

New Mexico Register

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

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The New Mexico Register

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New Mexico Register

Volume XXXIII, Issue 5

March 8, 2022

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Notices of Rulemaking and Proposed Rules

PUBLIC SAFETY, DEPARTMENT OF

NOTICE OF PUBLIC HEARING

The New Mexico Department of Public Safety (DPS) will hold a public hearing via Microsoft Teams, on April 11, 2022, at 10:00 a.m. The members of the public may attend the Microsoft Teams meeting on a computer, mobile device, or telephone. The videoconference's Meeting ID and Password, videoconference link, and telephone number are as follows:

Join Microsoft Teams Meeting on your computer or mobile app

<https://bit.ly/3BrNUam>

Or call in (audio only)

1-505-312-4308

Phone Conference ID: 852 504 202#

The purpose of this public hearing is to receive public comment and input on proposed amendments to 18.19.8 NMAC, Sections 7, 8, 9, 10, 11, 13, 16, 19, 20, 21, 24, 25, 26, 28, 29, 30, 36, 39, 40, 52, 57, 58, 62, 63, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 96 and 99, effective 6/1/2022.

An amendment to NMAC Rule 18.19.8.82 will make the requirement for escort vehicles to accompany overlength vehicles in New Mexico, conform to the practice in states adjacent to New Mexico. The amendment will require any commercial vehicle, combination or load more than 110 feet and one inch, but no more than 120 feet and one inch, in length to travel through New Mexico with a single vehicle escort. Vehicles, combination or loads which exceed 120 feet and one inch in length will be required to be accompanied by two escort vehicles. This change will allow interstate commerce to proceed through New Mexico in a more efficient manner.

The proposed additional amendment to section 82 and the proposed amendments to sections 7, 8, 9, 10, 11, 13, 16, 19, 20, 21, 24, 25, 26,

28, 29, 30, 36, 39, 40, 52, 57, 58, 62, 63, 80, 81, 83, 84, 85, 86, 87, 88, 89, 90, 96 and 99 are for the purpose of distinguishing between the Department of Public Safety and the Department of Transportation, for stylistic purposes or both.

The amendment to the proposed rule is promulgated pursuant to Section 29-3A-6 NMSA 1978.

Interested persons may comment at the public hearing or submit written statements to DPS c/o Captain Joseph J. Romero, 4491 Cerrillos Road, P.O. Box 1628, Santa Fe, NM 87504, or by electronic mail to: Joseph.Romero12@state.nm.us. All written statements must be received no later than April 6, 2022, or at the public hearing. Early submission of written statements is encouraged.

Copies of the proposed rule may be obtained prior to the hearing at all DPS district, field, ports of entry, and regional offices, at the DPS website, <http://www.dps.state.nm.us>, on the sunshine portal, or by contacting Joseph R. Romero by telephone at (505) 827-9084 or by email at Joseph.Romero@state.nm.us.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Captain Joseph Romero. DPS requires at least ten calendar days advance notice to provide special accommodations.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

NOTICE OF REGULAR BOARD MEETING AND RULE HEARING

The New Mexico Board of Pharmacy will convene for the purpose of conducting a regular board meeting and rule hearing on April 21, 2022. The meeting will continue until finished. If the meeting agenda

items are not finished by 5:00 p.m., the Board will convene on April 22nd at 9:00 a.m. and continue until finished. Given the declared public health emergency due to COVID-19, the meeting will be held virtually via Cisco WebEx.

Location: Virtual meeting

April 21, 2022

Meeting link <https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ecce328f6b6ec721d9c7b889e3feefcdc8>
Meeting number: 2480 750 3228
Password: wmQU3Zybp65
Join by phone +1-415-655-0002
United States Toll
Access code: 2480 750 3228

April 22, 2022

Meeting link <https://nmrld.webex.com/nmrld/onstage/g.php?MTID=e4eafaf21a8dff77d947ac9c64e61ffc>
Meeting number: 2492 978 9980
Password: P3pQ5BPpTD7
Join by phone +1-415-655-0002
United States Toll
Access code: 2492 978 9980

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board's website: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/pharmacy/pharmacy-board-information/pharmacy-board-meetings/>. All proposed language regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Board Administrator, Gabriella Romero, gabriella.romero@state.nm.us at least one week in advance of the scheduled meeting, as public comment is allowed during the rule hearing. On the morning of

the hearing beginning at 8:00 a.m. and ending when the rule hearing adjourns, a Board of Pharmacy representative will be stationed at the board office, located at 5500 San Antonio Drive NE, Albuquerque, NM 87109, to receive written comments regarding the rule hearings and also to convey them to the Board. Public attendance will be limited to remote participation. Oral participation by members of the public will be limited to those comments and discussion through audiovisual means.

The board may go into Executive Session to discuss items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gabriella Romero 505-222-9835 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Gabriella Romero, at 505-222-9835 or e-mail gabriella.romero@state.nm.us if a summary or other type of accessible format is needed.

The Board will address:

All Board Matters:

Rule Hearings: April 21, 2022 at 9:10 a.m.

16.19.4 NMAC - PHARMACISTS - Sections 9, 16 and 17 administrative updates. Section 9, amended to exclude dispensing other opioid antagonist as authorized in Section 24-23-1 NMSA 1978 from definition of unprofessional or dishonorable conduct. Section 11, to include schedule V in drugs that may not be

returned to inventory under return of patient medication package drugs. New subsections under consultant pharmacist clinic facility for Class E clinic specifying consultant pharmacist visitation frequency and activities. Section 12, clarified to specify that a licensee must appear before the board as a condition of consideration of reinstatement. Section 17, amended to include schedule III in requirement for pharmacist clinician utilization of PMP in opioid treatment programs.

STATUTORY AUTHORITY: Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978.

16.19.10 NMAC - LIMITED DRUG CLINICS - Section 1, administrative update. Section 3, administrative updates and reference additional paragraphs of Subsection B of Section 61-11-14 to correspond to listed facility types. Amend facility types listed to correspond to limited drug clinic categories. Section 7, defining "Mobile Narcotic Treatment Program." Section 10, amended to include schedule V controlled substances in records that may be kept in same record as dangerous drugs with entry identification. Section 11, update statute citation, and add new subsection e - Class E Narcotic Treatment Program (NTP). Under patient counseling, specify additional allowance for use of alternative forms of patient information to supplement patient counseling when appropriate. Drug storage, Class E clinics- 96 square foot room. Disposition of unwanted or outdated drugs, added specification that controlled substance disposition shall occur in accordance with 16.19.20.38 NMAC. New section T, outlining NTP clinic requirements.

STATUTORY AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978, Paragraphs (6), (7), (12), and (13) of Subsection B of Section 61-11-14 NMSA 1978 and Subsection (A) of Section 26-1-16 NMSA 1978.

Executive Director's Report:

Disciplinary Hearing(s):
April 21, 2022, 1:30 p.m. Teerada Sujithamrak, pharmacist license applicant, Case #2020-064
Additional hearing(s), if scheduled, will be included in the agenda.

Published in NM Register March 08, 2022

Published in Albuquerque Journal March 17, 2022

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.

REGULATION AND LICENSING DEPARTMENT SOCIAL WORK EXAMINERS, BOARD OF

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.3 NMAC - Application for Licensure (filed 5/20/2002) and replaced it with 16.63.3 NMAC - Application for Licensure adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.6 NMAC - Licensure by Credentials; Reciprocity (filed 5/20/2002) and replaced it with 16.63.6 NMAC - Licensure by Credentials; Reciprocity adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.9 NMAC - Baccalaureate Social Worker (filed 5/20/2002) and replaced it with 16.63.9 NMAC - Baccalaureate Social Worker adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.10 NMAC - Master Social Worker (filed 5/20/2002) and replaced it with 16.63.10 NMAC - Master Social Worker adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.11 NMAC - Clinical Social Worker (filed 5/20/2002) and replaced it with 16.63.11 NMAC - Clinical Social Worker adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.13 NMAC - Disciplinary Action (filed 5/20/2002) and replaced it with 16.63.13 NMAC - Disciplinary Action adopted on 2/11/2022 and effective 3/13/2022.

The New Mexico Social Work Examiners Board has approved the repeal of its rule 16.63.18 NMAC - Licensure for Military Service Members, Spouses, Dependent Children and Veterans (filed 8/1/2014) and replaced it with 16.63.18 NMAC - Licensure for Military Service Members, Spouses, Dependent Children and Veterans adopted on 2/11/2022 and effective 3/13/2022.

REGULATION AND LICENSING DEPARTMENT SOCIAL WORK EXAMINERS, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 63 SOCIAL WORKERS PART 3 APPLICATION FOR LICENSURE

16.63.3.1 ISSUING AGENCY: Regulation and Licensing Department, Board of Social Work Examiners
P.O. Box 25101, Santa Fe, NM 87504
[16.63.3.1 NMAC – Rp, 16.63.3.1 NMAC, 3/13/2022]

16.63.3.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.
[16.63.3.2 NMAC - Rp, 16.63.3.2 NMAC, 3/13/2022]

16.63.3.3 STATUTORY

AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Subsection J of Section 61-31-8 and 61-31-14 NMSA 1978.

[16.63.3.3 NMAC - Rp, 16.63.3.3 NMAC, 3/13/2022]

16.63.3.4 DURATION:

Permanent

[16.63.3.4 NMAC - Rp, 16.63.3.4 NMAC, 3/13/2022]

16.63.3.5 EFFECTIVE

DATE: March 13, 2022, unless a different date is cited at the end of a section.

[16.63.3.5 NMAC – Rp, 16.63.3.5 NMAC, 3/13/2022]

16.63.3.6 OBJECTIVE:

To outline the application process, parameters of practice, and the renewal procedure.

[16.63.3.6 NMAC - Rp, 16.63.3.6 NMAC, 3/13/2022]

16.63.3.7 DEFINITIONS: [RESERVED]

16.63.3.8 APPLICATION

FOR LICENSURE: Applicants, other than those applying for licensure by credentials, must submit or cause to be submitted the following documentation to the board:

- A. completed application;
- B. two personal character references;
- C. one 2" x 2" original photograph of the applicant taken within the preceding six months affixed to the application;
- D. license fee as provided in Part 8;
- E. official transcripts directly from the university or college or by other means approved by the

board verifying a bachelors or masters degree in social work;

F. verification of supervision must be received directly from the supervisor or by other means approved by the board;

G. if currently or previously licensed in another state you must submit verification of licensure, which must be sent directly to the board by the issuing jurisdiction;

H. official exam scores; proof of passing the licensure exam must be received directly from the association of social work boards or from the jurisdiction in which the applicant is licensed; and

I. verification the applicant has completed one of the following:

(1) a three credit hour course in New Mexico cultures listed on the applicants transcripts;

(2) a board approved course, workshop or seminar in New Mexico cultures;

(3) proof of previously passing the New Mexico cultural examination;

J. proof of passing the jurisprudence examination with a grade of no less than seventy percent;

K. provide proof of any disqualifying criminal convictions as defined in 16.63.13.9 NMAC.

[16.63.3.8 NMAC – Rp, 16.63.3.8 NMAC, 3/13/2022]

16.63.3.9 PARAMETERS OF PRACTICE:

The scope of practice for the independent social worker is set forth in 16.63.11.9 NMAC. The scope of practice for the master social worker is set forth in 16.63.10.9 NMAC. The scope of practice for the baccalaureate social worker is set forth in 16.63.9.9 NMAC.

[16.63.3.9 NMAC - Rp, 16.63.3.9 NMAC, 3/13/2022]

16.63.3.10 INITIAL LICENSE/RENEWAL OF LICENSE:

A. Initial license.

(1) Initial

licenses issued between January 1 and June 30 shall expire on July 1 of the next calendar year.

(2) Initial licenses issued between July 1 and December 31 shall expire on July 1 of the second calendar year following the date of issuance.

B. No license will be issued for longer than 24 months.

C. Renewal of license.

(1) Each licensed social worker shall apply for license renewal and pay the renewal fee as set forth in Part 8.

(2) Licenses that expire July 1, 2007 will renew according to the following schedule.

(a) If the last digit of the license number ends in an even number the license will expire on July 1, 2008 and biennially thereafter. The renewal fee will be prorated.

(b) If the last digit of the license number ends in an odd number the license will expire on July 1, 2009 and biennially thereafter.

D. A 30-day grace period, running from July 1 - July 30, of the renewal year allows the social worker to submit a renewal without a late penalty fee. However the social worker's license shall be considered expired and the social worker will refrain from practicing.

E. From July 31 to September 29 of the renewal year the social worker may renew the license, however a penalty fee will be assessed (16.63.8.17 NMAC).

F. If revoked for non-renewal, the licensee will be required to pay previous penalties, complete a new application and pay another application fee. Licensees revoked for non-renewal may be reinstated if revocation was due to extenuating circumstances. These extenuating circumstances include serious, physician-verified illness and military service. The extenuating circumstances must be presented in writing for the board's consideration and will be handled on a case-by-case basis. Licenses will only be reinstated if licensees are up to date

with all current continuing education requirements and pass an exam prescribed by the board.

G. Electronic signatures shall be accepted on all applications.
[16.63.3.10 NMAC - Rp, 16.63.3.10 NMAC, 3/13/2022]

16.63.3.11 QUALIFIED

APPLICANTS: As per 16.63.4.12 NMAC "Qualified applicants who fail to obtain the minimum required score may retake the (ASWB) exam an unlimited number of times. Applicants must pay the examination fee for each administration of the examination." Prior to the re-examination a new application must be submitted to the board by the applicant. A non-refundable application fee must accompany the new application. Qualifications for examination will be evaluated based on the most recent application. Initial applications are valid for a period of 12 months; additional, applications shall be valid for a period not to exceed 12 months from the date of initial submission.

[16.63.3.11 NMAC – Rp, 16.63.3.11 NMAC, 3/13/2022]

16.63.3.12 EXAMINATION

REQUIRED: No license, other than a provisional license, will be issued without passing exam scores for ASWB at the appropriate level. The scores of ASWB examination may be submitted by ASWB, or by the state board from which the applicant is currently licensed, directly to the New Mexico board of social work examiners.

[16.63.3.12 NMAC - Rp, 16.63.3.12 NMAC, 3/13/2022]

HISTORY OF 16.63.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the Commission of Public Records-State Records Center and Archives:
Rule 3, Application for Licensure, 4/15/1991.
Rule 3, Application for Licensure, 5/22/1992.

Rule 3, Application for Licensure, 12/5/1994.

History of Repealed Material:

16.63.3 NMAC - Application for Licensure, filed 5/20/2002 was repealed and replaced by 16.63.3 NMAC Application for Licensure, effective 3/13/2022.

Other History:

16.63.3 NMAC - Application for Licensure, (filed 5/20/2002) replaced by 16.63.3 NMAC - Application for Licensure, effective 3/13/2022.

**REGULATION AND
LICENSING DEPARTMENT
SOCIAL WORK EXAMINERS,
BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING**

**CHAPTER 63 SOCIAL
WORKERS**

**PART 6 LICENSURE BY
CREDENTIALS; RECIPROCITY**

16.63.6.1 ISSUING

AGENCY: Regulation and Licensing Department, Board of Social Work Examiners

P.O. Box 25101, Santa Fe, NM 87504
[16.63.6.1 NMAC – Rp, 16.63.6.1 NMAC, 3/13/2022]

16.63.6.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.

[16.63.6.2 NMAC - Rp, 16.63.6.2 NMAC, 3/13/2022]

16.63.6.3 STATUTORY

AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.

[16.63.6.3 NMAC - Rp, 16.63.6.3 NMAC, 3/13/2022]

16.63.6.4 DURATION:

Permanent

[16.63.6.4 NMAC - Rp, 16.63.6.4 NMAC, 3/13/2022]

16.63.6.5 EFFECTIVE

DATE: March 13, 2022, unless a different date is cited at the end of a section.

[16.63.6.5 NMAC – Rp, 16.63.6.5 NMAC, 3/13/2022]

16.63.6.6 OBJECTIVE:

To state the minimum requirements for licensure by credentials.

[16.63.6.6 NMAC - Rp, 16.63.6.6 NMAC, 3/13/2022]

16.63.6.7 DEFINITIONS:

[RESERVED]

16.63.6.8 QUALIFICATION

FOR LICENSURE: A person seeking reciprocity in the state of New Mexico shall

A. possess a valid social worker license issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation, which license has been held for a minimum of two and one-half years;

B. be in good standing with no disciplinary action pending or brought against the applicant within the past two and one-half years;

C. possess a bachelor's or master's degree in social work from a program of social work accredited by the CSWE;

D. verify that the applicant has taken and passed the ASWB examination;

E. verify the applicant has completed one of the following:

(1) a three credit hour course in New Mexico cultures listed on the applicants transcripts;

(2) a board approved course, workshop or seminar in New Mexico cultures;

(3) proof of previously passing the New Mexico cultural examination.

F. The applicant will not have to further verify the applicant's experience, schooling or degrees if the criteria pursuant to this section are met;

[16.63.6.8 NMAC – Rp, 16.63.6.8 NMAC, 3/13/2022]

16.63.6.9 APPLICATION

FOR LICENSURE: Applicants for licensure by credentials; reciprocity must submit or cause to be submitted the following documentation to the board:

A. completed

application;

B. two personal character references;

C. a 2" x 2"

photograph of the applicant taken within the preceding six months affixed to the application;

D. completed form titled "statement of registration, or certification of licensure in another state", to be submitted directly to the board from the conferring agency;

E. test scores from ASWB exam;

F. non-refundable license fee as set forth in Part 7 to be assessed at the time of application.

G. proof of any disqualifying criminal convictions as listed in 16.63.13.9 NMAC.

[16.63.6.9 NMAC – Rp, 16.63.6.9 NMAC, 3/13/2022]

HISTORY OF 16.63.6 NMAC:

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

Rule 6, Licensure by Credentials, 12/1/1989.

Rule 6, Licensure by Credentials, 4/5/1991.

Rule 6, Licensure by Credentials, 4/22/1992.

History of Repealed Material:

16.63.6 NMAC – Licensure by Credentials; Reciprocity, filed 5/20/2002 was repealed and replaced by 16.63.6 NMAC Licensure by Credentials; Reciprocity, effective 3/13/2022.

Other History:

16.63.6 NMAC – Licensure by Credentials; Reciprocity, (filed 5/20/2002) replaced by 16.63.6 NMAC – Licensure by Credentials; Reciprocity, effective 3/13/2022.

**REGULATION AND
LICENSING DEPARTMENT
SOCIAL WORK EXAMINERS,
BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 63 SOCIAL
WORKERS
PART 9
BACCALAUREATE SOCIAL
WORKER**

16.63.9.1 ISSUING

AGENCY: Regulation and Licensing Department, Board of Social Work Examiners P.O. Box 25101, Santa Fe, NM 87504.

[16.63.9.1 NMAC - Rp, 16.63.9.1 NMAC, 3/13/2022]

16.63.9.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.

[16.63.9.2 NMAC - Rp, 16.63.9.2 NMAC, 3/13/2022]

16.63.9.3 STATUTORY

AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.

[16.63.9.3 NMAC - Rp, 16.63.9.3 NMAC, 3/13/2022]

16.63.9.4 DURATION:

Permanent

[16.63.9.4 NMAC - Rp, 16.63.9.4 NMAC, 3/13/2022]

16.63.9.5 EFFECTIVE

DATE: March 13, 2022, unless a different date is cited at the end of a section.

[16.63.9.5 NMAC - Rp, 16.63.9.5 NMAC, 3/13/2022]

16.63.9.6 OBJECTIVE:

To state the minimum requirements for licensure as a social worker at the baccalaureate level, to outline the parameters of practice, and the procedure to renew a license.

[16.63.9.6 NMAC - Rp, 16.63.9.6 NMAC, 3/13/2022]

**16.63.9.7 DEFINITIONS:
[RESERVED]**

**16.63.9.8 QUALIFICATION
OF LICENSURE:**

Applicants for licensure as baccalaureate social worker must possess the following minimum qualifications:

A. be at least 18 years of age;

B. possess a bachelor's degree in social work from a program accredited by the council on social work education;

C. successfully pass the association of social work board examination and the jurisprudence examination;

D. documents completion of the required course in New Mexico cultures.

E. provide proof of any disqualifying criminal convictions as defined in 16.63.13.9 NMAC.

[16.63.9.8 NMAC - Rp, 16.63.9.8 NMAC, 3/13/2022]

**16.63.9.9 PARAMETERS
OF PRACTICE:**

A. This is the entry licensing level. The baccalaureate social worker ("LBSW") is prepared to assume the beginning level professional role in public and private social service agencies.

B. LBSWs are prepared through beginning professional knowledge in human behavior in the social environment, generalist social work practice, knowledge of the history of social policy, knowledge of how to utilize social research findings in their practice and having had supervised field practicum experience.

Baccalaureate social work is basic generalist practice that includes assessment planning, intervention, evaluation, case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, of policies, programs and activities. LBSWs may work with individuals, families, communities, groups and organizations at a beginning level.

C. The LBSW utilizes

the basic problem-solving process of gathering information, assessing that information at a beginning professional level, developing an intervention plan, implementing the plan and conducts follow-up. This process at the LBSW level requires the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning.

D. The LBSW must not practice independently as a private practitioner.

[16.63.9.9 NMAC - Rp, 16.63.9.9 NMAC, 3/13/2022]

16.63.9.10 RENEWAL OF

LICENSE: Before July 1 of the renewal year, each baccalaureate social worker shall apply for license renewal and shall pay the renewal fee as set forth in Part 8.

[16.63.9.10 NMAC - Rp, 16.63.9.10 NMAC, 3/13/2022]

HISTORY OF 16.63.9 NMAC:

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

Rule 3, Baccalaureate Social Worker, 12/1/1989.

Rule 9, Baccalaureate Social Worker, 4/15/1991.

Rule 9, Baccalaureate Social Worker, 5/22/1992.

History of Repealed Material:

16.63.9 NMAC - Baccalaureate Social Worker, filed 5/20/2002 was repealed and replaced by 16.63.9 NMAC Baccalaureate Social Worker, effective 3/13/2022.

Other History:

16.63.9 NMAC - Baccalaureate Social Worker, (filed 5/20/2002) replaced by 16.63.9 NMAC - Baccalaureate Social Worker, effective 3/13/2022.

**REGULATION AND
LICENSING DEPARTMENT
SOCIAL WORK EXAMINERS,
BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 63 SOCIAL
WORKERS
PART 10 MASTER
SOCIAL WORKER**

16.63.10.1 ISSUING

AGENCY: Regulation and Licensing Department, Board of Social Work Examiners P.O. Box 25101, Santa Fe, NM 87504.

[16.63.10.1 NMAC - Rp, 16.63.10.1 NMAC, 3/13/2022]

16.63.10.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.

[16.63.10.2 NMAC - Rp, 16.63.10.2 NMAC, 3/13/2022]

16.63.10.3 STATUTORY

AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Section 61-31-8A, 14-2-1, 61-31-19 NMSA 1978.

[16.63.10.3 NMAC - Rp, 16.63.10.3 NMAC, 3/13/2022]

16.63.10.4 DURATION:

Permanent

[16.63.10.4 NMAC - Rp, 16.63.10.4 NMAC, 3/13/2022]

16.63.10.5 EFFECTIVE

DATE: March 13, 2022, unless a different date is cited at the end of a section.

[16.63.10.5 NMAC – Rp, 16.63.10.5 NMAC, 3/13/2022]

16.63.10.6 OBJECTIVE:

To state the minimum requirements for licensure as a social worker at the masters level, to outline the parameters of practice at this level, and the procedure to renew a license.

[16.63.10.6 NMAC - Rp, 16.63.10.6 NMAC, 3/13/2022]

**16.63.10.7 DEFINITIONS:
[RESERVED]**

**16.63.10.8 QUALIFICATION
FOR LICENSURE:** Applicants

for licensure as master social worker must:

A. be at least 18 years of age;

B. possess a master's degree in social work from a graduate program of social work accredited by the council on social work education;

C. successfully pass the association of social work board examination and the jurisprudence examination;

D. documents completion of the required course in New Mexico cultures.

E. provide proof of any disqualifying criminal convictions as defined in 16.63.13.9 NMAC.

[16.63.10.8 NMAC – Rp, 16.63.10.8 NMAC, 3/13/2022]

**16.63.10.9 PARAMETERS
OF PRACTICE:**

A. The licensed master social worker ("LMSW") provides a wide range of services. The LMSW has preparation as a generalist social worker, as found in the LBSW level in addition to specialization in either direct or indirect services such as work in a field of practice or with a specific population.

B. The LMSW may provide diagnostic, preventive and treatment services. The practice of master's social work means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities.

Master's social work practice requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, counseling, supervision, consultation, education, research, advocacy, community organization and the development,

implementation and administration of policies, programs and activities. The practice of master's social work may include the practice of clinical social work under appropriate clinical social work supervision. The LMSW is able to explain and interpret the results of psychosocial evaluations in the problem-solving process. The LMSW is able to supervise LBSWs and practice in the areas of social work administration, community organization and policy analysis.

C. The LMSW may not practice independently as a private practitioner.

[16.63.10.9 NMAC - Rp, 16.63.10.9 NMAC, 3/13/2022]

16.63.10.10 RENEWAL OF

LICENSE: Before July 1 of the renewal year, each master social worker shall apply for license renewal and shall pay the renewal fee as set forth in Part 8.

[16.63.10.10 NMAC - Rp, 16.63.10.10 NMAC, 3/13/2022]

HISTORY OF 16.63.10 NMAC:

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

Rule 4, Master Social Worker, 12/1/1989.

Rule 4, Master Social Worker, 8/13/1990.

Rule 10, Master Social Worker, 4/15/1991.

Rule 10, Master Social Worker, 5/22/1992.

History of Repealed Material:

16.63.10 NMAC – Master Social Worker, filed 5/20/2002 was repealed and replaced by 16.63.10 NMAC Master Social Worker, effective 3/13/2022.

Other History:

16.63.10 NMAC – Master Social Worker, (filed 5/20/2002) replaced by 16.63.10 NMAC – Master Social Worker, effective 3/13/2022.

**REGULATION AND
LICENSING DEPARTMENT
SOCIAL WORK EXAMINERS,
BOARD OF**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 63 SOCIAL
WORKERS
PART 11 CLINICAL
SOCIAL WORKER**

16.63.11.1 ISSUING

AGENCY: Regulation and Licensing Department, Board of Social Work Examiners P.O. Box 25101, Santa Fe, NM 87504.
[16.63.11.1 NMAC - Rp, 16.63.11.1 NMAC, 3/13/2022]

16.63.11.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.
[16.63.11.2 NMAC - Rp, 16.63.11.2 NMAC, 3/13/2022]

16.63.11.3 STATUTORY AUTHORITY: These parts are promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.
[16.63.11.3 NMAC - Rp, 16.63.11.3 NMAC, 3/13/2022]

16.63.11.4 DURATION:
Permanent
[16.63.11.4 NMAC - Rp, 16.63.11.4 NMAC, 3/13/2022]

16.63.11.5 EFFECTIVE DATE: March 13, 2022, unless a different date is cited at the end of a section.
[16.63.11.5 NMAC - Rp, 16.63.11.5 NMAC, 3/13/2022]

16.63.11.6 OBJECTIVE:
To state the minimum requirements for licensure as a social worker at the independent level, to outline the parameters of practice at this level, and procedure to renew a license.
[16.63.11.6 NMAC - Rp, 16.63.11.6 NMAC, 3/13/2022]

16.63.11.7 DEFINITIONS:

Licensed Clinical Social Worker “LCSW”: A licensed independent social worker who has demonstrated to the board’s satisfaction, sufficient experience and expertise in the practice of clinical social work by meeting the qualifications as outlined in 16.63.11.8 NMAC.
[16.63.11.7 NMAC – Rp, 16.63.11.7 NMAC, 3/13/2022]

16.63.11.8 QUALIFICATION

FOR LICENSURE: Applicants for licensure as independent/clinical social workers must:

- A.** be at least 18 years of age;
- B.** possess an LMSW license;
- C.** complete not less than two years of post-graduate direct/clinical social work experience, under appropriate supervision; as defined in 16.63.1.7 NMAC Applicants and supervisors will engage the process of supervision in accordance with the guidelines established by the board of social work examiners;
- D.** documents completion of the required course in New Mexico cultures; and
- E.** successfully pass the association of social work board examination, clinical or advanced, as determined by the board and the jurisprudence examination.

F. Individuals licensed as masters social workers (LMSW) and aspiring to achieve licensure at the independent clinical level must complete and document 3,600 hours of licensed masters level social work experience which has been accumulated over no more than a 60 month period.

G. Applicants for licensure must document 90 hours of supervision during this 3,600 hour period.

(1) One hour of supervision must be documented for every 40 hours worked,

(2) At least 70 of the 90 required hours must be obtained through direct supervision,

(3) No more than 20 hours of the 90 required

hours may be obtained through group supervision and there shall be no more than six individuals per group at a time, and

(4) No more than 30 hours of the required 90 hours may be obtained through interdisciplinary supervision.

H. provide proof of any disqualifying criminal convictions as defined in 16.63.13.9 NMAC.
[16.63.11.8 NMAC – Rp, 16.63.11.8 NMAC, 3/13/2022]

16.63.11.9 PARAMETERS

OF PRACTICE: This is the highest level of licensure. The licensed clinical independent social worker (LCSW) / (LISW) is to function independently and demonstrate specialized knowledge and skills. The LISW must exercise independent judgment. The LCSW / LISW should be able to demonstrate skill and interventions directly related to individuals, couples, families, groups, communities or organizations. In at least one of these client groups, the LCSW / LISW shall demonstrate in-depth knowledge and skills. The LCSW / LISW should be able to employ practice theory and research findings in all aspects of their practice. The LCSW / LISW may supervise LBSWs, LMSWs and other LCSWs / LISWs.
[16.63.11.9 NMAC - Rp, 16.63.11.9 NMAC, 3/13/2022]

16.63.11.10 AREAS OF

SPECIALIZATION: Applicants for specialization will be handled by the board on a case by case basis.
[16.63.11.10 NMAC – Rp, 16.63.11.10 NMAC, 3/13/2022]

16.63.11.11 RENEWAL OF

LICENSE: Before July 1 of the renewal year, each independent social worker shall apply for license renewal and shall pay the renewal fee as set forth in Part 8.
[16.63.11.11 NMAC - Rp, 16.63.11.11 NMAC, 3/13/2022]

HISTORY OF 16.63.11 NMAC:

Pre-NMAC History: The material in this part was derived from that

previously filed with the Commission of Public Records-State Records Center and Archives:

Rule 5, Independent Social Worker, 12/1/1989.

Rule 5, Independent Social Worker, 8/13/1990.

Rule, 11, Independent Social Worker, 4/15/1991.

Rule 11, Independent Social Worker, 5/22/1992.

Rule 11, Independent Social Worker, 12/5/1994.

History of Repealed Material:

16.63.11 NMAC – Clinical Social Worker, filed 5/20/2002 was repealed and replaced by 16.63.11 NMAC Clinical Social Worker, effective 3/13//2022.

Other History:

16.63.11 NMAC – Clinical Social Worker, (filed 5/20/2002) replaced by 16.63.11 NMAC – Clinical Social Worker, effective 3/13/2022.

REGULATION AND LICENSING DEPARTMENT SOCIAL WORK EXAMINERS, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 63 SOCIAL WORKERS PART 13 DISCIPLINARY ACTION

16.63.13.1 ISSUING

AGENCY: Regulation and Licensing Department, Board of Social Work Examiners P.O. Box 25101, Santa Fe, NM 87504.

[16.63.13.1 NMAC - Rp, 16.63.13.1 NMAC, 3/13/2022]

16.63.13.2 SCOPE: All baccalaureate social workers, master social workers, and independent social workers.

[16.63.13.2 NMAC - Rp, 16.63.13.2 NMAC, 3/13/2022]

**16.63.13.3 STATUTORY
AUTHORITY:** These parts are

promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.

[16.63.13.3 NMAC - Rp, 16.63.13.3 NMAC, 3/13/2022]

16.63.13.4 DURATION:

Permanent

[16.63.13.4 NMAC - Rp, 16.63.13.4 NMAC, 3/13/2022]

16.63.13.5 EFFECTIVE

DATE: March 13, 2022, unless a different date is cited at the end of a section.

[16.63.13.5 NMAC – Rp, 16.63.13.5 NMAC, 3/13/2022]

16.63.13.6 OBJECTIVE: To inform the licensees of the complaint procedure.

[16.63.13.6 NMAC - Rp, 16.63.13.6 NMAC, 3/13/2022]

16.63.13.7 DEFINITIONS:

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

[16.63.13.7 NMAC – Rp, 16.63.13.7 NMAC, 3/13/2022]

16.63.13.8 PROCEDURES:

Upon receipt of a complaint against any person licensed under the Social Work Practice Act, Sections 61-31-1 to 61-31-24 NMSA 1978 the board may refer the complaint to the complaint committee.

A. The complaint committee shall review and investigate or cause to be investigated all complaints received by the board. Complaints shall remain confidential while investigations are pending and shall not be a matter of public record until the board takes disciplinary action pursuant to N.M. State. Ann. Section 61-31-17 NMSA 1978, as amended, and this part.

B. Upon completion of the investigation initiated pursuant to this part, the complaint committee or the board shall submit to the board those matters it feels justify further disciplinary action.

C. The board may offer the licensee an informal type of discipline such as a letter of reprimand in lieu of initiating formal proceedings. The board shall notify the licensee:

(1) that a letter of reprimand has been officially proposed;

(2) that the respondent must accept or reject the offer in writing;

(3) that if accepted, a copy of the reprimand will remain in the private files of the board; and

(4) that if rejected, formal disciplinary action pursuant to the Uniform Licensing Act Sections 61-1-1 to 61-1-31 NMSA 1978 will be initiated.

D. If accepted, the letter of reprimand shall be personally issued to the licensee by the chairperson of the board at the next scheduled board meeting and served on the licensee by certified mail. Copies of the reprimand will be furnished to members of the board and to the board’s attorney.

E. If a licensed social worker voluntarily surrenders their license or allows their license to expire in anticipation of, or during the course of an investigation, the complaint committee will complete its investigation and report the findings to the national database. Any publication or notification of action taken by the board of social work examiners will include the fact that the licensee voluntarily surrendered or allowed their license to expire during the investigation.

[16.63.13.8 NMAC - Rp, 16.63.13.8 NMAC, 3/13/2022]

16.63.13.9 DISQUALIFYING CRIMINAL CONVICTIONS:

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

(1) homicide, manslaughter, great bodily harm, wounding, or maiming;

(2) trafficking, trafficking in, unlawful distribution of, or possession of controlled substances;

(3) human trafficking, stalking, kidnapping, false imprisonment, assault, aggravated assault, battery, or aggravated battery;

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

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

(6) crimes involving child abuse, neglect, abandonment or solicitation;

(7) crimes involving robbery, larceny, theft, extortion, burglary, bribery, fraud, forgery, embezzlement, breaking and entering, damage to property, identity theft, arson, perjury, false pretenses, credit card fraud, or receiving stolen property;

(8) practicing medicine without a license;

(9) failure to comply with a proclamation of the governor;

(10) crimes involving the unlawful possession, use, discharge, or sale of a firearm, weapon, or explosives;

(11) furnishing or bringing contraband or drugs into a prison, jail, or juvenile detention facility;

(12) driving under the influence of intoxicating liquor, substances or drugs;

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

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

C. The board shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question

is one of the disqualifying criminal convictions listed in Subsection A of this rule.

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

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

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

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

(3) a juvenile adjudication; or

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

[16.63.13.9 NMAC – Rp, 16.63.13.9 NMAC, 3/13/2022]

HISTORY OF 16.63.13 NMAC:

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

Rule 13, Letter of Reprimand, 5/22/1992.

Rule 13, Disciplinary Action, 12/5/1994.

History of Repealed Material:

16.63.13 NMAC – Disciplinary Action, filed 5/20/2002 was repealed and replaced by 16.63.13 NMAC Disciplinary Action, effective 3/13/2022.

Other History:

16.63.13 NMAC – Disciplinary Action, (filed 5/20/2002) replaced

by 16.63.13 NMAC – Disciplinary Action, effective 3/13/2022.

REGULATION AND LICENSING DEPARTMENT SOCIAL WORK EXAMINERS, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 63 SOCIAL WORKERS

PART 18 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES, DEPENDENT CHILDREN AND VETERANS

16.63.18.1 ISSUING

AGENCY: New Mexico Regulation and Licensing Department.

[16.63.18.1 NMAC - Rp, 16.63.18.1 NMAC, 3/13/2022]

16.63.18.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans
[16.63.18.2 NMAC - Rp, 16.63.18.2 NMAC, 3/13/2022]

16.63.18.3 STATUTORY

AUTHORITY: These rules are promulgated pursuant to the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978.

[16.63.18.3 NMAC - Rp, 16.63.18.3 NMAC, 3/13/2022]

16.63.18.4 DURATION:

Permanent.

[16.63.18.4 NMAC - Rp, 16.63.18.4 NMAC, 3/13/2022]

16.63.18.5 EFFECTIVE

DATE: March 13, 2022, unless a later date is cited at the end of a section.

[16.63.18.5 NMAC - Rp, 16.63.18.5 NMAC, 3/13/2022]

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

pursuant to Chapter 61, Articles 2 through 34 NMSA 1978.
[16.63.18.6 NMAC - Rp, 16.63.18.6 NMAC, 3/13/2022]

16.63.18.7 DEFINITIONS:

A. "License" means a license, registration, certificate of registration, certificate, permit or certification.

B. "Licensing Fee" means a fee charged at the time an application for a professional or occupational license is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include a fee for an annual inspection or examination of a licensee or a fee charged for copies of documents, replacement license or other expenses related to a professional or occupational license.

C. "Military service member" means a person who is:

- (1) serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or
- (2) the spouse of a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or
- (3) the child of a person who is serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes.

D. "Substantially equivalent" means the determination by the board that the education, examination, and experience requirements contained in the statutes

and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the Social Work Practice Act.

E. "Veteran" means a person who has received an honorable discharge or separation from military service.

[16.63.18.7 NMAC - Rp, 16.63.18.7 NMAC, 3/13/2022]

16.63.18.8 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; and
- (6) proof as described in Subsection C of 16.63.18.8 NMAC.

C. The applicant shall provide the following satisfactory evidence as follows:

- (1) applicant is currently licensed and in good standing in another jurisdiction, including a branch of the United States armed forces;
- (2) applicant has met the minimal licensing requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to licensing requirements for New Mexico; and

(3) the following documentation:

- (a) for military service member: a copy of military orders;
- (b) for spouse of military service members: copy of military service member's military orders, and a copy of marriage license;
- (c) for spouses of deceased military

service members: copy of decedent's DD 214 and copy of marriage license;

(d)

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

(e)

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

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

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

F. A license issued pursuant to this section shall be valid for the time period that is specified in the Social Work Practice Act.

[16.63.18.8 NMAC - Rp, 16.63.18.8 NMAC, 3/13/2022]

16.63.18.9 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 16.63.3 NMAC pursuant to Chapter 61, Article 31 NMSA 1978.

B. As a courtesy, the board will send via electronic mail license renewal notifications to licensees or registrants before the license expiration date to the last known email address on file with the board/commission. Failure to receive the renewal notification shall not relieve the licensee or registrant of the responsibility of timely renewal on or

before the expiration date.

[16.63.18.9 NMAC - Rp, 16.63.18.9 NMAC, 3/13/2022]

HISTORY OF 16.63.18 NMAC:

History of Repealed Material:

16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans, filed 8/1/2014 was repealed and replaced by 16.63.18 NMAC Licensure for Military Service Members, Spouses, Dependent Children and Veterans, effective 3/13/2022.

Other History:

16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans, (filed 8/1/2014) replaced by 16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans, effective 3/13/2022.

SUPERINTENDENT OF INSURANCE, OFFICE OF THE

TITLE 13 INSURANCE CHAPTER 9 LIFE INSURANCE AND ANNUITIES PART 20 SUITABILITY IN ANNUITY TRANSACTIONS

13.9.20.1 ISSUING

AGENCY: The New Mexico Office of Superintendent of Insurance (“OSI”).

[13.9.20.1 NMAC – N, 10/1/2022]

13.9.20.2 SCOPE: This rule applies to any sale or recommendation of an annuity in New Mexico or to a resident of New Mexico, regardless of an insurance producer’s state of domicile.

[13.9.20.2 NMAC – N, 10/1/2022]

13.9.20.3 STATUTORY

AUTHORITY: Chapter 59A, Article 16 NMSA 1978 and Section 59A-2-9 NMSA 1978.

[13.9.20.3 NMAC – N, 10/1/2022]

13.9.20.4 DURATION:

Permanent.

[13.9.20.4 NMAC – N, 10/1/2022]

13.9.20.5 EFFECTIVE

DATE: October 1, 2022, unless a later date is cited at the end of a section.

[13.9.20.5 NMAC – N, 10/1/2022]

13.9.20.6 OBJECTIVE:

A. This rule requires an insurance producer as defined in Section 59A-12-2E NMSA 1978 to act in the best interest of a consumer when making a recommendation of an annuity and require an insurer to establish and maintain a system to supervise recommendations so that the insurance needs and financial objectives of the consumer at the time of the transaction are effectively addressed.

B. Another objective of this rule is to regulate trade practices in the insurance business and related businesses in accordance with the intent of Congress, as expressed in the Act of Congress approved March 9, 1945, being c. 20, 59 Stat. 33, also designated as 15 U.S.C. Sections 1011 to 1015, inclusive, by defining, or providing for determination of, practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices so defined or determined.

[13.9.20.6 NMAC – N, 10/1/2022]

13.9.20.7 DEFINITIONS:

For the purposes of this rule:

A. “Annuity” means an annuity that is an insurance product under state law that is individually solicited, whether the product is classified as an individual or group annuity.

B. “Cash compensation” means any discount, concession, fee, service fee, commission, sales charge, loan, override or cash benefit received by an insurance producer in connection with the recommendation or sale of an annuity from an insurer, intermediary or directly from the consumer.

C. “Comparable standards” means:

(1) for broker-dealers and registered representatives of broker-dealers, applicable SEC and FINRA rules pertaining to best interest obligations and supervision of annuity recommendations and sales, including, but not limited to, the most current version of Regulation Best Interest as promulgated by the SEC and codified at 84 F.R. 33318, and any amendments or successor rules thereto;

(2) for investment advisers registered under federal or state securities laws or investment adviser representatives, the fiduciary duties and all other requirements imposed on such investment advisers or investment adviser representatives by contract or under the Investment Advisers Act of 1940 or the New Mexico Uniform Securities Act, Section C of Chapter 58, Article 13 NMSA 1978, including but not limited to, SEC Form ADV and interpretations; and

(3) for plan fiduciaries or fiduciaries, the duties, obligations, prohibitions and all other requirements attendant to such status under ERISA or the IRC and any amendments or successor statutes thereto.

D. “Consumer profile information” means information that is reasonably appropriate to determine whether a recommendation addresses the consumer’s financial situation, insurance needs and financial objectives including, at a minimum, the following:

(1) age;
(2) annual income;
(3) financial situation and needs, including debts and other obligations;
(4) financial experience;
(5) insurance needs;
(6) financial objectives;
(7) intended use of the annuity;

(8) financial time horizon;

(9) existing assets or financial products, including investment, annuity and insurance holdings;

(10) liquidity needs;

(11) liquid net worth;

(12) risk tolerance, including but not limited to, willingness to accept non-guaranteed elements in the annuity;

(13) financial resources used to fund the annuity; and

(14) tax status.

E. “Continuing education credit” or “CE credit” means one continuing education credit hour as defined in 13.4.7.7 NMAC.

F. “Continuing education provider” or “CE provider” means an individual or entity that is approved to offer continuing education courses pursuant to Section 59A-12-26 NMSA 1978 and 13.4.7 NMAC.

G. “ERISA” means the federal Employee Retirement and Income Security Act.

H. “Financial professional” means an insurance producer who is regulated and acting as:

- (1) a broker-dealer registered under federal or state securities laws or a registered representative of a broker-dealer;
- (2) an investment adviser registered under federal or state securities laws or a representative of an investment adviser working with a registered adviser; or
- (3) a plan fiduciary, as defined in ERISA or IRC.

I. “FINRA” means the financial industry regulatory authority or a succeeding agency.

J. “Intermediary” means an entity contracted directly with an insurer or with another entity contracted with an insurer to facilitate the sale of the insurer’s annuities by insurance producers.

K. “IRC” means the Internal Revenue Code.

L. “Material conflict of interest” means a financial interest of an insurance producer in the sale of an annuity that a reasonable person would expect to influence the impartiality of a recommendation. It does not include cash compensation or non-cash compensation.

M. “Non-cash compensation” means any form of compensation that is not cash compensation, including but not limited to health insurance, office rent, office support and retirement benefits.

N. “Non-guaranteed elements” means the premiums, credited interest rates (including any bonus), benefits, values, dividends, non-interest-based credits, charges or elements of formulas used to determine any of these that are subject to company discretion and are not guaranteed at issue. An element is considered non-guaranteed if any of the underlying non-guaranteed elements are used in its calculation.

O. “Recommendation” means advice provided by an insurance producer to an individual consumer that is intended to result or does result in a purchase, exchange or replacement of an annuity in accordance with that advice. Recommendation does not include general communication to the public, generalized customer service assistance or administrative support, general educational information and tools, prospectuses or other product and sales material.

P. “Replacement” means a transaction in which a new annuity is to be purchased and it is known or should be known to the proposing insurance producer, or to the proposing insurers whether or not an insurance producer is involved, that because of the transaction, an existing annuity or other insurance policy has been or is to be any of the following:

- (1) lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or otherwise terminated;

(2) converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or which benefits would be paid;

(4) reissued with any reduction in cash value; or

(5) used in a financed purchase.

Q. “SEC” means the United States securities and exchange commission.
[13.9.20.7 NMAC – N, 10/1/2022]

13.9.20.8 EXCEPTIONS:
Unless otherwise specifically stated, this rule shall not apply to transactions involving:

A. a direct response solicitation when there is no recommendation based on information collected from the consumer pursuant to this rule;

B. a contract used to fund:

- (1) an employee pension or welfare benefit plan that is covered by ERISA;
- (2) a plan described by Sections 401(a), 401(k), 403(b), 408(k) or 408(p) of the IRC, as amended, if established or maintained by an employer;

(3) a government or church plan defined in Section 414 of the IRC, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC; or

(4) a nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

C. a settlement of or assumption of liability associated with personal injury litigation or any dispute or claim resolution process; or

D. a formal prepaid funeral contract.
[13.9.20.8 NMAC – N, 10/1/2022]

13.9.20.9 DUTIES OF INSURERS AND INSURANCE PRODUCERS:

A. Best interest

obligations. An insurance producer, when making a recommendation of an annuity, shall act in the best interest of the consumer under the circumstances known at the time the recommendation is made, without placing the insurance producer's or the insurer's financial interest ahead of the consumer's interest. An insurance producer has acted in the best interest of the consumer if the insurance producer has satisfied the following obligations regarding care, disclosure, conflict of interest and documentation as outlined in this rule.

(1) Care

obligation. An insurance producer, in making a recommendation, shall exercise reasonable diligence, care and skill to:

(a)

know the consumer's financial situation, insurance needs and financial objectives;

(b)

understand the available recommendation options after making a reasonable inquiry into options available to the insurance producer;

(c)

have a reasonable basis to believe the recommended option effectively addresses the consumer's financial situation, insurance needs and financial objectives over the life of the product, after consideration of the information provided in the consumer profile information;

(d)

communicate the basis or bases of the recommendation;

(e)

make reasonable efforts to obtain consumer profile information from the consumer before the recommendation of an annuity;

(f)

consider the types of products the insurance producer is authorized and licensed to recommend or sell that address the consumer's financial situation, insurance needs and financial objectives. This does not require analysis or consideration of

any products outside the authority and license of the insurance producer or other possible alternative products or strategies available in the market at the time of the recommendation. An insurance producer shall be held to standards applicable to insurance producers with similar authority and licensure;

(g)

consider the consumer profile information, characteristics of the insurer and product cost, rates, benefits and features in making a determination whether an annuity effectively addresses the consumer's financial situation, insurance needs and financial objectives, while understanding that:

(i)

the level of importance of each factor of the care obligation may vary depending on the facts and circumstances of a particular case; and

(ii)

each factor shall not be considered in isolation.

(h)

in the case of an exchange or replacement of an annuity, consider the whole transaction, which includes consideration of whether:

(i)

the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits such as death, living or other contractual benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements;

(ii)

the replacing product would substantially benefit the consumer in comparison to the replaced product over the life of the product; and

(iii)

the consumer has had another annuity exchange or replacement and in particular, an exchange or replacement within the preceding 60 months.

(i)

The care obligation requirements of this rule:

(i)

include having a reasonable basis to believe the consumer would benefit from certain features of the annuity, such as annuitization, death or living benefit or other insurance-related features; apply to a particular annuity as a whole and to the underlying subaccounts to which funds are allocated at the time of annuity purchase or exchange and to riders and similar producer enhancements, if any;

(ii)

do not require recommendation in all situations of an annuity with the lowest one-time or multiple occurrence compensation structure;

(iii)

do not impose additional ongoing monitoring obligations on a producer, but such obligations may be separately owed under the terms of a fiduciary, consulting, investment advising or financial planning agreement between the producer and a consumer; and

(iv)

do not create a fiduciary obligation or relationship.

(2) Disclosure

obligation. Before or at the time of the recommendation or sale of an annuity, an insurance producer shall have a reasonable basis to believe the consumer has been informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity, mortality and expense fees, investment advisory fees; any annual fees, potential charges for and features of riders or other options of the annuity limitations on interest returns, potential changes in non-guaranteed elements of the annuity, insurance and investment components and market risk. These requirements are intended to supplement and not replace other disclosure requirements of this rule. Before the recommendation or sale of an annuity, an insurance producer shall prominently disclose to a consumer on a form substantially similar to Appendix A located at

the end of this rule the following information:

(a) a description of the scope and terms of the insurance producer's relationship with the consumer and the role of the insurance producer in the transaction;

(b) an affirmative statement of whether the insurance producer is licensed and authorized to sell the following products:

- (i) fixed annuities;
- (ii) fixed indexed annuities;
- (iii) variable annuities;
- (iv) life insurance;
- (v) mutual funds;
- (vi) stocks and bonds; and
- (vii) certificates of deposit;

(c) an affirmative statement describing the insurers for which the insurance producer is authorized, contracted or appointed, or otherwise able to sell insurance products, using the following descriptions:

- (i) from one insurer;
- (ii) from two or more insurers; or
- (iii) from two or more insurers although primarily contracted with one insurer;

(d) a description of the sources and types of cash compensation and non-cash compensation to be received by the insurance producer, including whether the insurance producer is to be compensated for the sale of a recommended annuity by commission as part of a premium or other remuneration received from the insurer, intermediary or other insurance producer or by a fee as a result of a contract for advice or consulting services; and

(e) a notice of a consumer's or consumer's representative's right to request additional information regarding cash

compensation that discloses:

(i) a reasonable estimate of the amount of cash compensation to be received by the insurance producer, which may be stated as a range of amounts or percentages; and

(ii) whether the cash compensation is a one-time or multiple occurrence amount, and if a multiple occurrence amount, the frequency and amount of the occurrence, which may be stated as a range of amounts or percentages.

(3) **Conflict of interest obligation.** An insurance producer shall identify and avoid or reasonably manage and disclose material conflicts of interest, including material conflicts of interest related to an ownership interest.

(4) **Documentation obligation.** At the time of recommendation or sale an insurance producer shall:

(a) make a written record of any recommendation and the basis for the recommendation subject to this rule;

(b) obtain a consumer signed statement on a form substantially similar to Appendix B located at the end of this rule documenting:

(i) a consumer's refusal to provide the consumer profile information, if any; and

(ii) a consumer's understanding of the ramification of not providing their consumer profile information or providing insufficient consumer profile information; and

(c) obtain a consumer signed statement on a form substantially similar to Appendix C acknowledging that the annuity transaction is not recommended if a consumer decides to enter into an annuity transaction that is not based on the insurance producer's recommendation.

B. Application of the best interest obligation.

Any requirement applicable to an insurance producer under this section shall apply to every insurance

producer who has exercised material control or influence in the making of a recommendation and has received direct compensation as a result of the recommendation or sale, regardless of whether the insurance producer has had any direct contact with the consumer. Activities such as providing or delivering marketing or educational material, product wholesaling or other back-office product support and general supervision of an insurance producer do not, in and of themselves, constitute material control or influence.

C. Transactions not based on a recommendation.

(1) Except as provided in this rule, an insurance producer shall have no obligation to a consumer under the care obligation related to any annuity transaction if:

(a) no recommendation is made;

(b) a recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

(c) a consumer refuses to provide relevant consumer profile information and the annuity transaction is not recommended; or

(d) a consumer decides to enter into an annuity transaction that is not based on a recommendation of the producer.

(2) An insurer's issuance of an annuity under the above conditions shall be reasonable under all circumstances known to the insurer at the time the annuity is issued.

D. Supervision system.

(1) Except as permitted in circumstances of transactions not based on a recommendation, an insurer may not issue an annuity recommendation to a consumer unless there is a reasonable basis to believe the annuity would effectively address the consumer's financial situation, insurance needs and financial objectives based on the consumer's profile information.

(2) An insurer shall establish and maintain a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this rule, including, but not limited to developing and implementing the following:

(a) procedures to inform its insurance producers of the requirements of this rule and incorporate the requirements of this rule into relevant insurance producer training manuals;

(b) product-specific training and training materials which explain all material features of its annuity products and requirements of this rule to its insurance producers;

(c) procedures for the review of each recommendation prior to issuance of an annuity that are designed to ensure there is a reasonable basis to determine that the recommended annuity would effectively address the consumer's financial situation, insurance needs and financial objectives. Such review procedures may apply a screening system to identify selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

(d) reasonable procedures to detect recommendations that are not in compliance with this rule. This may include, but is not limited to, confirmation of the consumer's consumer profile information, systematic consumer surveys, insurance producer and consumer interviews, confirmation letters, insurance producer statements or attestations and programs of internal monitoring and sampling procedures and may be accomplished after the issuance or delivery of an annuity;

(e) reasonable procedures to assess,

prior to or upon issuance or delivery of an annuity, whether an insurance producer has provided to the consumer the information required by this rule;

(f) reasonable procedures to identify and address suspicious consumer refusals to provide consumer profile information; and

(g) reasonable procedures to identify and eliminate any sales contests, sales quotas, bonuses, and non-cash compensation that are based on the sales of specific annuities within a limited time period. The requirements of this rule are not intended to prohibit the receipt of health insurance, office rent, office support, retirement benefits or other employee benefits by employees as long as those benefits are not based upon the volume of sales of a specific annuity within a limited time period.

(3) An insurer shall annually provide a written report to senior management, including to the senior manager responsible for audit functions, which details a review, with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

(4) Nothing in this rule restricts an insurer from contracting for the performance of a function (including maintenance of procedures). An insurer shall take appropriate corrective action and may be subject to sanctions and penalties pursuant to Section 59A-1-18 NMSA 1978 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with this rule.

(5) An insurer's supervision system shall include supervision of contractual performance. This includes, but is not limited to the following:

(a) monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

(b) annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly preformed.

(6) An insurer is not required to include the following in its supervision system:

(a) an insurance producer's recommendations to a consumer of products other than the annuities offered by the insurer; and

(b) consideration of or comparison to options available to the insurance producer or compensation relating to those options other than annuities or other products offered by the insurer.

E. Prohibited practices. Neither an insurance producer nor an insurer shall dissuade, or attempt to dissuade a consumer from:

(1) truthfully responding to an insurer's request for confirmation of the consumer profile information;

(2) filing a complaint; or

(3) cooperating with the investigation of a complaint.

F. Safe harbor. Recommendations and sales of annuities made in compliance with comparable standards shall satisfy the requirements of this rule. This provision applies to all recommendations and sales of annuities made by financial professionals in compliance with business rules, controls and procedures that satisfy a comparable standard even if such standard would not otherwise apply to the product or recommendation at issue.

(1) This provision shall not limit the superintendent's ability to investigate and enforce the provisions of this rule.

(2) This provision shall not limit the insurer's obligation to comply with this rule, although the insurer may base its

analysis on information received from either the financial professional or the entity supervising the financial professional.

(3) For this safe harbor to apply, an insurer shall:

(a) monitor the relevant conduct of the financial professional seeking to rely on safe harbor, or the entity responsible for the supervision of the financial professional, such as the financial professional's broker-dealer or an investment adviser registered under the federal or state securities laws using information collected in the normal course of business; and

(b) provide to the entity responsible for supervising the financial professional seeking to rely on this safe harbor, such as the financial professional's broker-dealer or investment-adviser registered under federal or state securities laws, information and reports that are reasonably appropriate to assist such entity to maintain its supervision system.

[13.9.20.9 NMAC – N, 10/1/2022]

13.9.20.10 INSURANCE PRODUCER TRAINING:

A. An insurance producer shall not solicit the sale of an annuity product unless the insurance producer has adequate knowledge of the product to recommend the annuity and the insurance producer is in compliance with the insurer's standards for product training. An insurance producer may rely on insurer-provided product-specific training standards and materials to comply with this rule.

B. An insurance producer who engages in the sale of annuity products shall complete a one-time four-credit training course approved by OSI and provided by an OSI-approved education provider.

C. An insurance producer who holds a life insurance line of authority on the effective date of this rule and who desires to sell annuities shall complete the requirements of this section within six months of the effective date of this rule. An insurance producer

who obtains a life insurance line of authority on or after the effective date of this rule may not engage in the sale of annuities until the required annuity training course has been completed.

D. The minimum length of the training required under this rule shall be sufficient to qualify for at least four CE credits but may be longer.

E. The training required under this rule shall include information on the following topics:

(1) the types of annuities and various classifications of annuities;

(2) identification of the parties to an annuity;

(3) how product-specific annuity contract features affect consumers;

(4) the application of income taxation of qualified and non-qualified annuities;

(5) the primary uses of annuities; and

(6) appropriate standards of conduct, sales practices, replacement and disclosure requirements.

F. A provider of courses intended to comply with this Section shall cover all topics listed in the prescribed outline and shall not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the required outline.

G. A provider of an annuity training course intended to comply with this rule shall register as a CE provider in this state and shall comply with the rules and guidelines applicable to insurance producer continuing education courses as set forth in Section 59A-12-26 NMSA 1978 and 13.4.7 NMAC.

H. An insurance producer who has completed an annuity training course approved by OSI prior to the effective date of this rule shall, within six months of the effective date of this rule, complete either:

(1) a new four-credit training course approved by OSI after the effective date of this rule; or

(2) An additional one-time, one-credit training course approved by OSI and provided by an OSI-approved education provider on appropriate sales practices, replacement and disclosure requirements under this rule.

I. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with Section 59A-12-26 NMSA 1978 and 13.4.7 NMAC.

J. A provider of annuity training shall comply with the reporting requirements and shall issue certificates of completion in accordance with Section 59A-12-26 NMSA 1978 and 13.4.7 NMAC.

K. Satisfaction of the training requirements of another state that are substantially similar to the provisions of this rule shall be deemed to satisfy the training requirements of this rule.

L. Satisfaction of the components of the training requirements of any course or courses with components substantially similar to the provisions of this rule shall be deemed to satisfy the training requirements of this rule.

M. An insurer shall verify that an insurance producer has completed the annuity training course required by this rule before allowing the insurance producer to sell an annuity product for that insurer. An insurer may satisfy its responsibility under this rule by obtaining certificates of completion of the training course or obtaining reports provided by OSI-sponsored database systems or vendors or from a reasonably reliable commercial database vendor that has a reporting arrangement with approved insurance education providers.

[13.9.20.10 NMAC – N, 10/1/2022]

13.9.20.11 RECORD KEEPING:

A. An insurer, general agent, independent agency or insurance producer shall maintain and make available to OSI, upon request, records of the information collected from the consumer, disclosures made to the consumer, including summaries of oral disclosures, and other information used in making the recommendations that were the basis for each insurance transaction for five years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

B. Records required to be maintained by this rule may be maintained in any form that accurately reproduces the actual document.

[13.9.20.11 NMAC – N, 10/1/2022]

13.9.20.12 COMPLIANCE MITIGATION; PENALTIES; ENFORCEMENT:

A. An insurer is responsible for compliance with this rule. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the superintendent may order:

(1) an insurer to take reasonably appropriate corrective action for any consumer harmed by a failure to comply with this rule by the insurer, an entity contracted to perform the insurer's supervisory duties or by an insurance producer;

(2) a general agency, independent agency or an insurance producer to take reasonably appropriate corrective action for any consumer harmed by an insurance producer's violation of this rule; and

(3) appropriate penalties and sanctions.

B. Any applicable penalty under Section 59A-1-18 NMSA 1978 for a violation of this rule may be reduced or eliminated according to a schedule adopted by the superintendent if corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

[13.9.20.12 NMAC – N, 10/1/2022]

APPENDIX A**CONSUMER DISCLOSURE****CONSUMER INFORMATION**

First Name: _____ Last Name: _____

INSURANCE PRODUCER INFORMATION

First Name: _____ Last Name: _____

Business/Agency Name: _____ Website: _____

Business/Mailing Address: _____

Business Telephone Number: _____ Email Address: _____

National Producer Number ("NPN") _____ Domicile State: _____

What Types of Products Can I Sell You?

I am licensed to sell annuities to You in accordance with state law. If I recommend that You buy an annuity, it means I believe that it effectively meets Your financial situation, insurance needs and financial objectives. Other financial products, such as life insurance or stocks, bonds and mutual funds may also meet Your needs.

I offer the following products:

- ☐ Fixed or Fixed Indexed Annuities
- ☐ Variable Annuities
- ☐ Life Insurance

I need a separate license to provide advice about or to sell non-insurance financial products. Below, I have checked any non-insurance financial products that I am licensed and authorized to provide advice about or to sell.

- ☐ Mutual Funds
- ☐ Stocks/Bonds
- ☐ Certificates of Deposit

Whose Annuities Can I Sell to You?

I am authorized to sell:

- ☐ Annuities from only one insurer
- ☐ Annuities from two or more insurers
- ☐ Annuities from two or more insurers, although I primarily sell annuities from: _____

How I am Paid for My Work?

It is important for You to understand how I am paid for my work. Depending on the particular annuity You purchase, I may be paid a commission or a fee. Commissions are generally paid to Me by the insurer while fees are generally paid to Me by the Consumer (You). If You have questions about how I am paid, please ask Me.

Depending on the annuity You buy, I will or may be paid cash compensation as follows:

- ☐ Commission, which is usually paid by the insurer or other sources. If other sources, they come from: _____.
- ☐ Fees (such as a fixed amount, an hourly rate, or a percentage of Your payment), which are usually paid directly by the Consumer.
- ☐ Other: _____.

If you have questions about the above compensation I will be paid for this transaction, please ask me.

I may also receive other indirect compensation resulting from this transaction (sometimes called “non-cash” compensation), such as health or retirement benefits, office rent and support, or other incentives from the insurer or other sources.

By signing below, You acknowledge that You have read and understand the information provided to You in this document.

Consumer Signature

Date

Insurance Producer Signature

Date

APPENDIX B**CONSUMER REFUSAL TO PROVIDE INFORMATION****Do Not Sign Unless You Have Read and Understand the Information in this Form****WHY ARE YOU BEING GIVEN THIS FORM?**

You are buying a financial product: an annuity.

To recommend a product that effectively meets Your needs, objectives and situation, the agent, broker or insurer needs information about You, Your financial situation, insurance needs and financial objectives.

If You sign this form, it means You have not given the agent, broker or insurer some or all the information needed to decide if the annuity effectively meets Your needs, objectives and situation. You may lose protections under the New Mexico Insurance Code if You sign this form or provide inaccurate information.

Statement of Purchaser:

- I **REFUSE** to provide this information at this time.
- I have chosen to provide **LIMITED** information at this time.

Consumer Signature

Date

APPENDIX C

Consumer Decision to Purchase an Annuity NOT Based on a Recommendation

Do Not Sign This Form Unless You Have Read and Understand It.

WHY ARE YOU BEING GIVEN THIS FORM?

You are buying a financial product: an annuity.

To recommend a product that effectively meets Your needs, objectives and situation, the agent, broker or insurer has the responsibility to learn about You, your financial situation, insurance needs and financial objectives.

If You sign this form, it means You know that you are buying an annuity that was not recommended.

Statement of Purchaser:

I understand that I am buying an annuity, but the agent, broker or insurer did not recommend that I buy it. If I buy it **without a recommendation**, I understand I may lose protections under the New Mexico Insurance Code.

Consumer Signature

Date

Insurance Producer Signature

Date

History of 13.9.20 NMAC: [RESERVED]

**SUPERINTENDENT OF
INSURANCE,
OFFICE OF THE**

**This is an amendment to 13.10.34
NMAC, Section 6, effective
3/8/2022.**

13.10.34.6 EFFECTIVE
DATE: October 1, 2020, unless
a later date is cited at the end of
a section. If the superintendent
previously approved a subject
excepted benefits plan for sale in this
state, that plan shall be amended to
comply with this rule no later than
[~~October 1, 2022~~] April 1, 2023, if
issued on or after that date.
[13.10.34.6 NMAC – N, 10/01/2020;
A/E, 09/15/2021; A, 3/8/2022]

End of Adopted Rules

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Other Material Related to Administrative Law

**GOVERNOR,
OFFICE OF THE
EXECUTIVE ORDER 2022-010**

**FOURTH AMENDED
ORDER REQUIRING STATE
EMPLOYEES
TO COMPLY WITH
CERTAIN PUBLIC HEALTH
REQUIREMENTS**

WHEREAS, on January 30, 2020, the World Health Organization (“WHO”) announced the emergence of a novel Coronavirus Disease 2019 (“COVID-19”) that had not previously circulated in humans, but has been found to have adopted to humans such that it is contagious and easily spread from one person to another and one country to another;

WHEREAS, COVID-19 cases had been confirmed in New Mexico since March 11, 2020, when the New Mexico Department of Health confirmed the first cases of individuals infected with COVID-19 in New Mexico and additional cases have been confirmed each day since then;

WHEREAS, on March 11, 2020, because of the spread of COVID-19, I issued Executive Order 2020-004 declaring a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked my authority under the All Hazards Emergency Management Act;

WHEREAS, I have renewed the declaration of a Public Health Emergency through March 4, 2022;

WHEREAS, the currently available COVID-19 vaccines are a safe and effective way of preventing serious illness or death;

WHEREAS, one such highly-transmissible variant, B.1.1.529, commonly known as the Omicron variant, now accounts for

the majority of new infections;

WHEREAS, new scientific data demonstrates waning immunity after six months after the primary series of the Pfizer-BioNTech and Moderna vaccines and two months after the Johnson & Johnson’s Janssen vaccine, and those with a booster vaccine have reduced risk for a breakthrough infection and serious illness or death;

WHEREAS, the State has recorded a significant increase in new COVID-19 cases in recent weeks;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, and wellbeing of all New Mexicans;

WHEREAS, State employees who become ill cannot adequately perform their duties, which disrupts the orderly operation of State government;

WHEREAS, the Food and Drug Administration (FDA) has approved every adult for a booster dose six months after the completion of the individual’s primary series of vaccination with Pfizer BioNTech and Moderna vaccines or two months after the completion of the individual’s primary series of vaccination with Johnson & Johnson’s Janssen vaccine, and the Centers for Disease Control and Prevention (CDC) has stated recently that all adults 18 and over should receive a booster vaccine;

WHEREAS, it is of critical importance to ensure that State employees receive booster doses of the vaccine, if eligible, to fight rising rates of spread; and

WHEREAS, regular testing, masks, and social-distancing remain some of the most effective ways to minimize the spread of COVID-19.

NOW THEREFORE, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of

the State of New Mexico, hereby **ORDER** and **DIRECT** as follows:

1. State employees shall comply with the provisions regarding the use of masks contained in the operative Public Health Order issued by the Secretary of the Department of Health during the course and scope of their employment.

2. State employees who (i) are not fully vaccinated against COVID-19, as defined by the Centers for Disease Control and Prevention; (ii) have not received a booster dose of the vaccine, if eligible according to the FDA, by February 17, 2022, or within four weeks of becoming eligible; or (iii) are not willing and able to provide adequate proof or such vaccination shall provide adequate proof that the employee has tested negative for COVID-19 on a weekly basis.

3. Any state employee who is not fully vaccinated or has not received a booster dose of the vaccine, if eligible, and who tests positive for COVID-19 may return to work following the completion of any mandatory isolation period prescribed by the New Mexico Department of Health. A negative COVID-19 test result is not required to return to work, provided the employee completes the mandatory isolation period. All such employees who test positive for COVID-19 shall be exempt from the testing requirement in Paragraph 2 for a period of 90 days following the date of the employee’s positive COVID-19 result.

4. Employees who refuse to abide by the above requirements may be subject to disciplinary action, up to and including termination, in accordance with applicable law.

5. State agencies shall ensure, consistent with law, that any documentation related to vaccination status, healthcare directives, or test results are not disclosed to individuals other

than those necessary to ensure compliance with this Order.

6. The New Mexico State Personnel Office shall provide agencies with guidance on the full implementation and administration this Order.

I FURTHER ORDER and DIRECT as follows:

1. This Order supersedes any previous orders, proclamations, policies or directives to the extent they are in conflict.

2. This Order shall take effect immediately, and shall remain in effect until renewed, modified, or rescinded.

ATTEST:

DONE AT THE EXECUTIVE OFFICE

THIS 17TH DAY OF FEBRUARY 2022

/ S /

**MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE**

**WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE
OF NEW MEXICO**

/ S /

**MICHELLE LUJAN GRISHAM
GOVERNOR**

HEALTH, DEPARTMENT OF

PUBLIC HEALTH ORDER NEW MEXICO DEPARTMENT OF HEALTH

**ACTING SECRETARY DAVID
R. SCRASE, M.D.**

February 17, 2022

**Public Health Emergency Order
Clarifying that Current Guidance
Documents, Advisories, and
Emergency Public Health Orders
Remain
in Effect; and Amending Prior
Public Health Emergency Orders
to
Impose Certain Public Health
Measures**

PREFACE

The purpose of this amended Public Health Emergency Order is to amend restrictions on mass gatherings and business operations, which were implemented in response to the spread of the Novel Coronavirus Disease 2019 ("COVID-19"). While vaccines are the most effective method to prevent the spread of COVID-19, masks, social distancing and self-isolation measures continue to be necessary to protect New Mexicans who are ineligible to receive a COVID-19 vaccine or who choose not to receive a vaccine. All New Mexicans should continue to adhere to social distancing protocols when required to protect our State as a whole. In accordance with these purposes, this Order and its exceptions should be narrowly construed to encourage New Mexicans continue social distancing measures.

It is hereby **ORDERED** that

1. All current guidance documents and advisories issued by the Department of Health remain in effect.

2. The following Public Health Emergency Orders remain in effect through the current Public Health Emergency and any subsequent renewals of that Public Health Emergency or until they are amended or rescinded:

A. December 15, 2020 Amended Public Health Emergency Order Implementing Additional Contact Tracing Information Requirements for All Laboratories and Submitters Submitting Notifiable Condition COVID-19 Test Results to the New Mexico Epidemiology and Response Division;

B. January 8, 2021 Emergency Order Implementing Administration and Reporting Requirements for All COVID-19 Vaccine Providers;

C. April 5, 2021 Amended Public Health

Emergency Order Temporarily Limiting Long-Term Care Facilities Visitation Due to COVID-19;

D. February 26, 2021 Public Health Emergency Order Implementing Administration Requirements for all COVID-19 Vaccine Providers and Requiring Accurate Information be Provided by Individuals Registering to Receive the COVID-19 Vaccine; and

E. December 2, 2021 Amended Public Health Emergency Order Requiring All School Workers Comply with Certain Health Requirements and Requiring Congregate Care Facility Workers, Hospital Workers, and Employees of the Office of the Governor Be Fully Vaccinated and Receive Booster Vaccines.

3. The February 4, 2022 Public Health Emergency Order Clarifying that Current Guidance Documents, Advisories, and Emergency Public Health Orders Remain in Effect; and Amending Prior Public Health Emergency Orders to Impose Certain Public Health Measures is hereby amended as follows:

ORDER

WHEREAS, on March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 ("COVID-19"), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act;

WHEREAS, Governor Michelle Lujan Grisham has renewed the declaration of a Public Health Emergency through March 4, 2022;

WHEREAS, confirmed cases in the United States have risen to more than 77 million and confirmed COVID-19 infections in New Mexico have risen to over 500,000;

WHEREAS, COVID-19 is a deadly virus and has taken the lives of over 900,000 Americans and over 6,700 New Mexicans;

WHEREAS, the further spread of COVID-19 in the State of New Mexico poses a threat to the health, safety, wellbeing and property of the residents in the State due to, among other things, illness from COVID-19, illness-related absenteeism from employment (particularly among public safety and law enforcement personnel and persons engaged in activities and businesses critical to the economy and infrastructure of the State), potential displacement of persons, and closures of schools or other places of public gathering;

WHEREAS, vaccination, social distancing and the consistent and proper use of face coverings in public spaces are the most effective ways New Mexicans can minimize the spread of COVID-19 and mitigate the potentially devastating impact of this pandemic in New Mexico; and

WHEREAS, the New Mexico Department of Health possesses legal authority pursuant to the Public Health Act, NMSA 1978, Sections 24-1-1 to -40, the Public Health Emergency Response Act, NMSA 1978, Sections 12-10A-1 to -19, the Department of Health Act, NMSA 1978, Sections 9-7-1 to -18, and inherent constitutional police powers of the New Mexico state government, to preserve and promote public health and safety, to adopt isolation and quarantine, and to close public places and forbid gatherings of people when deemed necessary by the Department for the protection of public health.

NOW, THEREFORE, I, David R. Scrase, M.D., Acting Secretary of the New Mexico Department of Health, in accordance with the authority vested in me by the Constitution and the Laws of the State of New Mexico, and as directed by the Governor pursuant to the full scope of her emergency powers under the All Hazard Emergency Management

Act, do hereby declare the current outbreak of COVID-19 a condition of public health importance, as defined in NMSA 1978, Section 24-1-2(A) as an infection, a disease, a syndrome, a symptom, an injury or other threat that is identifiable on an individual or community level and can reasonably be expected to lead to adverse health effects in the community, and that poses an imminent threat of substantial harm to the population of New Mexico.

I HEREBY DIRECT AS FOLLOWS:

(1) Unless a healthcare provider instructs otherwise, all individuals ages 2 years and older shall wear a mask or multilayer cloth face covering in all public hospitals, profit or nonprofit private hospitals, general hospitals, special hospital nursing homes, assisted living facilities, adult day cares, hospice facilities, rehabilitation facilities, State correctional facilities, juvenile justice facilities, residential treatment centers, the New Mexico State Veterans' Home, and community homes except when eating or drinking. Nothing in this Order shall be construed as prohibiting any business, house of worship, non-profit entity, or other entity from imposing more stringent requirements.

(2) Any business, establishment, or non-profit (other than those which are a healthcare operation, utility, or indigent care services) which members of the public regularly visit must report to the New Mexico Environment Department when there is an occurrence of a rapid response. The New Mexico Environment Department shall monitor when an entity has four (4) or more rapid responses within a fourteen (14) day period. For purposes of this directive, rapid responses will be counted on a rolling basis. Businesses, establishments, or non-profits with four or more rapid responses shall not be required to cease operations. However, the rapid responses must be reported to

the Environment Department so that the public may be made aware of the positive cases.

(3) All businesses, establishments, and non-profit entities must adhere to the pertinent COVID-Safe Practices

(4) Private educational institutions serving children and young adults from pre- Kindergarten through 12th Grade, including homeschools serving children who are not household members, shall continue to adhere to the face covering requirements contained in the in the New Mexico's Public Education Department's "COVID-19 Response Toolkit for New Mexico's Public Schools", available at <https://webnew.ped.state.nm.us/reentry-district-and-school-guidance/>, until the school district, governing local education agency, or private educational institution elects otherwise. Public and private educational institutions shall adhere to the other COVID-Safe Practices requirements for in-person instruction contained in the COVID-19 Response Toolkit for New Mexico's Public Schools, and may operate up to maximum capacity. Public and private educational institutions shall follow the reporting, testing, and closure requirements set forth by the Public Education Department in the COVID-19 Response Toolkit for New Mexico's Public Schools.

I FURTHER DIRECT as follows:

(1) This Order shall be broadly disseminated in English, Spanish and other appropriate languages to the citizens of the State of New Mexico.

(2) This Order declaring restrictions based upon the existence of a condition of public health importance shall not abrogate any disease-reporting requirements set forth in the Public Health Act.

(3) Nothing in this Order is intended to restrain or preempt local authorities from enacting more stringent restrictions than those required by the Order.

(4) This Order shall take effect immediately and remain in effect through March 18, 2022.

(5) The New Mexico Department of Health, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

(6) Any and all State officials authorized by the Department of Health may enforce this Public Health Order by issuing a citation of violation, which may result in civil administrative penalties of up to \$5,000 for each violation under NMSA 1978, Section 12-10A-19.

ATTEST:
DONE AT THE EXECUTIVE
OFFICE
THIS 17TH DAY OF FEBRUARY
2022

WITNESS MY HAND AND THE
GREAT SEAL OF THE STATE
OF NEW MEXICO

/ S /
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

/ S /
DAVID R. SCRASE, M.D.
ACTING SECRETARY OF THE
NEW MEXICO DEPARTMENT
OF HEALTH

MEDICAL BOARD

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The New Mexico Medical Board gives Notice of a Minor, Nonsubstantive Correction to 16.10.11 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 12: added new text for subsection E and part of subsection F were not underlined. This new text was underlined.

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

PUBLIC EDUCATION DEPARTMENT

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The Public Education Department gives Notice of a Minor, Nonsubstantive Correction to 6.29.11 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Section 8: In Subsection E, there was a Paragraph (1) without a Paragraph (2). The Subparagraphs (a) – (f) under the incorrect Paragraph (1) were properly renumbered as Paragraphs (1) – (6).

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

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The Regulation and Licensing Department, Construction Industries Division, gives Notice of a Minor, Nonsubstantive Correction to 14.6.3 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 8: In Paragraph (1) of Subsection K, there were two sets of Subparagraphs (f) and (g). The second set of subparagraphs were renumbered to Subparagraphs (h) and (i), accordingly.

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

REGULATION AND LICENSING DEPARTMENT OPTOMETRY BOARD

NOTICE OF MINOR, NONSUBSTANTIVE CORRECTION

The Board of Optometry gives Notice of a Minor, Nonsubstantive Correction to 16.6.3 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 9: In new Subsection L, there was an erroneous internal citation of “Paragraph 12”. The internal citation was corrected to “Section 12”.

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

**REGULATION AND
LICENSING DEPARTMENT
PROFESSIONAL ENGINEERS
AND PROFESSIONAL
SURVEYORS, BOARD OF
LICENSURE FOR**

**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The N.M. Board of Professional Engineers and Professional Surveyors gives Notice of a Minor, Nonsubstantive Correction to 12.8.2 NMAC.

Pursuant to the authority granted under State Rules Act, Subsection D of Section 14-4-3 NMSA 1978, please note that the following minor, non-substantive corrections to spelling, grammar and format have been made to all electronic copies of the above rule:

Section 7: In new Subsection Q, there were incorrect numberings of Paragraphs as (a) – (e). Those paragraphs were changed to (1) – (5).

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

**REGULATION AND
LICENSING DEPARTMENT
SIGNED LANGUAGE
INTERPRETING PRACTICES
BOARD**

**NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Signed Language Interpreters Practicing Board gives Notice of a Minor, Nonsubstantive Correction to 16.28.4 NMAC and 16.28.7 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:

16.28.4 NMAC

New Section 13: In Subsection G, Statutory citations within Paragraphs (5) and (6) were corrected to conform to correct legislative style.

16.28.7 NMAC

In the amendment sentence, the part number was incorrectly listed as “16.27.7 NMAC”. It was changed to “16.28.7 NMAC”.

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**

2022 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIII, Issues 1-24

Issue	Submittal Deadline	Publication Date
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
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
Issue 10	May 5	May 24
Issue 11	May 26	June 7
Issue 12	June 9	June 21
Issue 13	July 1	July 12
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Issue 16	August 11	August 23
Issue 17	August 25	September 13
Issue 18	September 15	September 27
Issue 19	September 29	October 11
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

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