boards (NAB).

LL. “Nursing home administrator” means any individual responsible for planning, organizing, directing, and controlling the operation of a nursing home.

MM. [RESERVED]
NN. “PES” means the professional examination service.

OO. “Reactivation” means the process of making current a license which has been expired as a result of failure to comply with the necessary renewal requirements. This process does not usually require board action at any juncture.

PP. “Reciprocity” means the process of applying for licensure by providing proof of successful passage of the national

licensing exam prior to licensure in another state, and proof of current license in good standing in another state.

QQ. “Reinstatement” means the process whereby a license, which has been subject to revocation or suspension, is returned to its former status. The reinstatement process always requires board action.

RR. “Relicensure” means the process of renewal, reactivation, or reinstatement of a New Mexico nursing home administrator’s license.

SS. “Shall” means mandatory; a requirement.

TT. “Should” means a suggestion or recommendation; not a requirement.

UU. [RESERVED]

VV. “ULA” means the Uniform Licensing Act of New Mexico.

WW. “Uniform Licensing Act” means Section 61-1-1 to 61-1-33 NMSA 1978 (1993 Repl. Pam.) which provides for hearing procedures to be utilized in disciplinary proceedings.

XX. “Verification of continuing education” means an official certificate issued at a continuing education activity which provides proof of attendance.

YY. “Violation of practice” means a violation of the New Mexico Nursing Home Administrators Act and the rules and regulations duly adopted by the board. [2/24/1988; 9/18/1992; 10/31/1995; 16.13.1.7 NMAC - Rn, 16 NMAC 13.1.7, 1/25/2001; A, 2/26/2022]

16.13.1.12 WAIVER: An applicant or licensee may request a waiver of any requirements contained in Title 16, Chapter 13 NMAC. The written request for the waiver shall contain an explanation of the underlying extenuating circumstance and shall include documentation in support of the request. At its discretion, the board may grant the request for waiver.

[16.13.1.12 NMAC – N, 02/26/2022]

**REGULATION AND LICENSING DEPARTMENT
NURSING HOME ADMINISTRATORS**

This is an amendment to 16.13.2 NMAC, Sections 3 and 8, effective 2/26/2022.

16.13.2.3 STATUTORY AUTHORITY: Part 2 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, [NMSA-1978] Sections 61-13-8, 61-13-12 and Subsection A of Section 61-13-6 [A] NMSA 1978 (1993 Repl. Pamp.). [2/24/1988; 2/13/1994; 10/31/1995; 16.13.2.3 NMAC - Rn, 16 NMAC 13.2.3, 1/25/2001; A, 2/26/2022]

16.13.2.8 FEES:
A. All fees are non-refundable.
B. Application and licensure fees for exam candidate:
 (1) application fee: **\$200.00**;
 (2) licensure fee: **\$200.00**.
C. Examination and computer based testing fees: [~~These fees are determined by the current cost of the national licensing exam and the computer based testing center's fees for scheduling services and use of its facility and computer equipment. These fees~~] are payable directly to NAB by electronic means [~~such as credit card authorization; and are aid when applying on-line to take the exam~~].

D. Reexamination fee: [~~Includes (a)~~] The current cost of the national licensing exam and testing center's fees payable directly to NAB on-line. [~~and (b) an administrative processing fee of \$50.00 payable directly to the board.~~]

E. Renewal fee: **\$200.00**.

F. Application and licensure fees for reciprocity candidate:
 (1) application fee: **\$200.00**;
 (2) licensure fee: **\$200.00**.

G. Late penalty fee: **\$100.00**.
H. Inactive status fee: **\$75.00**.
I. Reactivation from inactive status fee: **\$200.00**.
J. Reactivation from expired status fee: **\$300.00** (\$200.00 plus \$100.00 late penalty fee).
K. Duplicate renewal license fee: **\$25.00**.
L. Duplicate of initial wall license fee: **\$60.00**.
M. Written verification of licensure fee: **\$10.00**.
N. Administrative fee for application packet: **\$10.00**. Application packet is also downloadable from the board's internet website at no cost.
O. Administrative fee for copy of rules and regulations: **\$15.00**. Application packet is also downloadable from the board's internet website at no cost.
P. Temporary permit for reciprocity applicants: **\$125.00**. [2/24/1988; 9/18/1992; 10/31/1995; 1/10/2000; A, 7/10/2000; A, 8/3/2000; 16.13.2.8 NMAC - Rn & A, 16 NMAC 13.2.8, 1/25/2001; A, 4/15/2002; A, 2/15/2004; A, 2/26/2022]

**REGULATION AND LICENSING DEPARTMENT
NURSING HOME ADMINISTRATORS**

This is an amendment to 16.13.3 NMAC, Sections 7, 8, 9, 11 12, 13 and 14, effective 2/26/2022.

16.13.3.7 DEFINITIONS:
A. "Application for licensure form" means the application form approved by the board for the candidate to apply for licensure by the board.
B. "Authorization letter" means the letter from the examination service authorizing the eligible candidate to sit for the national examination.
C. "Board approved administrator-in-training program" means an administrator-in-training

program approved by the [~~licensing board in the state in which the training occurred.~~] board, NAB or New Mexico health care association (NMHCA).

D. "CBT" refers to computer based test or testing.

E. "CBT fee" refers to the computer based testing fee assessed by the CBT vendor.

F. "CBT vendor" means the contractor who provides scheduling services, testing center facility, and use of computer equipment to candidates eligible to take the national standard licensing exam in computer based format.

G. "Computer based test" means a type of test in computer-based format designed to be administered through the use of a computer as opposed to a written test.

H. "Computer based testing fee" means the fee charged to the candidate by the CBT vendor for scheduling services and for use of the vendor's facility and computer equipment while taking the examination.

I. "Eligibility list" means the candidates listed by the service as eligible to take the examination.

J. "Eligibility period" means the sixty-day period from the date specified on the authorization letter to the eligible candidate.

K. "Examination" means the national licensing examination for licensure as provided by the national association of boards of examiners for long term care administrators (NAB), or its successor.

L. "Examination application form" means NAB's application form for computerized testing, which must be completed on-line through NAB's website.

M. "Examination fee" means the fee for the examination payable to NAB.

N. "NAB" is the acronym for the national association of [~~boards of examiners for long term care administrators.~~] long term care administrator boards.

O. “National examination agency” means the national association of [boards of examiners for long term care administrators] long term care administrator boards or its successor.

P. “Preceptor” means a licensed nursing home administrator in good standing who gives practical experience to an administrator in training.

Q. “Professional examination service” means [NAB’s] national association of long-term care administrator boards contractor for facilitating the development and offering of the examination in computer-based format.

~~[R. — “Service” refers to the professional examination service.]~~

~~[S:]~~ **R. “Testing center”** means the CBT vendor location(s) where the examination is administered.

[1/10/2000; 16.13.3.7 NMAC - Rn, 16 NMAC 13.3.7, 1/25/2001; A, 2/15/2004; A, 5/26/2016; A, 2/26/2022]

16.13.3.8 PREREQUISITE REQUIREMENTS: All applicants for licensure by examination must:

A. be of good moral character;

B. have completed a degreed baccalaureate program at an accredited institution of higher learning in a course of study approved by the board as adequate preparation for nursing home administration; and

C. complete the application process as set forth by board regulation and policy.

D. have completed a board approved administrator in training program or board approved internship program. The requirements include the following:

(1) a minimum of 1000 hours or more of on-site, supervised training and monthly written evaluations by the preceptor;

(2) the preceptor shall be a NAB certified preceptor and a licensed nursing home administrator with at least three years of experience as a nursing home

administrator in good standing. [2/24/1988; 9/18/1992; 2/13/1994; 10/31/1995; 1/10/2000; 16.13.3.8 NMAC - Rn, 16 NMAC 13.3.8, 1/25/2001; A, 2/15/2004; A, 5/26/2016; A, 2/26/2022]

16.13.3.9 DOCUMENTATION AND OTHER REQUIREMENTS:

Each applicant for licensure by examination must provide the following documents and fees to the board. Applications for licensure are valid for one year from date of receipt, and will be purged from the board’s records after that date.

A. A completed board-approved application for licensure form, signed in the presence of a notary public.

B. A recent (within the last year) passport-type photograph of the applicant that the applicant has signed on the back [in the presence of a notary public].

~~[C. — A copy of the applicant’s birth certificate.]~~

~~[D:]~~ **C.** Complete official transcript(s) leading up to and showing that the applicant has been awarded a baccalaureate degree, and sent directly to the board by the institution(s).

~~[E:]~~ **D.** A statement of any other professional licenses held by the applicant either in New Mexico or in other states, and copies of the license(s).

~~[F:]~~ **E.** Completed verification of licensure form(s) sent directly to the board by the applicant’s other state(s) of professional licensure.

~~[G:]~~ **F.** Three letters of reference from persons unrelated to the applicant sent directly to the board by the references.

~~[H:]~~ **G.** A completed, approved release form authorizing the board to conduct a criminal records check.

~~[I:]~~ **H.** The application and licensure fee, payable to the board (See Subsection B of 16.13.2.8 NMAC, “Fees”).

~~[J:]~~ **I.** Proof of completion of at least 1000 hours in a board

approved administrator in training program or internship program in the form of:

(1) certification of a completion of a board approved administrator in training program from [the] a NAB accredited institution providing the program; or

(2) [a-
~~notarized letter verifying~~] proof of completion of 1000 hours in a board approved internship [; such internship requires direct supervision of the applicant in a nursing home by a licensed nursing home administrator] verified through a notarized letter between the preceptor and the applicant, and submission of an AIT monthly reports completed by the preceptor and the applicant.

~~[K. — RESERVED]~~

[2/24/1988; 9/18/1992; 2/13/1994; 1/31/1995; 10/31/1995; 11/29/1997; 1/10/2000; 16.13.3.9 NMAC - Rn, 16 NMAC 13.3.9, 1/25/2001; A, 2/15/2004; A, 5/26/2016; A, 2/26/2022]

16.13.3.11 [EXAM- SCHEDULE NOTIFICATION:

~~Each eligible candidate will receive from the service, by e-mail, an authorization letter authorizing him or her to sit for an examination. The authorization letter shall contain a list of CBT testing centers, their toll-free telephone numbers, and instructions on the scheduling process for the candidate to use in scheduling an examination. Candidates will also be provided with a direct link through the NAB website that will allow them to schedule their examination on-line with an authorized testing center.~~

~~**A.** Candidates can schedule to sit for an examination at any of the CBT testing centers listed in their authorization letter.~~

~~**B.** Candidates must schedule, and sit for, an examination within sixty days of the date (the “eligibility period”) specified in their authorization letter. If a candidate fails to schedule and sit for an examination within the sixty day eligibility period, he or she will be automatically removed from the eligibility list.~~

~~_____C._____ Any candidate declared ineligible to take an examination because of his or her failure to schedule and sit for an examination before the end of his or her sixty day eligibility period shall be required to resubmit a new examination application to NAB, including the required examination fee and CBT fee.~~

~~_____D._____ Up to two (2) working days prior to his or her scheduled examination date, a candidate may reschedule to take the examination by calling the CBT vendor's toll-free telephone number. The candidate will be assessed a \$10.00 fee by the CBT vendor for rescheduling the examination.~~

~~_____E._____ Candidates who (a) fail to give at least a two working days notice to the CBT vendor of their intention to reschedule their examinations within their sixty day eligibility period, shall forfeit their CBT fees.~~

~~_____F._____ Candidates may withdraw their NAB examinations applications up to one-day prior to their scheduled examination date. Withdrawals must be requested using the withdrawal option through the NAB on-line system.] [RESERVED] [2/24/1988; 10/31/1995; 1/10/2000; 16.13.3.11 NMAC - Rn, 16 NMAC 13.3.11, 1/25/2001, A, 2/15/2004; repeal, 2/26/2022]~~

16.13.3.12 [IDENTIFICATION: Candidates shall arrive at the CBT testing site, where they are scheduled to sit for the exam, at least fifteen (15) minutes prior to their scheduled appointment. Upon arrival at a scheduled exam, candidates shall be asked to show "proof-of-identity" to the CBT vendor.

~~_____A._____ Candidates can show proof-of-identity by presenting a government-issued identification that bears a positive photo of the candidate (e.g., passport, driver's license, etc.), and a second piece of identification which must, at the very least, contain the candidate's signature (e.g., credit card, school identification, etc.).~~

~~_____B._____ Prior to sitting for~~

an examination, all candidates will be thumb-printed and photographed by the CBT vendor.

~~_____C._____ All examinations will be videotaped.] [RESERVED] [10/31/1995; 1/10/2000; 16.13.3.12 NMAC - Rn, 16 NMAC 13.3.12, 1/25/2001; repeal, 2/26/2022]~~

16.13.3.13 [FAILURE TO APPEAR AT SCHEDULED EXAM:

~~_____A._____ Scheduled exam candidates who fail to appear at the exam for which they were scheduled without any prior notification to the CBT vendor (see Subsections D and E of 16.13.3.11, this rule) shall automatically be removed from the eligibility list and shall forfeit their examination and CBT fees.~~

~~_____B._____ Any candidate declared ineligible to take an examination because of his or her failure to schedule, or to properly cancel, or to sit for an examination before the end of his or her sixty day eligibility period shall be required to resubmit a new examination application to NAB, including the required examination fee and CBT fee.] [RESERVED] [2/24/1988; 9/18/1992; 10/31/1995; 1/10/2000; 16.13.3.13 NMAC - Rn, 16 NMAC 13.3.13, 1/25/2001; A, 2/15/2004; repeal, 2/26/2022]~~

16.13.3.14 AMERICANS WITH DISABILITIES ACT OF 1990:

As the national examination agency, NAB reserves sole responsibility for approving candidate requests for special accommodations under the Americans With Disabilities Act of 1990 (Public Law 101-336) (the "ADA"), provided the candidate provides timely notice and request of specific reasonable accommodations.

A. Requests for special accommodations should be indicated at the time of candidate application to NAB.

B. The board will make eligibility determination for NAB approved accommodations as specified in the NAB exam application under "special accommodations".

C. NAB must approve all other requests.

D. Professional documentation to support the specific request for reasonable accommodations falling under item Subsection B. of [16.13.3.14] 16.13.3.10 NMAC is required and must be submitted to the board by the candidate no less than seven weeks prior to the candidate's anticipated test date. The completed "candidate request for special examination accommodations" form, downloadable from the NAB exam application site, must accompany this documentation. The professional documentation in support of the specific request for reasonable accommodations specified in Subsection B. of [16.13.3.14] 16.13.3.10 NMAC must be approved and submitted by the board to NAB no less than four weeks prior to the candidate's anticipated test date. [16.13.3.14 NMAC - N, 2/15/2004; A, 2/26/2022]

**REGULATION AND LICENSING DEPARTMENT
NURSING HOME
ADMINISTRATORS**

This is an amendment to 16.13.5 NMAC, Sections 3, 8, 9, 10, 11, and 12, effective 2/26/2022.

16.13.5.3 STATUTORY AUTHORITY: Part 5 of Chapter 13 is promulgated pursuant to the Nursing Home Administrators Act, [NMSA 1978] Sections 61-13-6, 61-13-8, 61-13-11, 61-13-12 and 61-13-13 NMSA 1978. (1997 Repl. Pamp.). [2/24/1988; 2/13/1994; 10/31/1995; 11/29/1997; 16.13.5.3 NMAC - Rn, 16 NMAC 13.5.3, 1/25/2001; A, 2/26/2022]

16.13.5.8 LICENSE REQUIRED TO PRACTICE:

The applicant may not engage in the practice of nursing home administration in New Mexico until approval for licensure by reciprocity has been given and the board has issued an initial license. An applicant

may, however, practice nursing home administration in New Mexico if [~~he or she has been issued~~] a temporary permit has been issued by the board pursuant to the provisions in 16.13.5.11 NMAC.

[2/24/1988; 9/18/1992; 10/31/1995; 1/10/2000; 16.13.5.8 NMAC - Rn, 16 NMAC 13.5.8, 1/25/2001; A, 2/15/2004; A, 2/26/2022]

16.13.5.9 PREREQUISITE REQUIREMENTS: Acceptance of a reciprocity applicant for licensure is subject to board approval. All applicants for licensure by reciprocity shall:

- A. be of good moral character;
- B. be duly and currently licensed as a nursing home administrator in at least one other state;
- C. have no history of disciplinary action against any professional licenses ever held;
- D. passed the [~~PES or NAB~~] a national licensing examination for nursing home administrators in another licensing state; and
- E. has completed an approved administrator-in-training program, or worked full-time for 12 consecutive months as an administrator, as evidenced by affidavit from an authorized representative of the governing body of the facility where the applicant worked.

[~~E.~~] E. provide proof of having met education requirements in the state of licensure similar to or better than those required in New Mexico at the time of licensure.

(1) Educational requirements prior to June 1993:

- (a) a baccalaureate degree in a course of study approved by the board; or
- (b) graduation from high school and four years of experience in a nursing home as a director of nursing, administrative assistant, assistant administrator, administrative or professional manager, or department director in a nursing home; or

(c) graduation from high school and four years of experience as a hospital administrator

(2) Educational requirements after June 1993: A baccalaureate degree from an accredited institution in a course of study approved by the board as being adequate preparation for nursing home administration. [2/24/1988; 9/18/1992; 2/13/1994; 10/31/1995; 16.13.5.9 NMAC - Rn, 16 NMAC 13.5.9, 1/25/2001; A, 2/26/2022]

16.13.5.10 DOCUMENTATION REQUIRED: All applicants for licensure by reciprocity are required to provide the following documentation to the board. Applications for licensure are valid for one year from the date of receipt.

- A. a completed board-approved application form, signed in the presence of a notary public;
- B. a recent (within the last year) passport-type photograph of the applicant, [~~which~~] that the applicant has signed on the back [~~in the presence of a notary public~~];
- C. a copy of the applicant's birth certificate;
- D. a statement of other professional license(s) held by the applicant with copies of each license attached;
- E. three letters of reference from persons unrelated to the applicant sent directly to the board by the references;
- F. the required application/licensure fee for reciprocity (See Subsection F of 16.13.2.8 NMAC);
- G. a completed board-approved verification of licensure form sent directly to the board by any other state professional licensing board verifying:

- (1) the status of the applicant's license, whether current and in good standing or otherwise;
- (2) the applicant's pass score on the NAB or PES national licensing exam; and

(3) the educational requirements the applicant met for licensure.

H. A completed, approved release form authorizing the board to conduct a criminal records check. [10/31/1995; 11/29/1997; 1/10/2000; 16.13.5.10 NMAC - Rn, 16 NMAC 13.5.10, 1/25/2001; A, 2/26/2022]

16.13.5.11 TEMPORARY PERMIT PROVISION: Applicants for licensure by reciprocity may be issued a temporary permit to practice nursing home administration in New Mexico while the application process is being completed.

A. The permit may be issued after the board has received a completed board-approved application form; proof of being currently licensed as a nursing home administrator in another licensing jurisdiction, such as a copy of the state license; and reciprocity application fee as set forth in Paragraph (1) of Subsection F [(+)] of [16.13.2] 16.13.2.8 NMAC.

B. If the reciprocity applicant desires a temporary permit, he or she must request it in writing, specifying the desired date of issuance, and providing the necessary temporary permit fee as set forth in Subsection P of 16.13.2 NMAC.

C. Upon receipt of the items set forth in Subsections A and B of 16.13.5.11 NMAC, the temporary permit shall be issued for a maximum period of [~~one-hundred-twenty (120)] 120 days from the requested date of issuance.~~

D. The temporary permit is not renewable. [11/29/1997; 1/10/2000; 16.13.5.11 NMAC - Rn & A, 16 NMAC 13.5.11, 1/25/2001; A, 2/15/2004; A, 2/26/2022]

16.13.5.12 PROVISIONS FOR EMERGENCY LICENSURE:

A. **Nursing home administrators** currently licensed and in good standing, or otherwise meeting the requirements for New Mexico licensure in a state in which a federal disaster has been declared,

may be licensed in New Mexico during the (4) four months following the declared disaster at no cost upon satisfying the following requirements:

(1) receipt by the nursing home administrators board office a completed application which has been signed and notarized and which is accompanied by proof of identity, which may include a copy of a drivers license, passport or other photo identification issued by a governmental entity;

(2) refer to 16.13.3.9 NMAC, Documentation and Other Requirements and 16.13.5.8 NMAC, License Required to Practice;

(3) other required verification may be obtained by the national association of boards of examiners for long term care administrators (NAB);

(4) sworn affidavit that the applicant was personally [and/or] or professionally [effected] affected by the disaster;

(5) nothing in this section shall constitute a waiver of qualifications of the requirements for licensure contained in 16.13.3.9 NMAC, 16.13.5.8 NMAC.

B. The board may waive the application fees.

C. The board may waive the specific forms required under **16.13.3.9 NMAC** only if the applicant is unable to obtain documentation from the federal declared disaster areas.

D. EMERGENCY PROVISIONAL LICENSE shall expire on March 31st, following the date of issue. Application for initial license shall be made on or before Feb 1st following the date of issue of the emergency provisional license.

E. The board reserves the right to request additional documentation, including but not limited to, recommendation forms and work experience verification forms prior to approving the initial license. [16.13.5.12 NMAC - N/E, 11/29/2005; A, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT NURSING HOME ADMINISTRATORS

This is an amendment to 16.13.8 NMAC, Section 10, effective 2/26/2022.

16.13.8.10 [RENEWAL APPLICATION NOTICE: At least six weeks prior to the expiration date, the board will mail the license renewal application to the licensee's last known address on file.] **[RESERVED]**

[2/24/1988; 3/20/1991; 2/13/1994; 10/31/1995; 16.13.8.10 NMAC - Rn, 16 NMAC 13.8.10, 1/25/2001; Repeal, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT NURSING HOME ADMINISTRATORS

This is an amendment to 16.13.18 NMAC, Sections 8 and 9, effective 2/26/2022

16.13.18.8 DISCIPLINARY GUIDELINES: In accordance with the provisions contained within the Uniform Licensing Act, the board may take disciplinary action if the board determines the applicant or licensee has violated the Nursing Home Administrators Act or the board's regulations. The following shall subject the licensee to disciplinary action by the board.

A. Fraud or deceit in procuring or attempting to procure a license to practice as a nursing home administrator.

B. Knowingly practicing nursing home administration or using any designation with the licensee's [his/her] name tending to imply, without a valid license, that [he/she] the licensee is a nursing home administrator; or knowingly aiding, assisting, procuring, advising, or encouraging any unlicensed person to practice nursing home administration or use any designation with [his/her]

the licensee name tending to imply that [he/she] the licensee is a nursing home administrator without a valid license.

C. Conviction [of a felony] by a court of competent jurisdiction of any of the following disqualifying criminal convictions:

(1) homicide
(2) trafficking, or trafficking in controlled substances:

(3) kidnapping, false imprisonment, aggravated assault or aggravated battery

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

(5) crimes involving adult abuse, neglect or financial exploitation

(6) crimes involving child abuse or neglect; or
(7) crimes involving robbery, larceny, extortion, burglary, fraud, forgery, embezzlement, credit card fraud, or receiving stolen property.

[~~(4)~~] **(8)** This includes a 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.

[~~(2)~~] **The term "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.]**

D. Having been declared mentally incompetent by a regularly constituted authority within or outside this state.

(1) Any such adjudication shall be grounds for suspension of the license of any such person and shall prevent the reissuance or renewal of any license so suspended for as long as the adjudication of incompetence is in effect unless the board, upon a finding that the licensee is mentally competent, orders otherwise.

(2) Any applicant who has been so adjudged to be mentally incompetent shall not receive a license unless the board, upon a finding that the applicant is mentally competent, orders otherwise.

E. Having become unable to practice nursing home administration with reasonable skill and safety to residents by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a physical condition.

(1) License suspension shall only be in effect during the period of alcohol or drug dependency or physical incapacitation.

(2) In enforcing the provisions in Subsections D and E of 16.13.18.8 NMAC, the board may, upon reasonable grounds, require a licensee or applicant to submit to a mental or physical examination by a licensed professional designated by the board.

(3) The cost of such evaluation shall be borne by the licensee or applicant. The results shall be admissible in the hearing before the board, notwithstanding any claim of privilege under a contrary rule or law or statute.

(4) If a licensee or applicant fails to submit to such an examination when properly directed to do so by the board, a show cause order may be issued from the board directing the licensee or applicant to show cause why he/she should not submit to the examination.

(5) The board may enter a final order upon proper notice, hearing, and proof of such refusal.

(6) Any licensee or applicant who is prohibited from practicing nursing home administration under Subsections D and E of 16.13.18.8 NMAC will, at reasonable intervals, be afforded an opportunity to demonstrate to the board that he/she can resume the practice of nursing home administration with reasonable skill and safety to residents.

(7) Applicants for licensure and renewal who have a history of alcohol or drug dependency shall be required to demonstrate to the satisfaction of the board that they have met all the following requirements:

(a) completed a treatment program for alcohol or chemical dependency;

(b) remained abstinent from alcohol or chemical dependence, except for drugs prescribed by a licensed physician for a legitimate medical condition, for a minimum of at least two years; and

(c) maintained active and uninterrupted participation in a program of aftercare which provides for periodic monitoring and supervision by appropriately trained personnel, and which includes random and unannounced drug and/or alcohol screening of urine or blood.

F. Violation of any provision of the Nursing Home Administrators Act or any rules and regulations duly adopted by the board.

G. Gross incompetence.

[H. — Performance and conduct that substantially departs from, or fails to conform to, the minimal reasonable standards of acceptable and prevailing practice of nursing home administration, including but not limited to the following:

(1) conviction of a misdemeanor substantially relating to the practice of nursing home administration;

(2) found to be directly responsible for the neglect or abuse of nursing home resident(s) or the misappropriation of resident funds or property by a court of law, the board, an agency responsible for the certification and licensure of nursing homes, a state medicaid fraud and abuse unit, or any other duly recognized state agency;

(3) found to have falsified records related to residents or employees of a nursing home on the basis of race, religion,

color, national origin, sex, age, or handicap in violation of federal or state laws;

(4) knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of nursing home administration, in the operation of a nursing home facility, or in any document connected therewith;

(5) revocation, suspension, or denial of a license by another state licensing board for any of the reasons which are also a violation of the Nursing Home Administrators Act, NMSA 1978 Sections 61-13-1 through 61-13-17;

(6) commission of a crime or act substantially related to the qualifications, functions, or duties of a nursing home administrator and which evidences unfitness to perform as a nursing home administrator in a manner consistent with protecting the public health, safety, and welfare; such crimes or acts shall include but not be limited to those involving the following: engaging in any unprofessional, immoral, unethical, deceptive or destructive conduct or practice harmful to the public, which materially affects the fitness of the licensee or applicant to practice nursing home administration;

(7) commission of a crime involving moral corruption, without regard to conviction; the conviction of a crime involving moral corruption shall be evidence of the commission of such crime; as used in this paragraph, the term "conviction" shall have the meanings prescribed in Subsection C, Paragraph (2) of 16.13.18.8 NMAC; examples may include sexual harassment, resident abuse, breach of fiduciary duty, bribery, etc.]

[10/31/1995; 16.13.18.8 NMAC - Rn, 16 NMAC 13.18.8, 1/25/2001; A, 2/15/2004; A, 2/26/2022]

16.13.18.9 GROSS INCOMPETENCE FURTHER DEFINED: In performing nursing home administrator functions, a licensee is under the legal duty to possess and to apply the knowledge,

skill, and care that is ordinarily possessed and exercised by other licensed nursing home administrators and required by the generally accepted standards of the profession. The failure to possess or to apply to a substantial degree such knowledge, skill, and care constitutes gross incompetence.

A. Charges of gross incompetence may be based upon a single act of incompetence or upon a course of conduct or series of acts or omissions which extend over a period of time and which, taken as a whole, demonstrate incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions so long as the conduct is of such a character that harm could have resulted to the resident or to the public from the act or omission or series of acts or omissions.

B. The following shall be deemed prima facie examples of activities which demonstrate that a licensee is unfit or incompetent to serve as a nursing home administrator by reason of negligence, habits, or other causes. The Board shall not be limited to this list in determining whether an act or acts constitute gross incompetence:

(1) Willfully acting in a manner inconsistent with the care for the welfare and the health and safety of the residents of the nursing facility in which he is the administrator, administrator/owner, administrator/manager, or administrator/corporate officer;

(2) Failure to make good faith attempts using administrative management methods, to assure that the nursing home in which he/she is the administrator, administrator/owner, administrator/manager, or administrator/corporate officer conforms with the provisions of pertinent statutes, codes, rules and regulations of the state licensing authority having jurisdiction over the operation and licensing of nursing homes;

(3) Failure to be responsible for planning, organizing, directing, and managing

the operation of a nursing home in such a manner to ensure the safety, health, and welfare of the residents in the facility under [his/her] the licensee administration;

(4) Physical inability to serve as a nursing home administrator as evidenced by the statement of two licensed physicians; or

(5) Willfully permitting unauthorized disclosure of information relating to a resident in a nursing home under [his/her] the licensee administration. [2/24/1988; 10/31/1995; 16.13.18.9 NMAC - Rn, 16 NMAC 13.18.9, 1/25/2001; A, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

The New Mexico Board of Optometry repealed at its 1/13/2022 hearing, its rule 16.16.25 NMAC, Licensure for Military Service Members, Spouses and Veterans (filed 4/24/2014) and replaces it with 16.16.25 NMAC, Licensure for Military Service Members, Spouses and Veterans, adopted 1/27/2022 and effective 2/26/2022.

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

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

16.16.25.1 ISSUING AGENCY: New Mexico Board of Optometry. [16.16.25.1 NMAC – Rp 16.16.25.1 NMAC, 2/26/2022]

16.16.25.2 SCOPE: Part 25 of Chapter 16 sets forth application procedures to expedite licensure

for military service members, their spouses and veterans. [16.16.25.2 NMAC – Rp 16.16.25.2 NMAC, 2/26/2022]

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

[16.16.25.3 NMAC - Rp 16.16.25.3 NMAC, 2/26/2022]

16.16.25.4 DURATION: Permanent. [16.16.25.4 NMAC – Rp 16.16.25.4 NMAC, 2/26/2022]

16.16.25.5 EFFECTIVE DATE: February 26, 2022, unless a later date is cited at the end of a section. [16.16.25.5 NMAC - Rp 16.16.25.5 NMAC, 2/26/2022]

16.16.25.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, their spouses, their dependent children and veterans pursuant to Section 61-1-34 NMSA 1978. [16.16.25.6 NMAC - Rp 16.16.25.6 NMAC, 2/26/2022]

16.16.25.7 DEFINITIONS:

A. “License” has the same meaning as defined in Subsection F of Section 61-1-34 NMSA 1978.

B. “Licensing fee” has the same meaning as defined in Subsection F of Section 61-1-34 NMSA 1978.

C. “Military service member” has the same meaning as defined in 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 Optometry Act.

E. “Veteran” has the same meaning as defined in Subsection F of Section 61-1-34 NMSA 1978. [16.16.25.7 NMAC - Rp 16.16.25.7 NMAC, 2/26/2022]

16.16.25.8 APPLICATION REQUIREMENTS:

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

B. The applicant shall provide a complete application that includes the following information:

- (1) applicant’s full name;
- (2) current mailing address;
- (3) current electronic mail address, if any;
- (4) date of birth;

(5) certification that the applicant has not been convicted of a disqualifying felony listed in 16.16.26 NMAC;

(6) 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/commission 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 Optometry Act.

[16.16.25.8 NMAC - Rp 16.16.25.8 NMAC, 2/26/2022]

16.16.25.9 LICENSE RENEWAL:

A. A license issued pursuant to this section shall not be renewed unless the licensee holder satisfies the requirements for renewal set forth in 16.16.6 NMAC pursuant to Chapter 61, Article 2 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.

[16.16.25.9 NMAC - Rp 16.16.25.9 NMAC, 2/26/2022]

History of 16.16.25 NMAC:

History of Repealed Materials:

16.16.25 NMAC, Licensure for Military Service Members (filed 4/24/20214) repealed effective 2/26/2022.

Other History:

16.16.25 NMAC, Licensure for Military Service Members (filed 4/24/2014) was replaced by 16.16.25 NMAC, Licensure for Military Service Members, effective 2/26/2022

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

This is an amendment to 16.16.3 NMAC, Sections 3 and 9, effective 2/26/2022.

16.16.3.3 STATUTORY AUTHORITY:

[Authority] The authority for Part 3 of Chapter 16 is [the Optometry Act NMSA 1978, Section 61-2-4.1] Section 61.2.4 NMSA 1978; [Section 61-2-6.B and D. (2), (6) and (7)] Subsections B and D of 61-2-6 NMSA 1978; Section 61-2-8 NMSA 1978; and Section 61-2-9 NMSA 1978 (1995 Repl. Pam.). [11/17/1973; 3/31/1991; 8/21/1992; 6/24/1994; 10/14/1995; 16.16.3.3 NMAC - Rn, 16 NMAC 16.3.3, 3/15/2001; A, 2/26/2022]

16.16.3.9 APPLICATION REQUIREMENTS:

In accordance with Section 61-2-8 NMSA 1978, and those qualifications set forth therein, candidates for examination

must submit to the board office, at least [~~sixty-five (65)~~] **65** days prior to the announced examination date, a letter of intent applying for the next regularly scheduled board examination accompanied by the required application processing fee. In addition to a completed, board-approved application form, the following documents must be received by the board office no later than [~~forty (40)~~] **40** days prior to the requested examination.

~~[A. — A copy of the applicant's birth certificate certified to be a true and correct copy of the original.]~~

[B] A. Letters of reference from two currently licensed optometrists actively engaged in the practice of optometry, and not related to the applicant, written on their letterhead stationery.

[C] B. Official pre-optometry transcript(s) sent directly to the board office by each college or university attended by the applicant.

[D] C. A complete official optometry transcript showing the applicant's graduation sent directly to the board by a college of optometry as approved by the American optometric association's council of optometric education.

(1) An applicant expecting to graduate in the spring or summer prior to the board's examination who does not expect completed transcripts to be available before the documentation deadline, must make arrangements for the school to send a letter directly to the board regarding the applicant's expected graduation.

(2) The letter must be postmarked before the forty-day documentation deadline.

(3) The completed, official transcript must be received by the board before the scheduled examination date or the application will be considered incomplete, and the applicant will be denied entrance into the examination.

[E] D. A statement and copy of other state license(s) held by the applicant.

[F] E. A recent, passport-type photograph of the applicant. ~~[The applicant must sign the back of the photograph in the presence of the notary who is also witnessing the applicant's signature on the board-approved exam application form.]~~

[G] F. An affidavit from the applicant that the applicant has not engaged in any optometry practice of an illegal or unethical nature as defined in the New Mexico Optometry Act, NMSA 1978, Sections 61-2-1 to 61-21-18 (1995 Repl. Pam.).

[H] G. Copy of current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be self-study.

[I] H. A verification from an accredited optometry school of successful completion of [~~one hundred (100)~~] **100** or more post-graduate clock hours of ocular therapeutics pharmacology, as provided in Subsection A of 16.16.7.10 NMAC, and a minimum of [~~twenty (20)~~] **20** post-graduate clock hours in clinical pharmacology as provided in Subsection B of 16.16.7.11 NMAC.

[J] I. Verification directly from the national board of examiners in optometry (NBEO) that the applicant has successfully passed part I, part II, part III, and the TMOD of the NBEO as provided in Subsection B of 16.16.3.8 NMAC.

(1) If NBEO examination results will not be released by the NBEO prior to the documentation deadline, the applicant must submit to the board a copy of the NBEO letter scheduling the applicant for the NBEO exam(s).

(2) Upon receipt of verification of successful completion of the required NBEO exam(s), and upon having met all other requirements stipulated in this regulation, the approved candidate will be scheduled for the next regularly scheduled board examination.

[K] J. A list of the names of any New Mexico licensed optometrist(s) with whom the applicant is acquainted; with whom the applicant has a professional or personal affiliation; or that the applicant would feel uncomfortable being examined by, in the event that one of those optometrists is a board member or a clinical examiner for the board. Failure to provide this information prior to the examination deadline may disqualify the candidate from the exam.

[L] K. Each approved exam candidate will be required to bring their copy of the board's exam policy and procedures document to the clinical exam and to sign it in the presence of the board's representative in attestation that the candidate has read the document; and a copy of the document will become a part of the candidate's examination records.

L. proof of any disqualifying criminal convictions as defined in Section 12 of 16.16.21 NMAC.
[11/17/1973; 3/8/1986; 3/31/1991; 8/21/1992; 6/24/1994; 9/30/1995; 10/14/1995; 5/31/1996; 2/15/1999; 16.16.3.9 NMAC - Rn, 16 NMAC 16.3.9, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012; A, 6/25/2015, A, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

This is an amendment to 16.16.4 NMAC, Sections 9 and 10, effective 2/26/2022.

16.16.4.9 APPLICATION REQUIREMENTS: At least 65 days prior to the next scheduled examination every applicant for licensure by endorsement must submit to the board office the required application-processing fee with a letter of intent stating the date of examination for which he/she wishes to be scheduled. The following items must be received by the board office at least 40 days prior to the regularly scheduled board examination for

which the applicant wishes to be scheduled.

~~[A.] A copy of the applicant's birth certificate certified to be a true and correct copy of the original.]~~

[B] A. An affidavit that the applicant has not at any time preceding application been engaged in any optometric practice of an illegal or unethical nature as defined in the Optometry Act.

[C] B. Copy(ies) of any other state license(s) held by the applicant.

[D] C. Official pre-optometry transcript(s) sent directly to the board office by each college or university attended by the applicant.

[E] D. A complete, official optometry transcript showing the applicant's graduation sent directly to the board office by a college of optometry as approved by the American optometric association's council on optometric education.

[F] E. Letters of reference from two currently licensed optometrists in the endorsing state of licensure.

[G] F. Verification of successful completion of 100 or more post-graduate clock hours of ocular therapeutics pharmacology from an accredited institution.

[H] G. A complete professional resume or curriculum vitae to date.

[I] H. Copy of current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be self-study.

[J] I. A completed, signed, and ~~[notarized]~~ board-approved exam application form.

[K] J. The required application and examination fees (16.16.2.8 NMAC and 16.16.2.9 NMAC).

[L] K. A recent, passport-type photograph of the applicant ~~[which the applicant has signed on the back in the presence of the notary public who is also witnessing the applicant's signature on the application form.]~~

[M] L. Verifications of licensure status sent directly to the board from all state licensing boards where the applicant is or has ever been licensed. Endorsement candidates will require the following information:

(1) verification that the applicant has been actively engaged in the practice of optometry in the state of licensure or in federal service for seven consecutive years immediately prior to the year in which application is made to the board office;

(2) verification that the applicant has completed 14 days, or 112 hours of continuing education during the immediate seven years prior to the application, providing that at least 22 of those hours were completed within the immediate prior year; and

(3) verification of examination requirements which the applicant met to be licensed to practice in that state (see 16.16.4.8 NMAC).

[N] M. Verification must be provided for pre-1994-1995 academic year optometry school graduates of successful completion of a minimum 20 hour course in clinical pharmacology as set forth in Subsection B of 16.16.7.11 NMAC.

[O] N. A list of the names of any New Mexico licensed optometrist(s) with whom the applicant is acquainted; with whom the applicant has a professional or personal affiliation; or that the applicant would feel uncomfortable being examined by, in the event that one of those optometrists is a board member or a clinical examiner for the board. Failure to provide this information prior to the examination may disqualify the candidate from the exam.

[P] O. Each approved exam candidate will be required to bring their copy of the board's exam policy and procedures document to the clinical exam and to sign it in the presence of the board's representative in attestation that the candidate has read the document; and a copy of the document will become a part of the candidate's examination records.

P. proof of any disqualifying criminal convictions as defined in 16.16.21.12 NMAC.

[11/17/1973; 12/6/1987; 3/31/1991; 8/21/1992; 6/24/1994; 10/18/1994; 10/14/1995; 5/31/1996; 2/15/1999; 16.16.4.9 NMAC - Rn, 16 NMAC 16.4.9, 3/15/2001; A, 3/15/2004; A, 3/22/2008; A, 7/6/2012; A, 6/25/2015; A, 2/26/2022]

16.16.4.10 EXPEDITED

LICENSURE: Doctors of optometry with current licenses in good standing in jurisdictions within the United States with licensing standards equal to or greater than New Mexico as determined by the board of optometry shall be eligible for expedited licensure. Criterion for this licensure shall include payment of the application fee and the licensure fee, completing the proper application forms, and passing the New Mexico jurisprudence examination within one year of licensure. Any applicant for this expedited licensure procedure who has had a license suspended or revoked in another jurisdiction within the United States and its territories shall not be eligible for expedited licensure.

[16.16.4.10 NMAC - N, 10/15/1997; A, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

This is an amendment to 16.16.10 NMAC, Sections 3 and 12, effective 2/26/2022.

16.16.10.3 STATUTORY

AUTHORITY: The authority for Part 10 of Chapter 16 is ~~[NMSA-1978, Section 61-2-6.D. (9); Section 61-2-12; Section 61-2-14. (A). 4 and Section 61-2-6.D. (2)]~~ Subsection D of 61-2-6 NMSA 1978; Section 61-2-12 NMSA 1978; and Subsection A of Section 61-2-14 NMSA 1978;(1995 Repl. Pamp.).

[10/14/1995; 16.16.10.3 NMAC - Rn, 16 NMAC 16.10.3, 3/15/2001, A, 2/26/2022]

16.16.10.12 RENEWAL APPLICATION:

A. A completed license renewal application, verification of continuing education, a current CPR certification and applicable renewal fee must be received in the board office on or before July 1 of every year. The CPR course shall show a current certification attesting to completion of a CPR course offered by the American red cross, the American heart association, or the American safety and health institute (ASHI). The course cannot be a self-study. CPR is not considered continuing education.

B. The board may audit any licensee’s continuing education documentation for the current licensing year and the two previous years.

C. Proof of any disqualifying criminal convictions as defined in 16.16.21.12 NMAC. [10/14/1995; 16.16.10.12 NMAC - Rn, 16 NMAC 16.10.12, 3/15/2001; A, 3/22/2008; A, 7/6/2012; A, 6/25/2015; A, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

This is an amendment to 16.16.21 NMAC, Sections 7 and 12, effective 2/26/2022.

16.16.21.7 DEFINITIONS:

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

[A] B. “Splitting or dividing of fees” means offering, delivering, receiving, or accepting any unearned rebate, refund, commission, preference, patronage, dividend, discount, or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, customers to any person, irrespective of any membership, proprietary interest, or co-ownership in or with any person to whom the

patients, clients, or customers are referred.

[B] C. “Professional superiority” means claiming, implying, guaranteeing, or representing that one has superior professional qualities, skills, abilities, credentials, training and professional service outcomes beyond those of similarly licensed optometrists. [N, 6/26/2000; 16.16.21.7 NMAC - Rn, 16 NMAC 16.21.7, 3/15/2001; A, 7/6/2012, A, 2/26/2022]

16.16.21.12 DISQUALIFYING CRIMINAL CONVICTIONS:

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

- (1) murder;
- (2) manslaughter;
- (3) aggravated assault;
- (4) assault with intent to commit a violent felony;
- (5) aggravated battery inflicting great bodily harm or with deadly weapon;
- (6) second or subsequent conviction of stalking;
- (7) aggravated stalking;
- (8) false imprisonment;
- (9) amendment of child resulting in death or great bodily harm;
- (10) abuse of a child;
- (11) negligent abuse of a child resulting in death;
- (12) intentional abuse of a child 12 to 18 years old resulting in death;
- (13) intentional abuse of a child less than 12 years old resulting in death;
- (14) contributing to the delinquency of a minor;
- (15) sexual exploitation of children;

- (16) sexual exploitation of children by prostitution;
- (17) accepting the earnings of a prostitute;
- (18) promoting prostitution;
- (19) criminal sexual penetration;
- (20) criminal sexual contact;
- (21) criminal sexual contact of a minor;
- (22) aggravated indecent exposure;
- (23) bigamy;
- (24) incest;
- (25) breaking and entering;
- (26) larceny;
- (27) robbery;
- (28) burglary;
- (29) aggravated burglary;
- (30) fraud;
- (31) embezzlement;
- (32) extortion;
- (33) forgery;
- (34) receiving stolen property;
- (35) falsely obtaining services or accommodations;
- (36) improper sale, disposal, removal or concealing of encumbered property;
- (37) theft of identity;
- (38) theft of a credit card by taking or retaining possession of card taken;
- (39) fraudulent transfer or receipt of a credit card;
- (40) dealing in credit cards of another;
- (41) forgery of a credit card;
- (42) fraudulent signing of credit cards or sales slips or agreements;
- (43) certain fraudulent acts by merchants or their employees;
- (44) possession of four or more incomplete credit cards or machinery, plates or other contrivance;

(45) unlawful taking of a vehicle or motor vehicle;
(46) embezzlement of a vehicle or motor vehicle;
(47) fraudulently obtaining a vehicle or motor vehicle;
(48) receiving or transferring a stolen vehicle or motor vehicle;
(49) arson or negligent arson;
(50) aggravated arson;
(51) cruelty to animals or extreme cruelty to animals;
(52) second conviction for use of telephone to terrify, intimidate, threaten, harass, annoy or offend;
(53) aggravated fleeing a law enforcement officer;
(54) tampering with evidence;
(55) aggravated assault upon a peace officer;
(56) assault with intent to commit a violent felony upon a peace officer;
(57) battery upon a peace officer;
(58) aggravated battery upon a peace officer;
(59) assisting in assault upon peace officer;
(60) disarming a peace officer;
(61) paying or receiving public money for services not rendered;
(62) making or permitting false public voucher;
(63) unlawful interest in a public contract;
(64) bribery of public officer or public employee;
(65) demanding or receiving bribe by public officer or public employee;
(66) bribery or intimidation of a witness;
(67) retaliation against a witness;
(68) acceptance of a bribe by a witness;
(69) perjury;
(70) tampering with public records;

(71) attempt to commit a felony;
(72) conspiracy;
(73) criminal solicitation;
(74) intentionally trafficking controlled substances;
(75) intentionally distributing a controlled substance to a person under the age of eighteen years;
(76) intentionally distributing or possessing with intent to distribute a controlled substance;
(77) possession of a controlled substance;
(78) violations of the administrative provisions of the Controlled Substances Act;
(79) engaging in other acts prohibited by the Controlled Substances Act;
(80) delivering drug paraphernalia to a person under eighteen years of age and who is at least three years the person's junior;
(81) manufacturing, distributing or possessing with intent to distribute an imitation controlled substance;
(82) intentionally selling an imitation controlled substance to a person under the age of eighteen years;
(83) intentionally possessing an imitation controlled substance with the intent to distribute;
(84) certain violations of the Drug Precursor Act;
(85) child solicitation by electronic communication device;
(86) criminal sexual communication with a child;
(87) second or subsequent unauthorized distribution of sensitive images;
(88) failing to disclose facts or change of circumstances to obtain public assistance;
(89) unlawful use of food stamp identification card or medical identification card;

(90) misappropriating public assistance;
(91) making or permitting a false claim for reimbursement of public assistance services;
(92) failure to reimburse the human services department upon receipt of third party payment;
(93) making, conspiring, or attempting to make an extortionate extension of credit;
(94) knowingly advancing money or property to any person with reasonable grounds to believe that it is the intention of that person to use the money or property so advanced for the purpose of making extortionate extensions of credit;
(95) knowingly participating, conspiring, or attempting to participate in the use of any extortionate means to collect any extensions of credit or to cause harm to the person, reputation or property of any person for the nonpayment thereof;
(96) falsification of documents in connection with the Medicaid Fraud Act;
(97) failure to retain records in connection with the Medicaid Fraud Act;
(98) obstruction of investigation in connection with the Medicaid Fraud Act;
(99) medicaid fraud;
(100) computer access with intent to defraud or embezzle;
(101) computer abuse;
(102) unauthorized computer use;
(103) human trafficking;
(104) willfully or knowingly failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;
(105) willfully or knowingly providing false information when complying with

the registration or verification requirements of the Sex Offender Registration and Notification Act;

(106) homicide by vehicle;

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

(108) practicing medicine without a license;

(109) making a false statement under oath, or submitting a false affidavit, in connection with the Medical Practice Act;

(110) making an unauthorized withdrawal from the account of another person with a financial institution, or stealing the card of another, or making an unauthorized use of the card of another;

(111) violations of the New Mexico Drug, Device and Cosmetic Act;

(112) selling or dispensing a contact lens to a resident of this state unless the person has at the time of sale or dispensing a copy of a valid, unexpired prescription or has obtained verification of a valid, unexpired prescription;

(113) certain violations of the Optometry Act;

(114) misuse of public funds;

(115) tax fraud;

(116) failure to comply with proclamation of the governor;

(117) violations of certain provisions of the Drug & Cosmetic Act;

(118) making false statement in claim for payment under Indigent Hospital and County Health Care Act;

(119) unauthorized obtain or use of DNA samples or DNA records;

(120) sex offender who fails to comply with SORNA re moving to another state;

(121) making a false entry in a book, report or statement of an insurer with intent

to injure, defraud, or deceive (insurance);

(122) unlawfully removing or attempting to remove records, assets, or material from a domestic insurer (insurance);

(123) making a false statement in connection with insurance with the effect of causing a loss to the insurer.

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 Optometry 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, [16.16.21.12 NMAC - N, 2/26/2022]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.2 NMAC, Sections 2, 6, 20, 25 and 27, effective 2/8/2022.

16.48.2.2 SCOPE: All individuals and business entities that apply for licensure, registration or approval under the Private Investigations Act.
[16.48.2.2 NMAC - Re-pr, 16.48.2.2 NMAC, 9/24/2008; A, 2/8/2022]

16.48.2.6 OBJECTIVE: To establish the procedures and outline the documents and information necessary to complete the application process for licensure [and] , registration, and security guard training instructor approval.
[16.48.2.6 NMAC - Re-pr, 16.48.2.6 NMAC, 9/24/2008; A, 10/26/2021; A, 2/8/2022]

16.48.2.20 QUALIFICATIONS AND EXPERIENCE REQUIREMENTS FOR SECURITY GUARD INSTRUCTOR [REGISTRATIONS] APPROVAL:
[On or after February 28, 2015, every] Every individual seeking to be an approved [training] instructor[;] shall complete an application for approval on a form provided by the department. [The application shall include, but not be limited to, all of the following information:] The department shall review applications, approve instructors, and maintain a list of current instructor authorized to teach the department's approved curriculum.

A. Proof of professional certification and requirements specific to each level of instruction.

(1) Level One Instructor: [every individual seeking to be an approved training instructor for level one security guards,] an individual shall submit proof of instructor certification related to the level one training curriculum.

issued by a law enforcement academy (LEA), a recognized federal government entity, United States military branch, or the federal law enforcement training center (FLETC), ~~[the current]~~ The certification submitted must ~~[take place]~~ have been issued within four years preceding the ~~[instructor approval request; or] date the application is submitted:~~

(2) Level

Two Instructor: ~~[every]~~ an individual ~~[seeking to be a level two security-guard instructor, offering training in chemical agents, defensive impact tools, restraint and control devices or electronic non-lethal devices,] must submit proof of approval as a level one instructor ~~[the application shall provide proof of level one instructor requirements] and, shall submit proof of ~~[the] specific weapon instructor certification related to the level two training curriculum, issued by the weapon manufacturer. ~~[the current]~~ The certification must ~~[take place]~~ have been issued within four years preceding the ~~[instructor approval request; or] date the application is submitted:~~~~~~~~

(3) Level

Three Instructor: ~~[every individual seeking to be a level three security-guard instructor offering training in firearms and deadly physical force,]~~ an individual shall submit proof of a firearms instructor certification issued by a law enforcement academy (LEA), a recognized federal government entity, United States military branch, ~~[or]~~ the federal law enforcement training center (FLETC), or the national rifle association law enforcement activities division. The ~~[current]~~ certification must ~~[take place]~~ have been issued within four years preceding the ~~[instructor approval request.] date the application is submitted.~~

B. Every four years from the approval date or as requested by the department, the instructors must resubmit ~~[current]~~ certification that takes place within four years preceding the renewal request in order to remain approved.

C. Anyone approved as an instructor must complete a

minimum of four hours of continuing education specific to instructor development and case law specific to security ~~[during the renewal period]~~ every four years from the approval date. Continuing education may be provided by the department and subject to periodic review. Continuing education for instructors shall not count toward continuing education credit required for renewal of an individual licensure or certification pursuant to 16.48.6.8 NMAC.

[16.48.2.20 NMAC - N, 1/15/2019; A, 10/26/2021; A, 2/8/2022]

16.48.2.25 RECIPROCITY:

A. An investigator licensed in another state may conduct business in New Mexico only under the circumstances indicated below:

(1) the investigation must be initiated in the investigator's home state;

(2) the investigator may spend no more than 30 days per case while conducting an investigation in another state;

(3) the investigator is prohibited from soliciting business while in another state and from establishing a business or setting up residence while conducting an investigation in that state.

B. An applicant for licensure or registration by reciprocity may not engage in the practice of private investigations, private patrol operator, polygraph examiners or security guard in New Mexico until approval for licensure by reciprocity has been given and the department has issued an initial license.

C. Acceptance of a reciprocity applicant for licensure or registration is subject to department approval. All applicants for licensure or registration by reciprocity shall:

~~[(1)]~~ (1) be of good moral character;

~~[(2)]~~ (2) be duly and currently licensed or registered in at least one other state;

~~[(3)]~~ (3) have no history of disciplinary action within the last five years against any professional license or registration;

~~[(4)]~~ (3) provide proof of having met education and experience requirements in the state of licensure similar to or better than those required in New Mexico. [16.48.2.25 NMAC - Rn, 16.48.2.24, 1/15/2019; A, 2/8/2022]

16.48.2.27 TERM: The term for initial licensure and registration shall be three years.

[16.48.2.27 NMAC - N, 2/8/2022]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.5 NMAC, Sections 2, 3, 6 and 8, effective 2/8/2022.

16.48.5.2 SCOPE: All individuals and ~~[business registered and]~~ businesses applying to be licensed or registered under the Private Investigations Act.

[16.48.5.2 NMAC - Re-pr, 16.48.5.2 NMAC, 9/24/2008; A, 2/8/2022]

16.48.5.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section ~~[61-27B-20]~~ 61-27B-5 NMSA 1978.

[16.48.5.3 NMAC - Re-pr, 16.48.5.3 NMAC, 9/24/2008; A, 2/8/2022]

16.48.5.6 OBJECTIVE: To establish fees to generate revenue adequate to fund the cost of program administration as authorized under Section 61-27B-20 NMSA 1978.

[16.48.5.6 NMAC - Re-pr, 16.48.5.6 NMAC, 9/24/2008; A, 2/8/2022]

16.48.5.8 FEE SCHEDULE:

A. All fees payable to the department are non-refundable.

B. Application fees:
(1) private

investigator
\$100.00

(2) private
investigation company
\$100.00

(3)	private	investigations manager	\$100.00
(4)	private	investigations employee	\$ 25.00
(5)	private	patrol operator	\$100.00
(6)	private	patrol company	\$100.00
(7)	private	patrol operations manager	\$100.00
(8)	polygraph	examiner	\$100.00

C. ~~[Registration or registration]~~ Initial registration (three year term) and renewal fees:

(1)	security	guard level one	[\$50] <u>75.00</u>
(2)	security	guard level two	[\$50] <u>75.00</u>
(3)	security	guard level three	[\$75] <u>150.00</u>
(4)	private	investigations employee	[\$50] <u>75.00</u>

D. ~~Initial license [or license]~~ (three year term) and renewal fees:

(1)	private	investigator	[\$300] <u>450.00</u>
(2)	private	investigations manager	[\$200] <u>300.00</u>
(3)	private	patrol operator	[\$300] <u>450.00</u>
(4)	private	patrol operations manager	[\$200] <u>300.00</u>
(5)	polygraph	examiner	[\$400] <u>600.00</u>
(6)	late fee on	[license] renewals	\$100.00

E. Other fees applying to private investigators, private patrol operators and polygraph examiners:

(1)	special	event permit	\$100.00
(2)	private	patrol branch office certificate	\$100.00
(3)	change in	license	<u>\$200.00</u>

F. Background fees shall be the amount established by the department of public safety for the processing of criminal history background checks.
[16.48.5.8 NMAC - Re-pr & A, 16.48.5.8 NMAC, 9/24/2008; A, 5/1/2010; A, 5/12/2016; A, 5/25/2021; A, 2/8/2022]

REGULATION AND LICENSING DEPARTMENT PRIVATE INVESTIGATIONS ADVISORY BOARD

This is an amendment to 16.48.6 NMAC, Sections 6 and 8, effective 2/8/2022.

16.48.6.6 OBJECTIVE:
The objective of Part 6 is to inform licensees and registrants of continuing education required for license renewal. ~~[Additionally, Part 16 established acceptable standards for continuing education.]~~
[16.48.6.6 NMAC - N, 9/24/2008; A, 10/26/2021; A, 2/8/2022]

16.48.6.8 CONTINUING EDUCATION:

A. Continuing education is required for renewal of an individual license or registration.

B. Private investigators and private patrol operators must complete a minimum of ~~[four]~~ two hours of continuing education ~~[training from an approved source, during the renewal period to maintain their license]~~ credit per year. Upon renewal for a three year period pursuant to 16.48.7.8 NMAC, a private investigator and private patrol operator must complete a minimum of six hours of continuing education credit from an approved

source, during each renewal period to maintain their license.

C. Security guards must complete a minimum of ~~[four]~~ two hours of continuing education ~~[training from an approved source, during the renewal period to maintain their license]~~ credit per year. Upon renewal for a three year period pursuant to 16.48.7.8 NMAC, a security guard must complete a minimum of six hours of continuing education credit from an approved source, during each renewal period to maintain their registration.

D. Polygraph licensees must complete a minimum of ~~[twenty]~~ 10 hours of continuing education ~~[training from an approved source, during the renewal period to maintain their license]~~ credit per year. Upon renewal for a three year period pursuant to 16.48.7.8 NMAC, a polygraph licensee must complete a minimum of thirty hours of continuing education credit from an approved source, during each renewal period to maintain their license.

E. Proof of participation in or presentation of continuing education ~~[activity]~~ must be submitted with the license or registration renewal ~~[request if the licensee or registrant is audited]~~ application, or registration or license will not be renewed.

F. All continuing education hours must be earned during the renewal period; no carryover will be permitted.

G. Firearms requalification courses will not count towards mandatory ~~[training]~~ continuing education credits.

H. Approved ~~[sources for]~~ providers of continuing education ~~[are]~~ include:

(1)	college level courses;
(2)	in-house training provided by a private patrol company licensed by the department;
(3)	the New Mexico law enforcement academy; or
(4)	any other department-approved educational institution or <u>program.</u>

I. One hour of continuing education credit will be granted for each hour attended in a topic which directly relates to the performance of duties under the respective license or registration. College level courses will be granted fifteen hours of continuing education credit for each successfully completed college credit.

J. Completion of training courses required for initial licensing will satisfy the continuing education requirements for the first licensing period of an initial license or registration.

~~**K.** No license or registration shall be renewed without proof of required continuing education credits.~~

[16.48.6.8 NMAC - N, 9/24/2008; A, 10/26/2021; A, 2/8/2022]

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

This is an amendment to 16.48.7 NMAC, Sections 3, 8, 12, 13 and 14, effective 2/8/2022.

16.48.7.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Private Investigations Act, Section 61-27B-5 [~~61-27B-21 & 61-27B-26~~] NMSA 1978.

[16.48.7.3 NMAC - N, 9/24/2008; A, 2/8/2022]

16.48.7.8 LICENSE AND REGISTRATION RENEWAL: To align with three-year initial terms and transition current licenses and registrations to a three-year renewal cycle, until December 31, 2023, each expiring license and registration ending in an even number (2, 4, 6, 8, 0) will renew for a final two-year term and pay a pro-rated renewal fee, and each expiring license and registration ending in an odd number (1, 3, 5, 7, 9) will renew for a three-year term. Beginning January 1, 2024, all expiring licenses and registrations will renew for three year terms.

Licenses and registrants shall renew their licenses issued pursuant to the Private Investigations Act [~~biennially~~] by submitting the renewal application and all [~~required~~] forms required by the department as described in the application.

A. The completed application shall include applicant's:

- (1) full name;
- (2) current

mailing address;

- (3) current
- (4) current

electronic mail address, if any; license or registration number, and any expired license or registration numbers issued to the applicant by the department;

- (5) two,

2X2 inch recent photographs or an upload of a recent electronic headshot photograph;

- (6) proof of
- (7) firearms

required continuing education; qualification, if required;

- (8)

documentation showing submission of background check form to the department of public safety [background check] no less than 30 days prior to the expiration of the renewal term (documentation may include certified mail return receipt, mailing or delivery confirmation) required to be submitted only by individuals who currently hold and wish to maintain a firearm certification as a private investigator, private patrol operator, private investigations employee, a private patrol operations employee or level three security guard pursuant to 16.48.4 NMAC;

- (9) any

required fees;

- (10) general
- (11) surety

liability insurance, if required; and bond, if required.

B. Renewal [~~documents~~] applications must be postmarked or submitted online no later than the expiration date of the license or registration or a late fee will be assessed without exception. Continuing education [~~hours~~] credits

shall be documented as described in [~~Part 6~~] 16.48.6 NMAC.

~~**C.** The department may require renewal applications be submitted electronically.~~

[16.48.7.8 NMAC - N, 9/24/2008; A, 1/15/2019; A, 10/26/2021; A, 2/8/2022]

16.48.7.12 APPROVAL OF RENEWAL APPLICATION: Upon department approval of the renewal application, the department will issue a [~~renewal to the licensee or registrant~~] license or registration with new expiration date.

[16.48.7.12 NMAC - N, 9/24/2008; A, 2/8/2022]

16.48.7.13 INACTIVE STATUS:

A. A licensed or registered person in good standing may request up to five years of inactive status by notifying the department in writing before the expiration of their current license.

B. An inactive status license or registration may be restored within the five year period upon [~~receiving a completed~~] submitting a reinstatement application provided by the department.

~~**C.** A completed reinstatement application must include the appropriate application fee, two current passport type photographs and required background check form.~~

~~**D.** C.~~ A license or registration placed on inactive status not restored within five years is automatically expired without notice from the department.

[16.48.7.13 NMAC - N, 9/24/2008; A, 10/26/2021; A, 2/8/2022]

16.48.7.14 REINSTATEMENT OF INACTIVE LICENSURE OR REGISTRATION: Reinstatement of a license or registration that is in inactive status requires the following:

A. completion of a reinstatement application relevant to the license or registration [~~in inactive status~~];

B. payment of [~~the~~] an application fee and initial license or

registration fee equal to the relevant initial fees provided in 16.48.5 NMAC;

C. [submission of required] department of public safety background check [form], required to be submitted only by individuals who wish to also reinstate a firearm certification as a private investigator, private patrol operator, private investigations employee, private patrol operations employee, or level three security guard pursuant to 16.48.4 NMAC; and

D. proof of completion of two hours of continuing education credit for each year the license or registration was inactive. [16.48.7.14 NMAC N, 9/24/2008; A, 5/10/2010; A, 10/26/2021; A, 2/8/2022]

SUPERINTENDENT OF INSURANCE

The Superintendent of Insurance, after a rule hearing conducted on November 29, 2021, has approved a repeal of its rule 13.14.10 NMAC, Endorsement Rates (filed 6/16/1986). The rule repeal was adopted on January 13, 2022 and is effective February 8, 2022.

End of Adopted Rules

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Other Material Related to Administrative Law

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

The Department of Health gives Notice of a Minor, Nonsubstantive Correction to 7.1.32 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 9: There were two instances where the internal rule citation was erroneously listed as “7.32.1.9 NMAC” in Subsections B and F. The erroneous rule citations were corrected to “7.1.32.9 NMAC”.

Section 10: The section header was changed from “7.32.1.10” to “7.1.32.10”.

In addition, the Rule History header was corrected from “7.32.1 NMAC” to “7.1.32 NMAC”.

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

**REGULATION AND
LICENSING DEPARTMENT
ACUPUNCTURE, BOARD OF**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Board of Acupuncture and Oriental Medicine gives Notice of a Minor, Nonsubstantive Correction to 16.2.3 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 10: There was an erroneous Subsection A without a Subsection B. The erroneous subsection number was removed and the rest of the section was renumbered correctly.

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

**REGULATION AND
LICENSING DEPARTMENT
OCCUPATIONAL THERAPY,
BOARD OF EXAMINERS FOR**
**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Board of Examiners for Occupational Therapy gives Notice of a Minor, Nonsubstantive Correction to 16.15.2 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 9: In Subsection J, the paragraph numbering was incorrect and missing a paragraph (35). The paragraphs were renumbered correctly.

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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Submittal Deadlines and Publication Dates

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Issue 1	January 4	January 11
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
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Issue 8	April 7	April 19
Issue 9	April 21	May 3
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Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
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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