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New Mexico Register

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

Volume XXXIII - Issue 17 - September 13, 2022

The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division
1205 Camino Carlos Rey, Santa Fe, NM 87507

The *New Mexico Register* is published twice each month by the Commission of Public Records, Administrative Law Division. The cost of an annual subscription is $270.00. Individual copies of any Register issue may be purchased for $12.00. Subscription inquiries should be directed to: The Commission of Public Records, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

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ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
ENERGY CONSERVATION AND MANAGEMENT COMMISSION

NOTICE OF PUBLIC HEARING AND RULEMAKING

The State of New Mexico, Energy, Minerals and Natural Resources Department (EMNRD) hereby gives notice of the following proposed rulemaking. EMNRD proposes to amend 3.3.14 NMAC, New Solar Market Development Tax Credit.

Purpose of Rules. In 2022, the Legislature passed the amendments to the New Solar Market Development Tax Credit, which is established in the Income Tax Act. The amendments to the act require EMNRD to promulgate and amended rule that is compliant with the amendments.

3.3.14 NMAC, New Solar Market Development Tax Credit. EMNRD proposes to increase the annual aggregate amounts of the state tax credit available to applicants owning certified solar energy systems from $8,000,000 to $12,000,000 per calendar year. EMNRD also proposes amendments to the application requirements meant to simplify and streamline the process for both applicants and EMNRD.

Legal Authority. EMNRD proposes the rules under the authority of the Income Tax Act, NMSA 1978, Section 7-2-18.32.

The full text of the proposed rules are available from the EMNRD, Energy Conservation and Management Division, 1220 S. Saint Francis Drive, Santa Fe, NM 87505; at https://www.emnrd.nm.gov/ecmd/ecmd-public-notices/ or by contacting Daren Zigich at darenk.zigich@state.nm.us; telephone (505) 795-2381.

Public Hearing and Comment. EMNRD will hold a virtual public hearing on the proposed rules at 9:30 am on October 18, 2022. The public may join the hearing virtually through WebEx using one of the following:

New Solar Market Development Tax Credit Amendments, 2022 Rule Hearing Event Link:
https://nmemnrd.webex.com/nmemnrd/j.php?MTID=mc3755f1751d0498fc7601e62f3541cd1
Webinar number (access code): 2492 599 2615
Webinar password: Solartaxcredit22 (76527820 from phones)
Or enter to join from a mobile device:
1-844-992-4726,,24925992615#76527820# United States Toll Free
+1-408-418-9388,,24925992615#76527820# United States Toll

Those wishing to comment on the proposed rules may make oral comments or submit written comments at the hearing or may submit written comments by October 18, 2022, by 5:00 p.m. by mail or e-mail. Please mail written comments to Harold Trujillo, EMNRD, Energy Conservation and Management Division, 1220 South Saint Francis Drive, Santa Fe, New Mexico 87505 or submit them by e-mail to harold.trujillo@state.nm.us.

If you are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Daren Zigich at (505) 795-2381 or the New Mexico Relay Network at 1-800-659-1779 two weeks prior to the hearing. Public documents can be provided in various accessible formats. Please contact Daren Zigich at (505) 795-2381, if a summary or other type of accessible format is needed.

Technical Information. There is no technical information for the proposed rule amendments.

GAME AND FISH DEPARTMENT

STATE GAME COMMISSION MEETING AND RULE MAKING NOTICE

The New Mexico State Game Commission ("Commission") will be hosting a meeting and rule hearings on Friday October 14, 2022 beginning at 9:00 a.m. at the Farm and Ranch Museum, 4100 Dripping Springs Rd, Las Cruces, NM 88011. The purpose of this meeting is to hear and consider action as appropriate on the presentation of proposed changes to the following five rules: Turkey, Deer, Elk, Manner and Method of Taking, and Licensing and Application.

Synopsis:
The proposal is to amend the following rules: 1) Turkey Rule 19.31.16 NMAC, which will become effective April 1, 2023. The most recent version of the rule will expire on March 31, 2023; 2) Deer Rule 19.31.13 NMAC, which will become effective April 1, 2023. The most recent version of the rule will expire on March 31, 2023; 3) Elk Rule, 19.31.14 NMAC, which will become effective April 1, 2023. The most recent version of the rule will expire on March 31, 2023; 4) Manner and Method of Taking 19.31.10 NMAC, which will become effective on April 1, 2023. This rule does not expire; and 5) Licensing and Application 19.31.3 NMAC, which will become effective April 1, 2023. This rule does not expire.

PROPOSED CHANGES TO THE TURKEY RULE: 1) Extend the spring season, including Entry Permit hunts, to close on May 15; 2) Adjust hunt dates by calendar date; 3) Evaluate the potential to open certain closed GMUs based on

turkey population status; 4) Add a once-in-a-lifetime Entry Permit hunt for Gould's Turkey in GMU 26 and 27 with up to 5 permits. The hunt will occur from May 1 - 30 to reduce potential impacts of hunting on breeding activity and to accommodate later breeding activity of Gould's turkeys compared to other NM turkey subspecies; 5) Remove W.S. Huey WMA youth hunt due to low turkey numbers; 6) Define dates and permit numbers for the Washington Ranch Youth Hunt and add BLM Black River Management Area to the hunt area; 7) Add the LBar acquisition to the Marquez WMA entry hunt; 8) Prohibit shooting turkeys on the roost.

PROPOSED CHANGES TO THE DEER RULE:

General Statewide Proposed Changes: 1) Modify the definition of a muzzle-loader only hunts to include only those muzzle-loading firearms that do not have a scope (for all big game species); 2) Adjust season dates to account for calendar shift. For example, if a hunt normally starts on a Saturday, this date shift would be maintained throughout the rule so the hunts continue to start on a Saturday; 3) Adjust some hunts to minimize overlap of weapons used or species hunted; 4) Adjust draw license numbers based on biological data and management goals: a) Reductions in GMUs: 2B, 12, 29, 30, 31, 32, 34, 37, 38, 39, and 55; b) Slight increases in GMUs: 5B, 6A/6C, 7, 8, 9, 14, 19, 20, 21, 23, 24, 26, 27, 40, 42, 43, 45, 47, 48, 49, 53, 56, 58, 59.

Specific Proposed Changes: 5) Create an October youth hunt in GMUs 2A and 2B; move most of the youth licenses from November into October: a) GMU 2A: 25 licenses in October, 15 licenses in November; b) GMU 2B: 125 licenses in October, 25 licenses in November 6) Create a November rifle hunt on L Bar/ Marquez WMA in GMU 9 (10 licenses); 7) Designate GMU 8 as a Quality Unit; 8) Add a second hunt code for White Sands Missile Range (Rhodes Canyon and Stallion Range hunts; 5 licenses each); 9) Create new hunts where deer populations have increased: a) January FAD archery hunts in GMUs 7 and 9 (15 licenses each); b) December FAWTD rifle hunts in GMUs 21 and 26 (25 licenses each); c) September FAMD and FAWTD archery hunts in GMU 27 (30 FAMD and 15 FAWTD licenses); d) November ESWTD hunt in GMU 55A, 55B (private land, unlimited licenses); 10) Open River Ranch, Double E, and Pipkin Ranch WMAs to deer hunting for those with valid licenses for the GMU; 11) Remove language "Excluding Fort Stanton" for the GMU 36 deer hunts; 12) Reduce youth licenses on Huey WMA in GMU 33 from 2 hunts of 10 licenses each to 2 hunts of 5 licenses each.

PROPOSED CHANGES TO THE ELK RULE:

General Statewide proposed changes: 1) Modify the definition of a muzzle-loader only hunt to include those muzzle-loading firearms that do not have a scope (for all big game species); 2) Adjust season dates to account for calendar shift. For example, if a hunt normally starts on a Saturday, this date shift would be maintained throughout the rule so the hunts continue to start on a Saturday; 3) Adjust some hunts to minimize overlap of weapons used or species hunted; 4) Adjust draw license numbers based on biological data and management goals: a) Reductions in GMUs: 9, 16A, 16B/22, 16C, 16E, 19, 50, 53, 54 (Colin Neblett), & 55A (Valle Vidal); b) Slight increases in GMUs: 2, 4, 6B, 13, 23, 30, 34, 36, 42/47/59, 51, & 57/58.

Specific Proposed changes: 5) Increase antlerless elk licenses in GMU 2 to address expanding elk population; 6) Increase antlerless elk licenses on the Rio Chama WMA to address a more resident elk population; 7) Increase antlerless elk licenses in GMU 6B in the Valles Caldera and eliminate the mobility impaired hunt because it has not been drawn in the last 4 years and will not be in the next 4 years; 8) Increase elk licenses on Marquez WMA and combine the hunt with the newly acquired LBar property: a) Acquisition of the LBar by NMDGF shifts public ownership from 65% to 69% of Primary Management Zone within GMU 9; 9) Decrease elk licenses overall in GMU 9; 10) Shift late season antlerless elk hunt in GMU 10 to begin earlier in December; 11) Expand Primary Management Zone boundary in GMU 13 to reflect elk use: a) This expansion would shift public land ownership proportion from 58% to 63%; public license numbers will increase slightly to reflect this change; 12) Expand Primary Management Zone boundary in GMU 17, to reflect elk use; a) This expansion would shift public land ownership proportion from 86% to 83%; however, public license numbers will remain unchanged; 13) Decrease some mid and late-October mature bull rifle hunts in GMUs 16A, 16B/22, 16C, and 16E; 14) Eliminate the elk hunt of 3 licenses in GMU 19 (White Sands Missile Range); 15) Create a new antlerless elk hunt in GMU 23 south of NM highway 7; 16) Shift a hunt to later dates in GMU 24; 17) Increase licenses in GMU 30 and open GMU 29 to be hunted in conjunction; 18) Create two new antlerless elk hunts in GMU 34 to occur in late January and early February, and increase Youth Encouragement licenses; 19) Create a new antlerless elk hunt in GMU 36 in late January and increase Youth Encouragement licenses. Additionally, change all MB bag limits to ES; 20) Increase licenses in the combined elk hunts in GMUs 42/47/59 to address an increase in public land access; 21) Include GMU 39 with GMU 43 in a draw hunt - this would not increase licenses; 22) Shift the zone designation in GMU 46 from Special Management Zone to Secondary Management Zone; 23) Shift 25 archery licenses in GMU 48 into the muzzleloader and rifle hunts; 24) Re-distribute the Youth Encouragement licenses in GMU 50 to GMU 51; 25) Eliminate the antlerless hunt north of Sunshine Valley Road in GMU 53; 26) Decrease licenses on Colin Neblett WMA; 27) Decrease licenses on Valle Vidal; 28) Establish an archery hunt in the combined

GMU 57/58 area; 29) Re-define "Encouragement Hunts" to be available to resident youth who did not draw a big game hunt in the draw for the first 14-days of availability, then offer to any youth after the first 14-days. This recommendation would remove the ability for seniors to purchase encouragement hunt licenses.

PROPOSED CHANGES TO THE MANNER AND METHOD RULE: Several changes will be made to conform with changes to other NMAC Rules, or to codify changes that were agreed upon during those rule development processes. The changes are: 1) Change the requirement that female ibex with horns that are 15 inches or longer retain the external genitalia naturally attached to the hide or carcass and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage, to female ibex with horns 20 inches or longer; 2) Include a requirement that female Barbary sheep with horns 18 inches or longer retain the external genitalia naturally attached to the hide or carcass and be visible until arriving at a residence, taxidermist, meat processing facility or place of final storage; 3) Change the definition of muzzle loader hunts to preclude the use of scopes; 4) Prohibit shooting turkeys from a roost.

PROPOSED CHANGES TO THE LICENSING AND APPLICATION RULE: Change the requirement for proving veteran status prior to applying for the new veteran-only oryx draw hunt.

A full text of changes for all rules will be available on the Department's website at: www.wildlife.state.nm.us.

Interested persons may submit comments on the proposed changes to the rules as follows:1) Turkey Rule at DGF-Gamebird@state.nm.us; 2) Deer Rule at DGF-Deer-Rule@state.nm.us; 3) Elk Rule at DGF-Elk-Rule@state.nm.us; 4) Manner and Method of Taking Rule and 5) Licensing and Application Rule at Elise.Goldstein@state.nm.us. Individuals may also submit written comments to the physical address below. Comments are due by 8:00 a.m. on October 13, 2022. The final proposed rules will be voted on by the Commission during a public meeting on October 14, 2022. Interested persons may also provide data, views or arguments, orally or in writing, at the public rule hearings to be held on October 14, 2022.

Full copies of text of the proposed new rules, technical information related to proposed rule changes, and the agenda can be obtained from the Office of the Director, New Mexico Department of Game and Fish, 1 Wildlife Way, Santa Fe, New Mexico 87507, or from the Department's website at www.wildlife.state.nm.us/commission/proposals-under-consideration/. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated information.

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 the Department at (505) 476-8000 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 the Department at 505-476-8000 if a summary or other type of accessible format is needed.

Legal authority for this rulemaking can be found in the General Powers and Duties of the State Game Commission Sections 17-1-14, et seq. NMSA 1978; Commission's Power to establish rules and regulations Sections 17-1-26, et seq. NMSA 1978.

PUBLIC EDUCATION DEPARTMENT

NOTICE OF PROPOSED RULEMAKING

Public Hearing

The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing for the proposed new rule **6.63.18 NMAC, Licensure for School Behavioral Health Counselors, Grades Pre K-12**, on Monday, October 17, 2022, from 9 a.m. to 11 a.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501. The location of the public hearing is subject to change due to concerns surrounding COVID-19. Continuous updates on hearing changes will be provided on the PED website. The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemaking. Attendees who wish to provide public comment on record will be given three minutes to make a statement concerning the proposed rulemaking. Written comment will also be accepted at the hearing.

Explanation of Purpose of Text

The purpose of the proposed new rule **6.63.18 NMAC, Licensure for School Behavioral Health Counselors, Grades Pre K-12**, is to establish a licensure pathway for individuals seeking a school behavioral health counseling license. By creating this pathway, schools will be able to bill Medicaid for the counseling a school behavioral health counselor provides all Medicaid eligible students, including students without an individualized education plan. At present, schools can only offer such services to students with an individualized education plan.

Summary of Text

The proposed new rule **6.63.18 NMAC, Licensure for School Behavioral Health Counselors, Grades Pre K-12**, creates a new pathway for licensed professionals to provide behavioral health counseling to all students in need of such support. The proposed new rule does the following:

- lists the requirements an individual must meet to become a licensed school behavioral counselor;
- lists the requirements a licensed school behavioral counselor must meet before advancing from a Level 1 to a Level 2 license and from a Level 2 license to a Level 3 license;
- provides the competencies a school behavioral health counselor shall be able to do; and
- notes licensed professional counselors and licensed mental health counselors are required to be supervised by a licensed professional clinical mental health counselor (LPCC), licensed marriage and family therapist (LMFT), licensed professional art therapist (LPAT), licensed psychologist, licensed psychiatrist, or licensed independent social worker until they are a LPCC, LMFT, or LPAT.

Statutory Authorizations

Sections 9-24-8, 22-2-1, 22-2-2, and 22-10A-17 NMSA 1978.

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

Public Comment

Interested parties may provide comment at the public hearing or may submit written comments by mail, e-mail, or fax.

Mailing Address
Policy and Legislative Affairs Division
New Mexico Public Education Department
300 Don Gaspar Avenue, Room 121
Santa Fe, New Mexico 87501

E-Mail Address
Rule.Feedback@state.nm.us
Fax Number
(505) 827-6520

Written comments must be received no later than 5 p.m. (MDT) on Monday, October 17, 2022. The PED encourages the early submission of written comments.

Public Comment Period

The public comment period is from Tuesday, September 13, 2022, to Monday, October 17, 2022, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rules may be obtained from Gregory Frostad at (505) 470-5752 during regular business hours or may be accessed through the PED Police and Legislative Affairs webpage titled, "Proposed Rules," at http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/,

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Gregory Frostad at (505) 470-5752 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING CASE NO. 22-00099-UT

The New Mexico Public Regulation Commission (the "commission") gives notice of its initiation of a proposed rulemaking to repeal and replace **Rules 17.1.2 NMAC, Utility Applications, 17.3.510 NMAC, Uniform Systems of Accounts and Annual Report Forms for Electric Utilities, and 17.3.610 NMAC, Uniform Systems of Accounts and Annual Report Forms.** The rules which may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by the commission. The commission may also consider alternative proposals for amending or replacing the current rules.

Summary of the full text of the proposed rule and short explanation of its purpose: The commission is considering repealing and replacing Rule 17.1.2 NMAC, 17.3.510 NMAC and 17.3.610 NMAC. The commission is considering changes to multiple sections of the rules. In particular, the commission is considering changes to remove compliance filing information being included with standard new rate applications in Rule 17.1.2.10 NMAC and to require annual compliance reporting by electric utilities by April 30th of each calendar year in 17.3.510 NMAC and gas utilities by April 30th of each calendar year in 17.3.610 NMAC.

Legal authority authorizing the proposed rule and the adoption of the rule: New Mexico Constitution, Article XI, Sec. 2; Paragraph 10 of Subsection B of Section 8-8-4 NMSA 1978 (1998), Section 8-8-15 NMSA 1978 (1999, amended 2001), and Sections 8-8-4, 62-8-3 NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rules may be obtained from the rulemaking proceedings section of the commission's website at https://www.nm-prc.org/rulemaking-proceedings/ under Case No. 22-00099-UT or by calling LaurieAnn Trujillo in the office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Written initial comments and written response comments shall be filed by the deadlines below in accordance with NMPRC rules of procedure 1.2.2 NMAC. For information as to how to file at the time of filing, please contact Melanie Sandoval, the commission's records bureau chief at (505) 470-8538 or melanie.sandoval@state.nm.us. Written initial comments shall be filed no later than **October 17th, 2022** and written response comments shall be filed no later than **October 28, 2022**. Comments shall refer to Case No. 22-00099-UT. All written comments will be posted on the commission's website within three days of their receipt by the records bureau.

A public hearing will be held on **November 4, 2022, beginning at 2:00 p.m.** via Zoom platform. The Commission's Office of General Counsel will email a Zoom invitation to the persons on the official service list in this matter prior to the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. Any member of the public who wishes to make a comment at the hearing must contact LaurieAnn Trujillo at (505) 670-4830 or LaurieAnn.Trujillo1@state.nm.us by no later than 12:00 pm on November 2, 2022 to sign up as a hearing participant. The commission's office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. The hearing will be held in order to receive oral comments. In the interest of administrative efficiency, commenters who have submitted written comments may be restricted from making oral comments at the discretion subject to the discretion of the commission or its designee. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 22-00099-UT.

The record of this case will close on **November 18, 2022.** From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

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

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission's e-docket system can be found at https://www.nm-prc.org/rulemaking-proceedings/.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 20-00158-UT

The New Mexico Public Regulation Commission (the "Commission") hereby gives notice of its initiation of a proposed rulemaking to amend rule **17.9.572 NMAC: "Renewable Energy for Electric Utilities."**

Summary of the full text of the proposed rule and short explanation of its purpose: The Commission intends to amend Rule 17.9.572 NMAC to correct and address grammatical, technical and other issues that exist in the current rule language. In addition, the Commission proposes to clarify the term "average annual levelized cost" by providing a definition; address the issue relating to renewable energy certificates associated with renewable energy from the public utility's New Mexico customers' distributed energy resources that is produced and consumed by customers on-site and behind the meter; address an issue relating to the use of renewable energy rate riders for costs associated with complying with this Rule; and address issues relating to a public utility's application for a financial or other incentive to produce or to acquire renewable energy.

Legal authority authorizing the proposed rule and the adoption of the rule: The Commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, the New Mexico Public Regulation Commission Act, NMSA 1978, Sections 8-8-15 (2001) and 8-8-4 (1998); the Public Utility Act, Section 62-31 et seq., including Section 62-6-4 (2003); and the Renewable Energy Act, NMSA 1978, Section 62-16-1 et seq.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the Commission's website at https://www.nm-prc.org/rulemaking-proceedings/ or by calling Robert Lundin of the Commission's office at (505)216-8569.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment on the Proposed Rules may do so by submitting written initial comments no later than **October 14, 2022**. Any person wishing to respond to initial

comments may do so by submitting written response comments no later than **October 25, 2022**. Any person wishing to reply to response comments maybe do so by submitting written reply comments no later than **October 28, 2022**. Comments can be electronically filed by sending them in PDF format to prc.records@state.nm.us. Comments must refer to Docket No. 20-00158-UT. All written comments will be posted on the Commission's website within three days of their receipt by the records bureau. The record closure date for this proceeding is November 4, 2022. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the Proposed Rules and any additional issues to be addressed in formal comment process, to be presided over by the Commission or its designee, shall be held beginning at **1:00 p.m. on October 20, 2022**. Any member of the public who wishes to make a comment at the hearing shall contact Robert Lundin at (505)216-8569 or Robert.lundin@state.nm.us by no later than 5:00 p.m. on October 19, 2022, to sign up as a hearing participant. The Commission shall email a Zoom invitation to all hearing participants on October 20, 2022. The invitation shall include a call-in number for those participants who are unable to access the hearing via computer. The hearing will be held in order to receive oral comments. Commenters who have not submitted written comments or responses and commenters who have submitted written comments or responses will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the Commission or its designee. The Commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 20-00158-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

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

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING DOCKET NO. 21-00258-UT

The New Mexico Public Regulation Commission (the "commission") hereby gives notice of its initiation of a proposed rulemaking to consider and potentially to adopt amendments to **17.11.10 NMAC, "State Rural Universal Service Fund."**

Summary of the full text of the proposed rule and short explanation of its purpose: The commission is considering amending its rule regulating the state rural universal service fund ("SRUSF"). The commission proposes amendments and will consider alternative amendments for the purpose of conforming the rule to three bills adopted in the 2021 legislative session – (1) House Bill 10 - enacting the "Connect New Mexico Act," NMSA 1978, Sections 63-9K-1 *et seq*. (the "CNMA"), and amending the Rural Telecommunications Act of New Mexico, NMSA 1978, Sections 63-9H-1 *et seq*. (the "RTA"); (2) Senate Bill 93 - enacting the "Broadband Access and Expansion Act," NMSA 1978, Sections 63-9J-1 *et seq*. (the "BAEA"); and Senate Bill 204 - amending the RTA. The commission further proposes amendments and will consider alternative amendments for the purpose of aligning the commission's broadband program with the requirements and goals of the 2021 legislation. In addition to amendments serving either or both of these two purposes, the commission will consider a recommendation made by the commission's telecommunications bureau staff to move language currently located at 17.11.10.22(C) NMAC to 17.11.10.31G(1) NMAC and will consider comments and recommendations closely related to this recommendation.

Legal authority authorizing the proposed rule and the adoption of the rule: The commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, under Paragraph 10 of Subsection B of Section 8-8-4, NMSA 1978, Section 63-9H-6, NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the commission's website at https://www.nm-prc.org/rulemaking-proceedings/ or by contacting Laurie Ann Trujillo of the commission's office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment on the proposed rule may do so by submitting written initial comments no later than **October 20, 2022**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **October 31, 2022**. Comments can be electronically filed by sending them in PDF format to prc.records@

state.nm.us. Comments must refer to Docket No. 21-00258-UT. All written comments will be posted on the commission's website within three days of their receipt by the records bureau. The record closure date for this proceeding is **November 11, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the proposed rule and any proposed alternative amendments to the rule, to be presided over by the commission or its designee, will be held beginning at **10:00 a.m. on November 8, 2022**, via the Zoom online platform. Any person who wishes to make a comment at the hearing must contact Laurie Ann Trujillo at (505) 670-4830 or laurieann.trujillo1@state.nm.us by no later than **12:00 noon on November 4, 2022** to sign up as a hearing participant. The commission's office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. In the interest of administrative efficiency, only commenters who have not submitted written comments will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 21-00258-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission's e-docket system can be found at https://www.nm-prc.org/rulemaking-proceedings/.

REGULATION AND LICENSING DEPARTMENT
CONSTRUCTION INDUSTRIES DIVISION

NOTICE OF PUBLIC HEARING

The Construction Industries Commission will convene a public hearing on the following proposed changes to the administrative code to include amendments to its rules 14.5.2 NMAC PERMITS, 14.6.3 NMAC CONTRACTOR'S LICENSE REQUIREMENTS, 14.6.4 NMAC JOURNEYMAN CERTIFICATION and 19.15.40 NMAC NEW MEXICO LIQUIFIED PETROLEUM GAS STANDARD. The hearing will be held before a hearing officer, at which time any interested person is invited to submit data, views or arguments on the proposed changes, either orally or in writing and to examine witnesses testifying at the hearing. The hearing is scheduled for October 26, 2022.

The purpose of this public rule hearing is to receive public comments regarding amendments and changes to the Permitting and New Mexico Liquified Petroleum Gas Standard rules that update provisions in the rules to reflect statutory changes in law, amendments to the Contractor's License Requirements rules that allow the division to expedite licensing by accepting the National Association of State Contractors Licensing Agencies ("NASCLA") written examination, and amendments to Journeyman Certification that clarify language in work experience requirements and corrects one typographical error.

The statutory authority for this rulemaking is found in the Construction Industries Licensing Act, NMSA 1978 Sections 60-13-1 through 59, specifically Sections 60-13-9, 60-13-10.3, 60-13-12, 60-13-14, 60-13-18, 60-13-33, 60-13-36-60-13-38, 60-39, 60-13-44, 60-13-45, 60-13-46, 60-13-47, LPG and CNG Act, NMSA 1978 Section 70-5-1 through 23, specifically Sections 70-5-6, 70-5-9, 70-5-12, 70-5-17, and the Parental Responsibility Act, 40-5A-1 through 9 NMSA.

The hearing is scheduled as follows:

An in-person hearing shall be held on Wednesday, October 26, 2022, at the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, NM, second floor, Rio Grande Conference Room, starting at 9:30 a.m. The hearing will remain open until 10:00 a.m. or until participants have an opportunity to make public comment, whichever is longer.

Those desiring to participate via video/telephonic may do so by remote participation by following these instructions:

Join via Video:
https://nmrld.webex.com/nmrld/j.php?MTID=m53bc56c7ceffe1f319a09abd640666d5. Once you join through the above link you will be provided instructions for accessing the meeting.
Event password not required.
Join via telephone:
+1-415-655-0002
Access Code: 2496 844 1122
No password required.

Interested persons may obtain copies of the proposed rule changes by logging onto the Construction Industries Division website (https://www.rld.nm.gov/construction-industries) to download the proposed rules or by written request to the Albuquerque CID Office – Regulation and Licensing Department, 5500 San Antonio Drive NE, Albuquerque, NM 87109, attention: Eliza Casados.

You may send written comments to: Construction Industries Division, – Regulation and Licensing Department, 5500 San Antonio Drive NE, Albuquerque, NM 87109, Attention: Public Comments. Written comments may also be faxed to (505) 476-4685/ (505) 629-3835 or

submitted to Eliza Casados at her email address: eliza.casados@state.nm.us. All written comments must be received no later than 5:00 p.m., on Tuesday, October 25, 2022. You may also review submitted comments by requesting copies from Eliza Casados at her email address above. Public comments will be posted on the division's website (https://www.rld.nm.gov/construction-industries). Written comments may also be received by the Commission at the in-person hearing until the hearing is closed. All public comment received shall be admitted into the record during the public hearing.

If you require special accommodations to attend the hearing, please notify CID by phone, email, or fax, of such needs as soon as possible to ensure adequate accommodations. Telephone: (505) 629-3835. Email: eliza.casados@state.nm.us; Fax No. (505) 476-4702.

Summary of the Proposed Changes to the Administrative Codes:

14.5.2 NMAC -- Permits, **Sections 10 and 13,** Section 10 is amended to update the rules involving state owned building built on land designated as a flood plain. These changes ensure that the rules comply with HB 168 passed by the New Mexico Legislature during its 2021 regular legislative session. One typographical error correction to made to Section 13.

14.6.3 NMAC -- Contractor's License Requirements, **Section 8** is amended to allow the division to waive the written exam and accept the National Association of State Contractors Licensing Agencies' exam for the purpose of meeting the state's written licensure exam requirements.

14.6.4 NMAC -- Journeyman Certification, **Section 8** is amended to strike "four years" from paragraph 14.6.4.8(C) to more accurately reflect the work experience requirements in subsections (E) and (F) of this part.

19.15.40 NMAC -- New Mexico Liquified Petroleum Gas Standard, **Sections 7 and 15** are being amended to add definitions for "disqualifying criminal conviction", "military service member" and "substantially equivalent" and add regulations to ensure compliance with expedited licensure for military applicants pursuant to HB 120 passed by the New Mexico Legislature during its 2021 regular legislative session and to ensure compliance with disqualifying felony convictions pursuant to HB 196 passed by the New Mexico Legislature during its 2021 regular legislative session.

WORKERS' COMPENSATION ADMINISTRATION

NOTICE OF PROPOSED RULEMAKING

The New Mexico Workers' Compensation Administration ("WCA") will conduct an in-person public hearing on the adoption of new WCA Rules on:

Friday, October 21, 2022, 1:30 p.m., Workers' Compensation Administration, 2410 Centre Avenue SE, Albuquerque, NM 87106

A copy of the proposed changes may be found on the WCA website at: http://www.workerscomp.nm.gov/. For a copy by e-mail, contact the WCA General Counsel Office at gc.clerk@state.nm.us. For a copy by mail, please submit a self-addressed, stamped envelope with your request to WCA General Counsel Office, 2410 Centre Ave. SE, Albuquerque, NM 87106. Comments should be sent to WCA General Counsel Office, 2410 Centre Ave. SE, Albuquerque, NM 87106.

Comments may be made at the public hearing and written comments will be accepted until 5:00pm on October 28, 2022. The Director will take all comments into consideration.

Purpose and summary of the Proposed Rule:
The WCA is proposing new rules regarding Part 1, General Provisions (minor changes); Part 4, Claims Resolution (being repealed and replaced to allow for changes to electronic filing requirements; revised mediation procedures and requirements; and revisions to admissibility of evidence standards in adjudicated cases); Part 5, Enforcement and Administrative Investigation (revisions to admissibility of evidence standards and service of summons procedures); Part 6, Judicial Selection (revisions to processes in selecting workers' compensation judges); Part 7, Payments for Health Care Services (being repealed and replaced to add definitions; revise provider and payer ground rules; revise out-of-state provider approval qualification process; revise utilization review referral process; revise processes applicable to non-clinical services including a request for medical records); Part 12, Uninsured Employers' Fund (raising UEF current indemnity and medical cap with effective dates, other language changes applicable to the UEF; and Part 13, Controlled Insurance Plans (minor changes). All proposed rules will take effect January 1, 2023.

The Director of the WCA has authority to adopt reasonable rules pursuant to Section 52-5-4 NMSA 1978 (2003).

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aide or service to attend or participate in the hearing or meetings, please contact the General Counsel Office at gc.clerk@state.nm.us. Or you may inquire about assistance through the New Mexico relay network at 1-800-659-1779 or https://newmexico.networkofcare.org/.

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.

ENVIRONMENT DEPARTMENT
WATER QUALITY CONTROL COMMISSION

This is an amendment to 20.6.4 NMAC, Section 9 effective 09/24/2022.

20.6.4.9 OUTSTANDING NATIONAL RESOURCE WATERS:

A. Procedures for nominating an ONRW: Any person may nominate a surface water of the state for designation as an ONRW by filing a petition with the commission pursuant to 20.1.6 NMAC, Rulemaking Procedures - Water Quality Control Commission. A petition to designate a surface water of the state as an ONRW shall include:

(1) a map of the surface water of the state, including the location and proposed upstream and downstream boundaries;

(2) a written statement and evidence based on scientific principles in support of the nomination, including specific reference to one or more of the applicable ONRW criteria listed in Subsection B of this section;

(3) water quality data including chemical, physical or biological parameters, if available, to establish a baseline condition for the proposed ONRW;

(4) a discussion of activities that might contribute to the reduction of water quality in the proposed ONRW;

(5) any additional evidence to substantiate such a designation, including a discussion of the economic impact of the designation on the local and regional economy within the state of New Mexico and the benefit to the state; and

(6) affidavit of publication of notice of the petition in a newspaper of general circulation in the affected counties and in a newspaper of general statewide circulation.

B. Criteria for ONRWs: A surface water of the state, or a portion of a surface water of the state, may be designated as an ONRW where the commission determines that the designation is beneficial to the state of New Mexico, and:

(1) the water is a significant attribute of a state special trout water, national or state park, national or state monument, national or state wildlife refuge or designated wilderness area, or is part of a designated wild river under the federal Wild and Scenic Rivers Act; or

(2) the water has exceptional recreational or ecological significance; or

(3) the existing water quality is equal to or better than the numeric criteria for protection of aquatic life and contact uses and the human health-organism only criteria, and the water has not been significantly modified by human activities in a manner that substantially detracts from its value as a natural resource.

C. Pursuant to a petition filed under Subsection A of this section, the commission may classify a surface water of the state or a portion of a surface water of the state as an ONRW if the criteria set out in Subsection B of this section are met.

D. Waters classified as ONRWs: The following waters are classified as ONRWs:

(1) Rio Santa Barbara, including the west, middle and east forks from their headwaters downstream to the boundary of the Pecos Wilderness; and

(2) the waters within the United States forest service Valle Vidal special management unit including:

(a) Rio Costilla, including Comanche, La Cueva, Fernandez, Chuckwagon, Little Costilla, Powderhouse, Holman, Gold, Grassy, LaBelle and Vidal creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit;

(b) Middle Ponil creek, including the waters of Greenwood Canyon, from their headwaters downstream to the boundary of the Elliott S. Barker wildlife management area;

(c) Shuree lakes;

(d) North Ponil creek, including McCrystal and Seally Canyon creeks, from their headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit; and

(e) Leandro creek from its headwaters downstream to the boundary of the United States forest service Valle Vidal special management unit.

(3) the named perennial surface waters of the state, identified in Subparagraph (a) below, located within United States department of agriculture forest service wilderness. Wilderness are those lands designated by the United States congress as wilderness pursuant to the Wilderness Act. Wilderness areas included in this designation are the Aldo Leopold wilderness, Apache Kid wilderness,

Blue Range wilderness, Chama River Canyon wilderness, Cruces Basin wilderness, Dome wilderness, Gila wilderness, Latir Peak wilderness, Pecos wilderness, San Pedro Parks wilderness, Wheeler Peak wilderness, and White Mountain wilderness.

(a)

The following waters are designated in the Rio Grande basin:

(i)

in the Aldo Leopold wilderness: Byers Run, Circle Seven creek, Flower canyon, Holden Prong, Indian canyon, Las Animas creek, Mud Spring canyon, North Fork Palomas creek, North Seco creek, Pretty canyon, Sids Prong, South Animas canyon, Victorio Park canyon, Water canyon;

(ii)

in the Apache Kid wilderness Indian creek and Smith canyon;

(iii)

in the Chama River Canyon wilderness: Chavez canyon, Ojitos canyon, Rio Chama;

(iv)

in the Cruces Basin wilderness: Beaver creek, Cruces creek, Diablo creek, Escondido creek, Lobo creek, Osha creek;

(v)

in the Dome wilderness: Capulin creek, Medio creek, Sanchez canyon/creek;

(vi)

in the Latir Peak wilderness: Bull creek, Bull Creek lake, Heart lake, Lagunitas Fork, Lake Fork creek, Rito del Medio, Rito Primero, West Latir creek;

(vii)

in the Pecos wilderness: Agua Sarca, Hidden lake, Horseshoe lake (Alamitos), Jose Vigil lake, Nambe lake, Nat lake IV, No Fish lake, North Fork Rio Quemado, Rinconada, Rio Capulin, Rio de las Trampas (Trampas creek), Rio de Truchas, Rio Frijoles, Rio Medio, Rio Molino, Rio Nambe, Rio San Leonardo, Rito con Agua, Rito Gallina, Rito Jaroso, Rito Quemado, San Leonardo lake, Santa Fe lake, Santa Fe river, Serpent lake, South Fork Rio Quemado, Trampas lake (East), Trampas lake (West);

(viii)

in the San Pedro Parks wilderness: Agua Sarca, Cañon Madera, Cave creek, Cecilia Canyon creek, Clear creek (North SPP), Clear creek (South SPP), Corralitos creek, Dove creek, Jose Miguel creek, La Jara creek, Oso creek, Rio Capulin, Rio de las Vacas, Rio Gallina, Rio Puerco de Chama, Rito Anastacio East, Rito Anastacio West, Rito de las Palomas, Rito de las Perchas, Rito de los Pinos, Rito de los Utes, Rito Leche, Rito Redondo, Rito Resumidero, San Gregorio lake;

(ix)

in the Wheeler Peak wilderness: Black Copper canyon, East Fork Red river, Elk lake, Horseshoe lake, Lost lake, Sawmill creek, South Fork lake, South Fork Rio Hondo, Williams lake.

(b)

The following waters are designated in the Pecos River basin:

(i)

in the Pecos wilderness: Albright creek, Bear creek, Beatty creek, Beaver creek, Carpenter creek, Cascade canyon, Cave creek, El Porvenir creek, Hollinger creek, Holy Ghost creek, Horsethief creek, Jack's creek, Jarosa canyon/creek, Johnson lake, Lake Katherine, Lost Bear lake, Noisy brook, Panchuela creek, Pecos Baldy lake, Pecos river, Rio Mora, Rio Valdez, Rito Azul, Rito de los Chimayosos, Rito de los Esteros, Rito del Oso, Rito del Padre, Rito las Trampas, Rito Maestas, Rito Oscuro, Rito Perro, Rito Sebadilloses, South Fork Bear creek, South Fork Rito Azul, Spirit lake, Stewart lake, Truchas lake (North), Truchas lake (South), Winsor creek;

(ii)

in the White Mountain wilderness: Argentina creek, Aspen creek, Bonito creek, Little Bonito creek, Mills canyon/creek, Rodamaker creek, South Fork Rio Bonito, Turkey canyon/creek.

(c)

The following waters are designated in the Gila River basin:

(i)

in the Aldo Leopold wilderness: Aspen canyon, Black Canyon creek, Bonner canyon, Burnt canyon, Diamond creek, Falls canyon, Fisherman canyon, Running Water canyon, South Diamond creek;

(ii)

in the Gila wilderness: Apache creek, Black Canyon creek, Brush canyon, Canyon creek, Chicken Coop canyon, Clear creek, Cooper canyon, Cow creek, Cub creek, Diamond creek, East Fork Gila river, Gila river, Gilita creek, Indian creek, Iron creek, Langstroth canyon, Lilley canyon, Little creek, Little Turkey creek, Lookout canyon, McKenna creek, Middle Fork Gila river, Miller Spring canyon, Mogollon creek, Panther canyon, Prior creek, Rain creek, Raw Meat creek, Rocky canyon, Sacaton creek, Sapillo creek, Sheep Corral canyon, Skeleton canyon, Squaw creek, Sycamore canyon, Trail canyon, Trail creek, Trout creek, Turkey creek, Turkey Feather creek, Turnbo canyon, West Fork Gila river, West Fork Mogollon creek, White creek, Willow creek, Woodrow canyon.

(d)

The following waters are designated in the Canadian River basin: in the Pecos wilderness Daily creek, Johns canyon, Middle Fork Lake of Rio de la Casa, Middle Fork Rio de la Casa, North Fork Lake of Rio de la Casa, Rito de Gascon, Rito San Jose, Sapello river, South Fork Rio de la Casa, Sparks creek (Manuelitas creek).

(e)

The following waters are designated in the San Francisco River basin:

(i)

in the Blue Range wilderness: Pueblo creek;

(ii)

in the Gila wilderness: Big Dry creek, Lipsey canyon, Little Dry creek, Little Whitewater creek, South Fork Whitewater creek, Spider creek, Spruce creek, Whitewater creek.

(f)

The following waters are designated in the Mimbres Closed basin: in the Aldo Leopold wilderness Corral canyon, Mimbres river, North Fork Mimbres river, South Fork Mimbres river.

(g)

The following waters are designated in the Tularosa Closed basin: in the White Mountain wilderness Indian creek, Nogal Arroyo, Three Rivers.

(h)
The wetlands designated are identified on the *Maps and List of Wetlands Within United States Forest Service Wilderness Areas Designated as Outstanding National Resource Waters* published at the New Mexico state library and available on the department's website.

(4) The following waters are designated in the headwaters Pecos river watershed:

(a) The Pecos river from Dalton Canyon creek to the Pecos wilderness boundary;

(b) In the Dry Gulch-Pecos river subwatershed, Dalton Canyon creek from the Pecos river upstream to the headwaters, Wild Horse creek from Dalton Canyon creek upstream to the headwaters, Macho Canyon creek from the Pecos river upstream to the headwaters and Sawyer creek from the Pecos river upstream to the headwaters;

(c) In the Indian creek-Pecos river subwatershed, Indian creek from the Pecos river upstream to the headwaters, Holy Ghost creek from the Pecos river upstream to the Pecos wilderness boundary, Doctor creek from Holy Ghost creek upstream to the headwaters, Davis creek from the Pecos river upstream to the headwaters and Willow creek from the Pecos river upstream to the headwaters;

(d) In the Rio Mora subwatershed, Rio Mora from the Pecos river upstream to the Pecos wilderness boundary and Bear creek from the Rio Mora upstream to the Pecos wilderness boundary;

(e) In the Rio Mora-Pecos river subwatershed, Carpenter creek from the Pecos river upstream to the Pecos wilderness boundary, Winsor creek from the Pecos river upstream to the Pecos wilderness boundary and Jack's creek from the Pecos river upstream to the Pecos wilderness boundary; and,

(f) In the Panchuela creek subwatershed, Panchuela creek from the Pecos river upstream to the Pecos wilderness boundary;

(g) Unnamed tributaries to waters in Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed,* published at the New Mexico state library and available on the department's website.

(h) Unnamed wetlands adjacent to waters in Subparagraphs (a) through (f), Paragraph (4) of this Subsection (D) as identified in the *Maps and Lists for Unnamed Tributaries to Perennial Waters and Wetlands in the Headwaters Pecos River Watershed*, published at the New Mexico state library and available on the department's website.

(5) the Rio Grande from directly above the Rio Pueblo de Taos to the New Mexico-Colorado state border.

(6) the Rio Hondo from the Carson National Forest boundary to its headwaters; and Lake Fork creek from the Rio Hondo to its headwaters.

(7) the East Fork Jemez river from San Antonio creek to its headwaters; San Antonio creek from the East Fork Jemez river to its headwaters; and Redondo creek from Sulphur creek to its headwaters.

[20.6.4.9 NMAC - Rn, Subsections B, C and D of 20.6.4.8 NMAC, 5/23/2005; A, 5/23/2005; A, 7/17/2005; A, 2/16/2006; A, 12/1/2010; A, 1/14/2011; A, 4/23/2022; A, 09/24/2022]

GAME AND FISH DEPARTMENT

The State Game Commission at its 8/19/2022 meeting, repealed its rule 19.34.5 NMAC, Wildlife Management Areas, filed 6/27/2013, and replaced it with 19.34.5 NMAC, Wildlife Management Areas, adopted on 8/19/2022 and becomes effective 4/1/2023.

GAME AND FISH DEPARTMENT

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 34 WILDLIFE HABITAT AND LANDS
PART 5 WILDLIFE MANAGEMENT AREAS

19.34.5.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.34.5.1 NMAC - Rp, 19.34.5.1 NMAC, 4/1/2023]

19.34.5.2 SCOPE: Department staff, licensed hunters, anglers and trappers and other users as allowed by rule.
[19.34.5.2 NMAC - Rp, 19.34.5.2 NMAC, 4/1/2023]

19.34.5.3 STATUTORY AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to identify game refuges and to establish rules and regulations that it may deem necessary to carry out the purposes of Chapter 17 NMSA 1978.
[19.34.5.3 NMAC - Rp, 19.34.5.3 NMAC, 4/1/2023]

19.34.5.4 DURATION: Permanent.
[19.34.5.4 NMAC - Rp, 19.34.5.4 NMAC, 4/1/2023]

19.34.5.5 EFFECTIVE DATE: April 1, 2023, unless a different date is cited at the end of a section.
[19.34.5.5 NMAC - Rp, 19.34.5.5 NMAC, 4/1/2023]

19.34.5.6 OBJECTIVE: To identify wildlife management areas created by the state game commission.
[19.34.5.6 NMAC - Rp, 19.34.5.6 NMAC, 4/1/2023]

19.34.5.7 DEFINITIONS:

A. "Department" shall mean the New Mexico department of game and fish.

B. "Wildlife management area" shall mean an area of land owned or controlled by the state game commission and designated by the commission or department as a wildlife management area.

[19.34.5.7 NMAC - Rp, 19.34.5.7 NMAC, 4/1/2023]

19.34.5.8 WILDLIFE MANAGEMENT AREAS:

A. Bear Canyon lake wildlife management area is located approximately 2 miles north of Mimbres and is more fully described in deeds on file in Grant county and with the department.

B. Belen wildlife management area is part of the Ladd S. Gordon complex and is located approximately 2 miles south of Belen and is more fully described in deeds on file in Valencia county and with the department.

C. Bernardo wildlife management area, part of the Ladd S. Gordon complex, is located approximately 15 miles south of Belen and is more fully described in deeds on file in Socorro county and with the department.

D. Bernardo wildlife management area, Simms donation, part of the Ladd S. Gordon complex, is located approximately 16 miles south of Belen and is more fully described in deeds on file in Socorro county and with the department.

E. Bert Clancy wildlife management area is located between Pecos and Cowles and is more fully described in deeds on file in San Miguel county and with the department.

F. Bill Evans lake wildlife management area is located approximately 8 miles south of Cliff and is more fully described in deeds on file in Grant county and with the department.

G. Bluebird wildlife management area is located approximately 6 miles southeast of Cuba on state road 126 and is more fully described in deeds on file in Sandoval county and with the department.

H. Casa Colorada wildlife management area, part of the Ladd S. Gordon complex, is located approximately 7 miles southeast of Belen on the east side of the Rio Grande and is more fully described in deeds on file in Valencia county and with the department.

I. Charette lakes wildlife management area is located approximately 23 miles southwest of Springer and is more fully described in deeds on file in Mora county and with the department.

J. Clayton lake wildlife management area is located approximately 15 miles north of Clayton and is more fully described in deeds on file in Union county and with the department.

K. Colin Neblett wildlife management area is located immediately east of the village of Eagle Nest and Eagle Nest lake and is more fully described in deeds on file in Colfax county and with the department.

L. Double E wildlife management area is located approximately 6 miles northeast of Gila and is more fully described in deeds on file in Grant county and with the department.

M. Eagle Nest lake wildlife management area is located immediately south of the village of Eagle Nest and is more fully described in deeds on file in Colfax county and with the department.

N. Edward Sargent wildlife management area is located immediately north of Chama and is more fully described in deeds on file in Rio Arriba county and with the department.

O. Elliott Barker wildlife management area is located approximately 15 miles northwest of Cimarron and is more fully described in deeds on file in Colfax county and with the department.

P. Fenton lake wildlife management area is located approximately 9 miles north of Jemez Springs and is more fully described in deeds on file in Sandoval county and with the department.

Q. Glenwood Allred wildlife management area is located immediately south of Glenwood and is more fully described in deeds on file in Catron county and with the department.

R. Hammond Tract wildlife management area is located approximately 2 miles east of Blanco and is more fully described in deeds on file in San Juan county and with the department.

S. Heart Bar wildlife management area is located approximately 36 miles north of Silver City and is more fully described in deeds on file in Grant and Catron counties, and with the department.

T. Jackson lake wildlife management area is located approximately 8 miles northwest of Farmington along the La Plata river and includes management of state land office section 16 and bureau of land management section 21 and is more fully described in deeds on file in San Juan county and with the department.

U. La Joya wildlife management area, part of the Ladd S. Gordon complex, is located approximately 20 miles south of Belen and is more fully described in deeds on file in Socorro county and with the department.

V. Lake Roberts wildlife management area is located approximately 20 miles north of Silver City and is more fully described in deeds on file in Grant county and with the department.

W. Marquez wildlife management area is located approximately 25 miles north of Laguna and is more fully described in deeds on file in McKinley and Sandoval counties and with the department.

X. McAllister lake wildlife management area is located approximately 7 miles southeast of Las Vegas and is more fully described in deeds on file in San Miguel county and with the department.

Y. Marquez/LBar wildlife management area is located approximately 25 miles north of Laguna and is more fully described in deeds on file in Cibola, McKinley and Sandoval counties and with the department.

Z. Mimbres Tract wildlife management area is located approximately 1 mile southeast of Mimbres, and is more fully described in deeds on file in Grant county and with the department.

AA. Navajo wildlife management areas are located approximately 10 miles northeast of Navajo Lake and are more fully described in deeds on file in San Juan county, Rio Arriba county and with the department.

BB. Pine river wildlife management area is located approximately 1 mile south of the Colorado border off state road 511 and is more fully described in deeds on file in San Juan county and with the department.

CC. Prairie-chicken wildlife management areas are located throughout Chaves, DeBaca, Lea and Roosevelt counties and are more fully described in deeds on file in said counties and with the department.

DD. Red Rock wildlife management area is approximately 26 miles north of Lordsburg and is more fully described in deeds on file in Grant county and with the department.

EE. Retherford wildlife management area is located approximately 3 miles southeast of Bloomfield and is more fully described in deeds on file in San Juan county and with the department.

FF. Rio Chama wildlife management area is located approximately 14 miles south of Chama, bordering El Vado reservoir and the Chama river, and is more fully described in deeds on file in Rio Arriba county and with the department.

GG. Rio de los Pinos wildlife management area is located approximately 10 miles southwest of Antonito, Colorado and is more fully described in deeds on file in Rio Arriba county and with the department.

HH. River Ranch wildlife management area is located approximately 24 miles northwest of Deming and is more fully described in deeds on file in Grant county, Luna county, and with the department.

II. San Simon Cienega wildlife management area is located approximately 16 miles northwest of Animas and is more fully described in deeds on file in Hidalgo county and with the department.

JJ. Socorro-Escondida wildlife management area is located approximately 3 miles northeast of Socorro and is more fully described in deeds on file in Socorro county and with the department.

KK. Tres Piedras wildlife management area is located approximately 5 miles southeast of Tres Piedras and is more fully described in deeds on file in Taos county and with the department.

LL. Tucumcari lake wildlife management area is located immediately east of Tucumcari and is more fully described in deeds on file in Quay county and with the department.

MM. Urraca wildlife management area is located approximately 12 miles north of Questa and is more fully described in deeds on file in Taos county and with the department.

NN. Wagon Mound wildlife management area is located approximately 1 mile north of Wagon Mound and is more fully described in deeds on file in Mora county and with the department.

OO. Water canyon wildlife management area is located approximately 18 miles northeast of Grants by Mount Taylor and is more fully described in deeds on file in Cibola county and with the department.

PP. William A. Humphries wildlife management area is located approximately 10 miles west of Chama, south of US highway 64/84 and is more fully described in deeds on file in Rio Arriba county and with the department.

QQ. William S. Huey wildlife management area is located approximately 2 miles north of Artesia and is more fully described in deeds on file in Eddy county and with the department.

[19.34.5.8 NMAC - Rp, 19.34.5.8 NMAC, 4/1/2023]

HISTORY OF 19.34.5 NMAC:

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

DGF 67-10, Order No. 14-67, Creating Miller Mesa Game Refuge, No. 319, 9/22/67.

DGF 70-7, Order No. 4-70, Creating Alcalde Refuge, No. 320, 8/24/70.

DGF 70-7, Amendment No. 1, Order No. 2-74, Re-Creating the Alcalde Game Refuge, No. 320, 3/6/74.

DGF 70-10, Order No. 9-70, Amending the Artesia Game Refuge, No. 318, 12/9/70.

DGF 81-3, Order No. 5-81, New Boundaries for the Artesia Game Refuge, No. 318, 5/27/81.

Order No. 5-85, New Boundaries for the Artesia Waterfowl Management Area No. 318, 9/11/85.

Order No. 1-86, Changing the Name of the Artesia Waterfowl Management Area No. 318 to the William S. Huey Waterfowl Management Area No. 318, 3/25/86.

DGF 72-10, Order No. 6-72, Amending the Bernardo State Game Refuge, No. 314, 8/15/72.

DGF 72-10, Amendment No. 1, Order No. 2-76, Amending the Bernardo State Game Refuge, No. 314, 5/25/76.

DGF 72-10, Amendment No. 2, Order No. 6-79, Amending Boundaries of Bernardo State Game Refuge, No. 314, and Providing for Retriever Trial and Training on a Portion of the Refuge, 7/27/79.

Order No. 4-83, Amending Boundaries of Bernardo State Game Refuge, No. 314, and Providing for Retriever Trials and Training on a Portion of the Refuge, 9/7/83.

DGF 72-13, Order No. 8-72, Regulating Hunting on Certain State Lands, 9/26/72.

DGF 74-1, Order No. 16-73, Amending the La Cueva State Game

Refuge, No. 300, 1/3/74.
DGF 75-10, Order No. 7-74, Creating the Mary S. Sprague State Game Refuge, No. 321, 10/28/75.
DGF 79-5, Order No. 4-79, Amendment to No. 3 to the Boundary Description of the Big Hatchet Game Refuge, No. 10, 6/27/79.
Order No. 11-81, Amending Fort Bayard Game Refuge, 8/19/81.
Order No. 2-82, Creating the Casa Colorada State Game Refuge, No. 322, 3/2/82.
Order No. 1-83, Hunting on State Game Refuges, 3/9/83.
Order No. 7-86, Creating the Ladd S. Gordon Wildlife Management Area, 1/5/87.

History of Repealed Material:
DGF 73-5, Order No. 7-73, Abolishing the La Huerta State Game Refuge, No. 311, 5/31/73.
Order No. 15-81, Abolishing the La Cueva State Game Refuge No. 300, 9/4/81.
Order No. 3-82, Abolishing the Organ Mountains and San Simon State Game Refuges, 3/2/82.
Order No. 14-82, Abolishing the San Juan State Game Refuge, 12/15/82.
Order No. 1-87, Abolishing the Miller Game Refuge - Repealed 6/4/87.
19.34.5 NMAC, Wildlife Management Areas, filed 12/1/99 - Repealed effective 7/15/13.
19.34.5 NMAC, Wildlife Management Areas, filed 6/27/2013 - Repealed effective 4/1/2023.

GAME AND FISH DEPARTMENT

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND FISHING
PART 17 BIGHORN SHEEP

19.31.17.1 ISSUING AGENCY: New Mexico department of game and fish.
[19.31.17.1 NMAC - Rp, 19.31.17.1 NMAC, 4/1/2023]

19.31.17.2 SCOPE: Sportspersons interested in bighorn sheep management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978, and Chapters 30, 31, 32 and 33 of Title 19 NMAC.
[19.31.17.2 NMAC - Rp, 19.31.17.2 NMAC, 4/1/2023]

19.31.17.3 STATUTORY AUTHORITY: Sections 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds, and fish.
[19.31.17.3 NMAC - Rp, 19.31.17.3 NMAC, 4/1/2023]

19.31.17.4 DURATION: April 1, 2023 through March 31, 2025.
[19.31.17.4 NMAC - Rp, 19.31.17.4 NMAC, 4/1/2023]

19.31.17.5 EFFECTIVE DATE: April 1, 2023 unless a later date is cited at the end of a section.
[19.31.17.5 NMAC - Rp, 19.31.17.5 NMAC, 4/1/2023]

19.31.17.6 OBJECTIVE: Establishing open hunting seasons and regulations, rules, and procedures governing the distribution and issuance of bighorn sheep licenses by the department.
[19.31.17.6 NMAC - Rp, 19.31.17.6 NMAC, 4/1/2023]

19.31.17.7 DEFINITIONS:
A. "Department" shall mean the New Mexico department of game and fish.
B. "Director" shall mean the director of the New Mexico department of game and fish.
C. "Either sex" or "ES" shall mean any one animal of the species.
D. "Ewe" shall mean any female bighorn sheep.
E. "Game management unit" or "GMU" shall mean those areas as described in 19.30.4 NMAC Boundary Descriptions for Game Management Units.
F. "Ram" shall mean any male bighorn sheep.
G. "Wildlife management areas" or "WMAs" shall mean those areas as described in 19.34.5 NMAC Wildlife Management Areas.
[19.31.17.7 NMAC - Rp, 19.31.17.7 NMAC, 4/1/2023]

19.31.17.8 ADJUSTMENT OF LICENSES: The director, with the verbal concurrence of the New Mexico state game commission chairperson or their designee, may adjust the number of bighorn licenses to address significant changes in population levels or to address critical department management needs.
The director may change or cancel any or all hunts on military lands to accommodate closures on those lands; if changed, the season length and bag limit shall remain the same as assigned on the original hunt code.
[19.31.17.8 NMAC - Rp, 19.31.17.8 NMAC, 4/1/2023]

19.31.17.9 BIGHORN SHEEP LICENSE APPLICATION REQUIREMENTS AND RESTRICTIONS:
A. Rocky mountain bighorn sheep ram once-in-a-lifetime hunts: It shall be unlawful for anyone to apply for a Rocky mountain bighorn sheep ram license if one has previously held a license to hunt a Rocky mountain bighorn sheep ram in New Mexico, except those who have held a youth-only, private land-only (not obtained through the public draw), population management license for ram or ES that the director, with verbal concurrence of the chairperson or their designee, has decided does not qualify as once-in-a-lifetime, auction, and/or raffle bighorn ram license(s). A person that has received the youth-only ram license is eligible for this hunt only once as a youth (under age 18), but may apply for the other Rocky mountain and desert bighorn once-in-a lifetime hunts as long as they are eligible.

B. Desert bighorn sheep ram once-in-a-lifetime hunts: It shall be unlawful for anyone to apply for a desert bighorn sheep ram license if one has previously held a license to hunt a desert bighorn sheep ram in New Mexico, except those who have held a youth-only, private land-only (not obtained through the public draw), population management license for ram or ES that the director, with verbal concurrence of the chairperson or their designee, has decided does not qualify as once-in-a-lifetime, auction, and/or raffle bighorn ram license(s). A person that has received the youth-only ram license is eligible for this hunt only once as a youth (under age 18), but may apply for the other Rocky mountain and desert bighorn once-in-a lifetime hunts as long as they are eligible.

C. Rocky mountain bighorn sheep ewe hunts: This hunt is not a once-in-a-lifetime hunt. A person that has previously held a license to hunt Rocky mountain bighorn rams or ewes is eligible to apply for this hunt.

[19.31.17.9 NMAC - Rp, 19.31.17.9 NMAC, 4/1/2023]

19.31.17.10 SEALING OF RAM HORNS: A seal shall be affixed to a horn of every bighorn sheep ram head taken in New Mexico, imported into New Mexico, or found in the field in New Mexico subsequent to August 17, 1973. Bighorn sheep heads found in the field within New Mexico shall remain the property of the state until disposed of by permit from the director. The seal shall authorize possession and transportation of the head within New Mexico.

A. Such sealing shall be done within ten days after the bighorn sheep ram head is taken, imported, or found in the field and before the bighorn sheep head is exported from New Mexico. Bighorn sheep ram heads not so declared shall be seized. Only legally taken and possessed bighorn sheep ram heads from New Mexico shall be sealed.

B. Bighorn sheep ram heads legally sealed in other countries, states, tribal entities, provinces, and territories, and possessing a valid visible seal attached, are exempted.

C. It shall be unlawful to possess any bighorn sheep ram head which has not been sealed as described in this section.

[19.31.17.10 NMAC - Rp, 19.31.17.10 NMAC, 4/1/2023]

19.31.17.11 BIGHORN SHEEP HUNTING SEASONS: The 2023-24 through 2026-27 hunting seasons shall be as indicated below, listing the GMUs or areas open, eligibility requirements or restrictions, hunt dates, hunt codes, sporting arms, number of licenses, and bag limit. Additional eligibility requirements and restrictions are defined in Section 9 of 19.31.17 NMAC above.

A. Rocky mountain bighorn ram hunt for any big game sporting arms (BHS-1-201). Hunters applying for BHS-1-201 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-201 will be up to 60 with a bag limit of one ram.

open GMUs or areas for BHS-1-201	**2023-2024 hunt dates**	**2024-2025 hunt dates**	**2025-2026 hunt dates**	**2026-2027 hunt dates**
6	8/10-8/24	8/10-8/24	8/10-8/24	8/10-8/24
	9/1-9/15	9/1-9/15	9/1-9/15	9/1-9/15
14, 18	TBD	TBD	TBD	TBD
16B, 22, 23, 24: including Double E WMA	1/1-1/31	1/1-1/31	1/1-1/31	1/1-1/31
45	8/4-8/13	8/9-8/18	8/8-8/17	8/7-8/16
	8/18-8/27	8/23-9/1	8/22-8/31	8/21-8/30
45, youth only	8/18-8/27	8/23-9/1	8/22-8/31	8/21-8/30
53 south of NM 38 and east of NM 522	8/6-8/15	8/6-8/15	8/6-8/15	8/6-8/15
	9/1-9/10	9/1-9/10	9/1-9/10	9/1-9/10
53 north of NM 38 and east of NM 522; 55 south of NM 196/FS Rd 1950	8/4-8/13	8/9-8/18	8/8-8/17	8/7-8/16
	8/18-8/27	8/23-9/1	8/22-8/31	8/21-8/30
49, 50, 53 west of NM 522	8/10-8/24	8/10-8/24	8/10-8/24	8/10-8/24
	9/1-9/15	9/1-9/15	9/1-9/15	9/1-9/15
	11/1-11/15	11/1-11/15	11/1-11/15	11/1-11/15
55 north of NM 196/FS Rd 1950	8/15/2023-1/15/2024	8/15/2024-1/15/2025	8/15/2025-1/15/2026	8/15/2026-1/15/2027
58	8/15/2023-1/15/2024	8/15/2024-1/15/2025	8/15/2025-1/15/2026	8/15/2026-1/15/2027

B. Private land Rocky mountain bighorn ram hunt for any big game sporting arms. The number of licenses available will be up to 6 with a bag limit of one ram.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates
55 north of NM 196/FS Rd 1950	8/15/2023-1/15/2024	8/15/2024-1/15/2025	8/15/2025-1/15/2026	8/15/2026-1/15/2027
58	8/15/2023-1/15/2024	8/15/2024-1/15/2025	8/15/2025-1/15/2026	8/15/2026-1/15/2027

C. Rocky mountain bighorn ewe hunt for any big game sporting arms (BHS-1-202). Hunters applying for BHS-1-202 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-202 will be up to 150 with a bag limit of one ewe.

open GMUs or areas for BHS-1-202	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates
45	9/16-9/20	9/21-9/25	9/20-9/24	9/19-9/23
	9/30-10/4	10/5-10/9	10/4-10/8	10/3-10/7
45, youth only	9/30-10/4	10/5-10/9	10/4-10/8	10/3-10/7
49, 50, 53 west of NM 522	10/14-10/22	10/12-10/20	10/11-10/19	10/10-10/18
	11/18-11/26	11/16-11/24	11/15-11/23	11/21-11/29
	12/9-12/17	12/14-12/22	12/13-12/21	12/12-12/20
49, 50, 53 west of NM 522, youth only	11/18-11/26	11/16-11/24	11/15-11/23	11/21-11/29
53 south of NM 38 and east of NM 522	9/23-9/27	9/21-9/25	9/20-9/24	9/19-9/23
	10/7-10/11	10/5-10/9	10/4-10/8	10/3-10/7
53 south of NM 38 and east of NM 522, youth only	9/23-9/27	9/21-9/25	9/20-9/24	9/19-9/23
53 north of NM 38 and east of NM 522; 55 south of NM 196/FS Rd 1950	9/16-9/20	9/21-9/25	9/20-9/24	9/19-9/23
53 north of NM 38 and east of NM 522; 55 south of NM 196/FS Rd 1950, youth only	9/16-9/20	9/21-9/25	9/20-9/24	9/19-9/23

D. Rocky mountain bighorn ewe hunt for bow only (BHS-2-203). Hunters applying for BHS-2-203 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-2-203 will be up to 60 with a bag limit of one ewe.

open GMUs or areas for BHS-2-203	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates
45	9/1-9/10	9/6-9/15	9/5-9/14	9/4-9/13
49, 50, 53 west of NM 522	9/16-9/30	9/16-9/30	9/16-9/30	9/16-9/30
53 south of NM 38 and east of NM 522	9/11-9/17	9/11-9/17	9/11-9/17	9/11-9/17
53 north of NM 38 and east of NM 522; 55 south of NM 196/FS Rd 1950	9/2-9/15	9/7-9/20	9/6-9/19	9/5-9/18
53 north of NM 38 and east of NM 522; 55 south of NM 196/FS Rd 1950, youth only	9/2-9/15	9/7-9/20	9/6-9/19	9/5-9/18

E. Desert bighorn ram hunt for any big game sporting arms (BHS-1-204). Hunters applying for BHS-1-204 will be allowed to select and rank up to three open areas/hunt dates. The number of licenses available for BHS-1-204 will be up to 60 with a bag limit of one ram.

open GMUs or areas for BHS-1-204	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates
13, 17	12/1-12/15	12/1-12/15	12/1-12/15	12/1-12/15
	12/16-12/31	12/16-12/31	12/16-12/31	12/16-12/31
19	12/14-12/21	12/14-12/21	12/14-12/21	12/14-12/21
	12/27/2023-1/3/2024	12/27/2024-1/3/2025	12/27/2025-1/3/2026	12/27/2026-1/3/2027
20: south of NM 51	11/16-11/30	11/16-11/30	11/16-11/30	11/16-11/30
	12/1-12/15	12/1-12/15	12/1-12/15	12/1-12/15
20: north of NM 51	8/18-8/27	9/13-9/22	8/15-8/24	9/11-9/20
		10/11-10/20		10/9-10/18
20: north of NM 51, youth only	11/17-11/26		11/21-11/30	
26, west of NM 81	9/15-9/30	9/15-9/30	9/15-9/30	9/15-9/30
	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15
26, east of NM 81	9/15-9/30	9/15-9/30	9/15-9/30	9/15-9/30
	10/1-10/15	10/1-10/15	10/1-10/15	10/1-10/15
27	11/1-11/15	11/1-11/15	11/1-11/15	11/1-11/15
	11/16-11/30	11/16-11/30	11/16-11/30	11/16-11/30

F. Private land desert bighorn ram hunt for any big game sporting arms. The number of licenses available will be up to 6 with a bag limit of one ram.

open GMUs or areas	2023-2024 hunt dates	2024-2025 hunt dates	2025-2026 hunt dates	2026-2027 hunt dates
20: north of NM 51	9/15-9/24	8/16-8/25	9/12-9/21	8/14-8/23
	10/13-10/22	11/22-12/1	10/10-10/19	11/20-11/29

[19.31.17.11 NMAC - Rp, 19.31.17.11 NMAC, 4/1/2023]

19.31.17.12 SPECIAL BIGHORN SHEEP HUNTING OPPORTUNITIES: Bighorn sheep enhancement program:

A. Program description: The director shall collect all proceeds generated through the auction and lottery of special bighorn sheep permits, and such monies shall be deposited in the game protection fund. These monies shall be made available for expenditure by the department solely for programs and projects to benefit bighorn sheep and for costs incurred in carrying out these programs. These monies shall be used to augment, and not replace, monies appropriated from existing funds available to the department for the conservation, restoration, utilization, and management of bighorn sheep.

B. Requirements for issuance of special bighorn sheep licenses:

(1) The state game commission authorizes the director to issue not more than four special bighorn sheep licenses in any one license year to take one ram per license. The director shall allow the sale of one Rocky Mountain bighorn sheep authorization and one desert bighorn sheep authorization through auction to the highest bidder, and one Rocky Mountain bighorn sheep authorization and one desert bighorn sheep authorization to a person selected through a random drawing of a lottery ticket. The drawing will be conducted by the department or an incorporated, non-profit organization dedicated to the conservation of bighorn sheep.

(2) Unless their hunting privileges have been revoked pursuant to law, any person is eligible to submit a bid for the special bighorn sheep auction authorization or purchase lottery tickets in an attempt to be selected for the special bighorn sheep lottery authorization.

(3) The special bighorn sheep authorizations issued through auction and lottery may be transferred, through sale, barter or gift by the successful individuals only to other individuals qualified to hunt.

(4) Special bighorn sheep licenses granted through auction or lottery, as described above, shall not be considered 'once-in-a-lifetime' licenses.

C. Enhancement hunts: These licenses shall be valid for any big game sporting arms statewide where hunting is allowed. The bag limit shall be one ram.

(1) Holders of the auction licenses must declare their exclusive hunt area by June 30 annually to

hunt the designated subspecies in one of the open hunt areas. Each holder of the raffle license must declare their exclusive hunt area by July 20 annually to hunt the designated subspecies in one of the open hunt areas not declared by the auction hunter.

(2) The remaining hunt units open to bighorn hunting not declared by the auction or raffle hunter as their exclusive hunt area, may be hunted by either the auction or raffle hunter.

(3) The hunt dates for the auction and raffle licenses shall be 8/1-12/31 annually, except GMU 53 south of NM 38 and east of NM 522 is closed 8/16 to 8/31 annually to all bighorn sheep hunters.

[19.31.17.12 NMAC - Rp, 19.31.17.12 NMAC, 4/1/2023]

19.31.17.13 BIGHORN SHEEP POPULATION MANAGEMENT HUNTS:

A. The director, with verbal concurrence of the chairperson of the New Mexico state game commission or their designee, may authorize population management hunts for bighorn sheep when justified in writing by department personnel and must be based on biological information or a potential to compromise population viability.

B. The director shall designate the sporting arms, season dates, season lengths, bag limits, hunt boundaries, specific requirements or restrictions, and number of licenses to be issued.

C. In the event that an applicant is not able to hunt on the dates specified, the applicant's name shall be moved to the bottom of the list and another applicant may be contacted for the hunt.

D. In those instances where a population management hunt is warranted on deeded private lands, the landowner may suggest eligible hunters of their choice by submitting a list of prospective hunters' names to the department for licensing consideration. No more than one-half of the total number of licenses authorized shall be available to landowner identified hunters. The balance of prospective hunters shall be identified by the department.

E. The director, with verbal concurrence of the chairperson of the New Mexico state game commission or their designee, may deem some ram or either sex population management licenses not once-in-a-lifetime; a person that has held a once-in-a-lifetime ram license(s) is not disqualified from this hunt.

[19.31.17.13 NMAC - Rp, 19.31.17.13 NMAC, 4/1/2023]

HISTORY OF 19.31.17 NMAC:

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

Regulation No. 482, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 5/31/1967;

Regulation No. 487, Establishing 1967 Seasons On Javelina And Barbary Sheep, filed 12/15/1967;

Regulation No. 489, Establishing Turkey Seasons For The Spring of 1968, filed 3/1/1968;

Regulation No. 491, Establishing Big Game Seasons For 1968 For Jicarilla Reservation, filed 3/1/1968;

Regulation No. 492, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, And Barbary Sheep, filed 6/6/1968;

Regulation No. 495, Establishing A Season On Bighorn Sheep, filed 10/2/1968;

Regulation No. 496, Establishing An Elk Season In The Tres Piedras Area, Elk Area P-6, filed 12/11/1968;

Regulation No. 502, Establishing Turkey Seasons For The Spring Of 1969, filed 3/5/1969;

Regulation No. 503, Establishing 1969 Deer Seasons For Bowhunting Only And Big Game Seasons For The Jicarilla Indian Reservation, filed 3/5/1969;

Regulation 504, Establishing Seasons on Deer, Bear, Turkey, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, And Barbary Sheep, filed 6/4/6199;

Regulation No. 507, Establishing A Season On Bighorn Sheep, filed 8/26/1969;

Regulation No. 512, Establishing Turkey Season For The Spring Of 1970, filed 2/20/1970;

Regulation No. 513, Establishing Deer Season For Bowhunting Only In Sandia State Game Refuge, filed 2/20/1970;

Regulation No. 514, Establishing Seasons On Deer, Bear, Turkey, Elk, Antelope, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Barbary Sheep And Bighorn Sheep, filed 6/9/1970;

Regulation No 520, Establishing Turkey Seasons For The Spring Of 1971, filed 3/9/1971;

Regulation No. 522, Establishing 1971 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/9/1971;

Regulation No. 523, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/9/1971;

Regulation No. 531, Establishing A Season On Javelina, filed 12/17/1971;

Regulation No. 532, Establishing Turkey Seasons For The Spring Of 1972, filed 3/20/1972;

Regulation No. 534, Establishing 1972 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/20/1972;

Regulation No. 536, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And Bighorn Sheep, filed 6/26/1972;

Regulation No. 542, Establishing A Season On Javelina, filed 12/1/1972;

Regulation No. 545, Establishing Turkey Seasons For The Spring Of 1973, filed 2/26/1973;

Regulation No. 546, Establishing 1973 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 2/26/1973;

Regulation No. 547, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep And

Bighorn Sheep, And Javelina, filed 5/31/1973;
Regulation No. 554, Establishing Special Turkey Seasons For The Spring of 1974, filed 3/4/1974;
Regulation No. 556, Establishing 1974 Seasons On Deer, Bear, Turkey, And Elk On The Jicarilla Apache Indian Reservation, filed 3/14/1974;
Regulation No. 558, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex, filed 5/29/1974;
Regulation No. 565, Establishing Special Turkey Seasons For The Spring Of 1975, filed 3/24/1975;
Regulation No. 567, Establishing 1975 Seasons On Deer, Bear, And Turkey On The Jicarilla Apache And Navajo Indian Reservations And On Elk On The Jicarilla Apache Indian Reservation, filed 3/24/1975;
Regulation No. 568, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Chickaree And Tassel-Eared Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 6/25/1975;
Regulation No. 573, Establishing Seasons On Deer, Turkey, Bear, Cougar, Dusky Grouse, Tassel-Eared And Chickaree Squirrel, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/1976;
Regulation No. 583, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/11/1977;
Regulation No. 590, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/15/78;
Regulation No. 596, Establishing Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex, filed 2/23/1979;
Regulation No. 603, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1980 through March 31, 1981, filed 2/22/1980;
Regulation No. 609, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1981 through March 31, 1982, filed 3/17/1981;
Regulation No. 614, Establishing Open Seasons On Deer, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1982 through March 31, 1983, filed 3/10/1982;
Regulation No. 622, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1983 through March 31, 1984, filed 3/9/1983;
Regulation No. 628, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1984 through March 31, 1985, filed 4/2/1984;
Regulation No. 634, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1985 Through March 31, 1986, filed 4/18/1985;
Regulation No. 640, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1986 through March 31, 1987, filed 3/25/1986;
Regulation No. 645, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1987 through March 31, 1988, filed 2/12/1987;
Regulation No. 653, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1988 through March 31, 1989, filed 12/18/1987;
Regulation No. 663, Establishing Opening Spring Turkey For The Period April 1, 1989 through March 31, 1990, filed 3/28/1989;
Regulation No. 664, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1989 through March 31, 1990, filed 3/20/1989;
Regulation No. 674, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx And Ibex For The Period April 1, 1990 through March 31, 1991, filed 11/21/1989;
Regulation No. 683, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1991 through March 31, 1992, filed 2/8/1991;
Regulation No. 689, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1992 through March 31, 1993, filed 3/4/1992;
Regulation No. 700, Establishing Open Seasons On Deer, Turkey, Bear, Cougar, Elk, Antelope, Barbary Sheep, Bighorn Sheep, Javelina, Oryx, And Ibex For The Period April 1, 1993 through March 31, 1995, filed 3/11/1993.

History of Repealed Material:
19.31.8 NMAC, Big Game, filed 3-1-2001 - duration expired 3/31/2003.
19.31.8 NMAC, Big Game and Turkey, filed 3/3/2003 - duration expired 3/31/2005.
19.31.8 NMAC, Big Game and Turkey, filed 12/15/2004 - duration expired 3/31/2007.
19.31.17 NMAC, Bighorn Sheep, filed 12/1/2006 - duration expired 3/31/2009.
19.31.17 NMAC, Bighorn Sheep, filed 2/26/2009 - duration expired 3/31/2011.
19.31.17 NMAC, Bighorn Sheep, filed 9/15/2010 - duration expired

3/31/2015.
19.31.17 NMAC, Bighorn Sheep, filed 3/17/2015 - duration expired 3/31/2019.
19.31.17 NMAC, Bighorn Sheep, filed 5/31/2018 - duration expired 3/31/2023.

REGULATION AND LICENSING DEPARTMENT
PHARMACY, BOARD OF

This is an amendment to 16.19.4 NMAC, Section 9, 11, 12, 16 and 17, effective 9/13/2022

16.19.4.9 DEFINING UNPROFESSIONAL OR DISHONORABLE CONDUCT:

A. Preamble: In defining "unprofessional conduct" the definitions of professional conduct and a pharmacist's duty should be considered.

B. Professional conduct may be defined as complying with all the laws and regulations that apply to a given professional activity.

C. Definition: Unprofessional or dishonorable conduct by a pharmacist shall mean, among other things, but not be limited to.

(1) Violation of any provision of the Pharmacy Act as determined by the board.

(2) Violation of the board of pharmacy regulations as determined by the board.

(3) Violation of the Drug and Cosmetic Act as determined by the board.

(4) Violation of the Controlled Substances Act as determined by the board.

(5) Failure of the pharmacist to conduct himself professionally in conformity with all applicable federal, state and municipal laws and regulations to his relationship with the public, other health professions and fellow pharmacists.

(6) Failure to keep his pharmacy and/or area of professional practice clean, orderly, maintained and secured for the proper performance of his professional duties.

(7) Acquiring prescription stock from unlicensed sources.

(8) Failure to hold on the strictest confidence all knowledge concerning patrons, their prescriptions, and other confidence entrusted or acquired of by him; divulging in the interest of the patron only by proper forms, or where required for proper compliance with legal authorities.

(9) Participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare.

(10) The solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon.

(11) [~~the~~] The solicitation of prescription business by providing a prescriber with pre-selected medication on a prescription blank. This does not apply to:

(a) the inpatient, or institutional setting (i.e. long term care or correctional facility) by an in-house or contracted pharmacy; or

(b) a request for therapeutic interchange of a medication prescribed for the patient.

(12) [~~the~~] The solicitation of a prescription whereby the initial prescription request was not initiated by the patient or practitioner. This does not apply to a request for therapeutic interchange of a medication prescribed for the patient.

(13) Failure to report a theft or loss of controlled substances in accordance with 16.19.20.36 NMAC.

(14) Failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.19.4.12 NMAC.

(15) Failure to train or supervise adequately supportive personnel or the use of supportive personnel in activities outside the scope of their permitted activities.

(16) Conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substances Act, Drug Device and Cosmetic Act or any similar act of another state or territory of the United States.

(17) Suspension, revocation, denial, or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States.

(18) Dispensing a prescription for a dangerous drug to a patient without an established practitioner-patient relationship:

(a) except for the provision of treatment of partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health;

(b) except for on-call practitioners providing services for a patient's established practitioner;

(c) except for delivery of dangerous drug therapies to patients ordered by a New Mexico department of health physician as part of a declared public health emergency;

(d) except for dispensing the dangerous drug naloxone <u>or other opioid antagonist</u> as authorized in Section 24-23-1 NMSA 1978;

(e) except for the prescribing or dispensing and administering for immunizations programs.

(19) Dispensing a prescription order for a dangerous drug to a patient if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was

issued on the basis of an internet-based questionnaire or an internet-based consultation without a valid practitioner-patient relationship.

(20) Failure to perform a prospective drug review as described in Subsection D of 16.19.4.17 NMAC and document steps taken to resolve potential problems.

[3/1/1993; 16.19.4.9 NMAC - Rn, 16 NMAC 19.4.9, 3/30/2002; A, 7/15/2002; A, 1/15/2008; A, 9/16/2011; A, 8/31/2012; A, 3/23/2016; A, 10/19/2019; A, 11/13/2018; A, 9/13/2022]

16.19.4.11 CONSULTANT PHARMACIST:

A. Duties and responsibilities:

(1) To abide by the code of ethics of the *American society of consultant pharmacists*. Must be qualified to practice as a consultant pharmacist and is to be aware of all federal and state drug laws, rules and regulations related to pharmacy services, and to provide the facility with current information pertaining to drug service.

(2) Ensure that drugs are handled in the facility in which he/she is the consultant pharmacist, in a manner that protect the safety and welfare of the patient.

(3) Set the policy and procedures in the facility as related to all [~~facits~~] facets of drug handling and distribution; these policies and procedures to be reviewed and updated on an annual basis.

(4) To visit the facility, commensurate with his duties, as specified by board regulations relative to the facility or by written contract with the administration of the facility not inconsistent with board regulations.

(5) His/her primary goal and objective shall be the health and safety of the patient, and he/she shall make every effort to assure the maximum level of safety and efficacy in the provision of pharmaceutical services.

(6) The consultant pharmacist shall not condone or participate in any transaction with any practitioner of another health profession, or any other persons whosoever under which fees are divided, or rebates or kickbacks paid or caused to be paid, or which may result in financial exploitation of patients or their families in connection with the provision of drugs and medication or supplies or pharmaceutical services.

B. Consultant pharmacist serving skilled nursing facilities and intermediate care facilities - upper level care - long term care facilities by any other title:

(1) The consultant pharmacist's agreement with the facility shall include but is not limited to the following duties and responsibilities.

(a) Serve as a member of appropriate committees, and attend these meetings.

(b) Development of the drug control procedures manual.

(c) Monitor on a routine basis all aspects of the total drug distribution system - to be accomplished in a manner designed to monitor and safeguard all areas of the drug distribution system.

(d) Maintain active pharmacist status registration in the state.

(e) Assume responsibility for the destruction or removal of unwanted dangerous drugs and any controlled substances as prescribed by law and regulations.

(f) Maintain a log of all visits and activities in the facility indicating dates and other pertinent data; such logs are to be available to inspection by state drug inspectors upon request.

(g) Furnish and replenish emergency drug supply in acceptable containers. Maintain a log of use and replacement of drugs in the emergency tray.

(h) Make routine inspections of drug storage areas, patient health records, and review drug regimen of each patient at least once a month. Report irregularities, contraindication, drug interactions, etc., to the medical staff.

(i) Provide or make arrangements for provision of pharmacy services to the facility on a 24-hour, seven days a week basis, including stat orders.

(j) Provide in-service training of staff personnel as outlined in the procedures manual.

(k) Meet all other responsibilities of a consultant pharmacist as set forth in the board regulations and federal or state laws and which are consistent with quality patient care.

(l) The contract consultant pharmacist to a SNF or ICF facility, that is required to review patients' drug regimen as set forth in Subparagraph h of Paragraph (1) of Subsection B of 16.19.4.11 NMAC, who is under contract as sole supplier of unit-doses/state of the art medications, shall be exempt from charges of unprofessional conduct under Paragraph (10) of Subsection B of 16.19.4.9 NMAC.

(m) The consultant pharmacist to a SNF or ICF facility who delivers drugs in a unit-dose system, approved by an agent of the board, which is a tightly sealed, unopened, individual dose, shall be exempt from the requirements of 16.19.6.14 NMAC. The regulation shall not prohibit the return to the pharmacy stock, where partial credit may be given in accordance with any federal or state law or regulation, to the patient for such medication, when the physician discontinues the drug therapy, the patient expires or for any other reason, other than an outdated drug.

(n) **Customized patient medication packages**; In lieu of dispensing one, two, or more prescribed drug products in separate containers or standard vial containers, a pharmacist may, with the consent of the patient, the

patient's care-giver, the prescriber, or the institution caring for the patient, provide a customized patient medication package. The pharmacist preparing a patient medication package must abide by the guidelines as set forth in the current edition of the U.S. pharmacopoeia for labeling, packaging and record keeping.

(o) **Repackaging of patient medication packages**; In the event a drug is added to or discontinued from a patient's drug regimen, when a container within the patient medication package has more than one drug within it, the pharmacist may repackage the patient's patient medication package and either add to or remove from the patient medication packaged as ordered by the physician. The same drugs returned by the patient for repackaging must be reused by the pharmacist in the design of the new patient medication package for the new regimen, and any drug removed must either be destroyed, returned to the DEA or returned to the patient properly labeled. Under no circumstances may a drug within a container of a patient medication package which contains more than one drug be returned to the pharmacy stock.

(p) Return of patient medication package drugs.

(i) Patient medication [~~package's~~] packages with more than one drug within a container: Patient medication packages with more than one drug within a container may not under any circumstances be returned to a pharmacy stock.

(ii) Patient medication [~~package's~~] packages with only one drug within a container: 1 Non-Institutional: A patient medication package stored in a non-institutional setting where there is no assurance of storage standards may not be returned to pharmacy stock. 2 Institutional: A patient medication package stored in an institutional setting where the storage and handling of the drugs are assured and are consistent with the compendia standards may be returned to the pharmacy stock provided the following guidelines are followed: (1) the drug is to be kept within the patient medication package and it is to remain sealed and labeled until dispensed; (2) the expiration date of drug shall become fifty percent of the time left of the expiration for the drug; and (3) no schedule II - V drugs may be returned to inventory [~~; and (4) proper record keeping for the addition of other scheduled drugs into inventory must be done~~].

(2) When a consultant pharmacist enters into a written contractual agreement with a facility to which he/she will provide service.

(a) The consultant pharmacist whose practice is not in the immediate vicinity of the facility for which he has entered into a written service agreement, shall have a written agreement with a local pharmacist to be available on any emergency basis. The consultant pharmacist shall be responsible for the proper training and instruction of such local pharmacist. Said local pharmacist shall be known as a "co-consultant". The vendor shall be responsible for the safety and efficacy of back-up pharmaceutical services he provides.

(b) A copy of these agreements must be filed with the board of pharmacy and the facility. Any termination of such agreement shall be reported in writing, within 10 days, of termination to the board and to the administrator.

(c) Should a local pharmacist (co-consultant) not be available, the consultant pharmacist must provide an alternative procedure approved by the board. If the consultant is also the vendor, then such alternative procedure must reasonably assure rapid delivery of drugs; medical supplies and pharmacy service to the facility

C. Consultant pharmacist - clinic facility:

(1) The consultant pharmacist providing services to a clinic shall.

(a) Assume overall responsibility for clinic pharmacy services, for clinic pharmacy supportive personnel, and for procedures as outlined in the procedures manual, including all records of drugs procured, administered, transferred, distributed, repackaged or dispensed from the clinic.

(b) Assume responsibility for the destruction or removal of unwanted or outdated dangerous drugs, including controlled substances, as required by laws and regulations.

(c) Develop the pharmacy services procedures manual for the clinic establishing the system for control and accountability of pharmaceuticals.

(d) Provide in-service education and training to clinic staff, as applicable.

(e) Report in writing to the board within 10 days, any termination of services to the clinic. Report in writing to the board the names and places of employment of any pharmacy technicians under the supervision of the consultant pharmacist.

(f) Comply with all other provisions of Part 10, limited drug clinics, as applicable to the individual clinic facility.

(g) The consultant pharmacist shall personally visit the clinic on the minimum basis described in Items (i) through (iv) of Subparagraphs (a) through (c) to ensure that the clinic is following set policies and procedures. Visitation schedules are as follows.

(i) Class A clinics shall have the on-site services of a consultant pharmacist for the dispensing or distribution of dangerous drugs. The consultant pharmacist shall comply with Paragraphs (4), (5) and (7) of Subsection A of 16.19.4.16 NMAC.

(ii) Class B clinics shall have the services of a consultant pharmacist as listed below: 1. Category 1 clinics shall be visited by the consultant

pharmacist at least bi-monthly. 2. Category 2 clinics shall be visited by the consultant pharmacist at least monthly. 3. Category 3 clinics shall be visited by the consultant pharmacist at least bi-weekly.

(iii) Class C clinics shall be visited by the consultant pharmacist at least every three months.

(iv) Class D clinic shall be reviewed at least once yearly during school session.

(v) Class E clinic shall be visited by the consultant pharmacist at least weekly for a clinic with a patient census of 150 or more or with a mobile narcotic treatment program, and at least bi-weekly for a clinic with a patient census of less than 150.

(h) The consultant pharmacist shall review the medical records of not less than five percent of a Class B clinics patients who have received dangerous drugs (as determined by the dispensing or distribution records) since the consultant pharmacist's last visit. Such review shall be for the purpose of promoting therapeutic appropriateness, eliminating unnecessary drugs, and establishing the medical necessity of drug therapy, by identifying over-utilization or under-utilization, therapeutic duplication, drug-disease contraindications, drug-drug contraindications, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, appropriate medication indication, and/or clinical abuse/misuse. Upon recognizing any of the above, the consultant pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with the prescriber.

(i) The consultant pharmacist shall maintain a log or record of all visits and activities in the clinic. Such record shall include a log of all medical records reviewed, along with a record of all consultant pharmacist interventions and/or consultations. This log or record shall be available for inspection by state drug inspectors upon request.

(j) Consultant pharmacist serving a Class D school based emergency medicine clinic shall:

(i) review records at least annually; this review shall include a review of the *self-assessment form*, receipt and disposition records, and storage records; this annual review does not require an on-site visit by the consultant pharmacist;

(ii) oversee the removal of expired or unwanted dangerous drugs; removal options are transfer to another licensed location, return to the legitimate source of supply or to a reverse distributor; remaining portions of used dangerous drugs may be destroyed by the consultant pharmacist;

(iii) review dangerous drug administration records within 72 hours of administration; this review shall be documented and available for inspection at the licensed location for three years; review shall include verification of compliance with procedures and protocols, including administration by properly trained personnel.

(iv) ensure required records are available for inspection at the licensed location for three years, including a log of comments and activities of consultant pharmacist;

(v) verify a current list of trained staff, in accordance with New Mexico department of health requirements, is maintained at the licensed location and available for inspection;

(vi) approve a policy and procedures manual outlining procedures for the receipt, storage, record keeping, administration and accountability of all dangerous drugs; this includes policies and procedures for the removal and destruction of unwanted, unused, outdated or recalled dangerous drugs; must verify compliance with all training and protocols required by the NewMexico department of health.

(k) The consultant pharmacist of a Class E clinic shall review dispensing, distribution, and supplying records since the consultant pharmacist's last visit, to ensure records are maintained accurately and in proper form. The consultant pharmacist shall also review the medical records of all clinic patients prior to initiation of take home dosing, and medical records of not less than five percent of clinic patients who have received dangerous drugs (as determined by the dispensing, distribution, or supplying records) since the consultant pharmacist's last visit. Such review shall be for the purpose of promoting therapeutic appropriateness, eliminating unnecessary drugs, and establishing the medical necessity of drug therapy, by identifying over-utilization or under-utilization, therapeutic duplication, drug-disease contraindications, drug-drug contraindications, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, appropriate medication indication, and/or clinical abuse/misuse. Upon recognizing any of the above, the consultant pharmacist shall take appropriate steps to avoid or resolve the problem which shall, if necessary, include consultation with the prescriber. A log or record will be maintained in accordance with Subparagraph (i) of Paragraph (1) of Subsection (C) of 16.19.4.11 NMAC.

(2) A clinic may petition the board for an alternative visitation schedule as set forth in Subsection R of 16.19.10.11 NMAC.

D. Consultant pharmacists serving custodial care facilities:

(1) Custodial care facility as used in this regulation includes: Any facility which provides care and services on a continuing basis, for two or more in-house residents, not related to the operator, and which maintains custody of the residents' drugs.

(2) Any facility which meets the requirements outlined in Paragraph (1) of Subsection D of 16.19.4.11 NMAC shall be licensed by the board of pharmacy, engage a consultant pharmacist, whose duties and responsibilities are indicated in 16.19.4 and 16.19.11 NMAC.

(3) Procurement of drugs or medications for residents will be on the prescription order of a licensed physician - written or by oral communication, which order shall be reduced to writing by the pharmacist as required by law. Refills shall be as authorized by the physician. When refill authorization is indicated on the original prescription, a refill for a resident may be requested by the administrator of the licensed facility or his designee by telephone to the consultant pharmacist, or the providing pharmacy.

(4) The administrator or a designated employee of the facility will sign a receipt for prescription drugs upon delivery.

(5) All prescription drugs will be stored in a locked cabinet or room and the key will be assigned to a designated employee or the administrator as indicated in the procedures manual.

(6) Proper storage as stipulated in the official compendium USP/NF will be the responsibility of the licensed facility.

(7) Records - the consultant pharmacist shall be responsible for the following records:

(a) incoming medications - including refills;

(b) record of administration;

(c) waste or loss; This accountability record shall be maintained on a patient log, on forms provided to the consultant pharmacist by the board of pharmacy.

(8) All prescription containers shall be properly labeled as required in 16.19.11 NMAC. No bulk containers of legend drugs will be kept on the premises, except in a facility with a 24-hour per day and 365 day per year on-site licensed nurse. Only the following stock dangerous drugs may be kept:

(a) tuberculin testing solution; and

(b) vaccines as recommended by the centers for disease control (CDC) and prevention's advisory committee on immunization practices and appropriate for the facility population served; and

(c) naloxone for opioid overdose.

(9) Consultant pharmacist shall include in the procedures manual the name of individual(s) responsible for the assistance with the medication.

(10) It shall be the responsibility of the pharmacist to give proper training/instruction to the person(s) at the facility who have day-to-day responsibility for receipt and administration of medications to resident when adverse reactions, special diet, or any other information relative to the administration of a drug is needed by the staff.

(11) The consultant pharmacist shall be required to maintain a patient profile on each individual, if applicable to the facility and individual.

(12) The consultant pharmacist shall visit the facility no less than once a quarter or more often, commensurate with patient drug regimen and shall be available in emergencies, when needed. A log shall be maintained indicating all visits to the facility and noting any activities or irregularities to be recorded or reported. This log shall be available for state drug inspectors' review upon request.

(13) The consultant shall be responsible for the preparation of a procedures manual outlining procedures for the receipt, storage, record keeping, maintenance of patient profiles, administration and accountability of all legend drugs and procedures for the removal and destruction of unwanted, unused, outdated or recalled drugs - controlled substances shall be handled pursuant to state and federal regulations.

E. No drug that has been dispensed pursuant to a prescription and has left the physical premises of the facility licensed by the board shall be dispensed or reused again except the re-labeling and reuse of pharmaceuticals may be permitted in the following situations: in a correctional facility, licensed by the board, under the following circumstances dangerous drugs, excluding controlled substances, may be re-used:

(1) the patients must reside in the same facility;

(2) the reused medication must have been discontinued from the original patient's drug regimen;

(3) the drug was never out of the possession of the licensee "keep on person pharmaceuticals may never be reused";

(4) the drugs were originally dispensed in packaging that is unopened, single-dose or tamper-evident containers;

(5) the patient receiving the re-labeled medication must have a valid prescription/order for the medication that is to be reused;

(6) repackaging and re-labeling may only be completed on site by the consultant pharmacist designated for that facility.

F. The consultant pharmacist must maintain records at the facility for three years containing the following information:

(1) date when the re-labeling occurred;

(2) the name and ID of the patient for whom the medication was originally intended for and the date in which it was discontinued from his or her drug regimen;

(3) the name and ID of the patient who will receive the reused medication;

(4) the name, strength and amount of the medication being reused;

(5) the name of pharmacist re-labeling the medication;

(6) pursuant to 16.19.10.11 NMAC the pharmacist must label the reused pharmaceutical and maintain a dispensing log for all such re-issued pharmaceuticals and the expiration date for such re-issued drugs shall be no greater than fifty percent of the time remaining from the date of repackaging until the expiration date indicated on the original dispensing label or container. [8/27/1990; 16.19.4.11 NMAC - Rn, 16 NMAC 19.4.11, 3/30/2002; A, 6/30/2006; A, 10/24/2014; A, 12/13/2015; A, 11/30/2021; A, 9/13/2022]

16.19.4.12 IMPAIRED PHARMACIST:

A. Definitions; For the purpose of this section:

(1) Chemical dependence - repeated use of alcohol or drugs culminating in a pattern of chemical need.

(2) Disciplinary authority - the board which may discipline pharmacists.

(3) Diversion - illicit dispensing, distribution or administration of a scheduled controlled substance not in the normal course of professional practice.

(4) Drug - a chemical substance alone or in combination including alcohol.

(5) Drug abuse - improper or excessive use of a drug to the detriment of the individual and/or society.

(6) Impaired pharmacist - a pharmacist who is unable to practice pharmacy with reasonable skill, competence or safety to the public because of drug abuse, and/or mental illness, the aging process or loss of motor skills, sight or hearing.

(7) Licensing authority - authority that licenses/registers pharmacists.

(8) Recovering - a term used to describe an impaired pharmacist who has successfully completed the approved treatment program and is being rehabilitated in accordance with a professionally prescribed aftercare treatment. (Use of "recovering" rather than "recovered" is intended to indicate that recovery is a continuous process with no finite end point).

(9) Reinstatement - the process whereby the recovering impaired pharmacist is permitted to resume the practice of pharmacy.

(10) Treatment - the therapeutic interruption of the disease process by competent and skilled professional resources.

B. Applicability: This regulation is applicable to all licensed/registered externs, interns, pharmacists, and any other board licensee/registrant. For the purpose of this regulation, the word "licensee" shall include all persons licensed/registered by the board of pharmacy.

C. Procedures:

(1) Impaired pharmacist reporting:

(a) If any person knows or suspects that a licensee is impaired, that person shall report any relevant information either to the impaired pharmacist program or to the board of pharmacy ("board").

(b) When the board receives an initial report relating to an alleged impaired board licensee, that authority may:

(i) refer the licensee to the impaired pharmacist program for verification, intervention and subsequent evaluation and/or treatment; or

(ii) verify the information provided on the alleged impaired licensee and assume the responsibility for intervention and referral for evaluation and/or treatment; or

(iii) file a complaint to initiate disciplinary action.

(2) Intervention: board approved intervenors shall:

(a) Respond to information from concerned individuals.

(b) Ascertain validity of the information received.

(c) Perform additional necessary investigations to arrive at an accurate position prior to contacting the alleged impaired licensee; and, if necessary, to perform intervention.

(d) Contact the alleged impaired licensee. After intervention, referral may be made to evaluation/treatment center at licensee's expense. (Contact shall be made as planned intervention).

(e) Reduce all reports in writing and place in permanent file for preservation of the report until the situation is satisfied.

(3) Treatment:

(a) Structured treatment - an approved treatment plan which shall include inpatient and/or outpatient therapy as recommended/required. With the consent of the treatment provider, the plan may include, but is not limited to, individualized inpatient and/or outpatient care. Following either an intensive inpatient or outpatient care, after treatment may be prescribed by the provider with the approval of the board and/or Impaired Pharmacist Committee.

(b) Supervised treatment - treatment which is prescribed by the treatment provider and approved by the board and/or impaired pharmacist program.

(4) Disciplinary sanctions: board authority referral to the impaired pharmacist program - when an impaired licensee who has been reported to the board successfully completes a board/committee approved treatment program, that licensee must appear before the board as a condition of consideration for reinstatement. The licensee must provide documentary evidence from the approved treatment program, stating that the licensee has reached recovery and may be allowed to practice without endangering the public. The board may suspend the registration/license, stay the execution

of the suspension and impose a period of probation during which the following conditions shall be met:

(a) the licensee shall strictly adhere to the aftercare program; and

(b) during the probationary period, the licensee shall comply with the general and special conditions of probation imposed by the board, including but not limited to, monitoring and drug screens where applicable.

(5) Confidentiality; The names of voluntary participants in the program and records relating to their referral and treatment are confidential pursuant to Section 61-11A-3 and Section 61-11A-7 NMSA 1978, provided, however, that this information may be disclosed:

(a) in a disciplinary hearing before the board and in court proceedings arising therefrom;

(b) to the board and to the pharmacist's licensing/disciplinary authorities of other jurisdictions in accordance with law;

(c) pursuant to an order of a court of competent jurisdiction;

(d) injunctive proceedings brought by the board; and

(e) as otherwise provided by law.

(6) Civil immunity; No member of the board or the committee or any board-approved intervenor shall be liable for any civil damages because of acts or omissions which may occur while acting in good faith pursuant to the Impaired Pharmacists Act (61-11A-1 to 61-11A-8 NMSA, 1978).

[8/27/1990; 16.19.4.12 NMAC - Rn, 16 NMAC 19.4.12, 3/30/2002; A, 9/13/2022]

16.19.4.16 RESPONSIBILITIES OF PHARMACIST AND PHARMACIST INTERN:

A. The following responsibilities require the use of professional [~~judgement~~] judgment and therefore shall be performed only by a pharmacist or pharmacist intern:

(1) receipt of all new verbal prescription orders and reduction to writing;

(2) initial identification, evaluation and interpretation of the prescription order and any necessary clinical clarification prior to dispensing;

(3) professional consultation with a patient or his agent regarding a prescription;

(4) evaluation of available clinical data in patient medication record system;

(5) oral communication with the patient or patient's agent of information, as defined in this section under patient counseling, in order to improve therapy by ensuring proper use of drugs and devices;

(6) professional consultation with the prescriber, the prescriber's agent, or any other health care professional or authorized agent regarding a patient and any medical information pertaining to the prescription;

(7) drug regimen review, as defined in Section 61-11-2L NMSA 1978;

(8) professional consultation, without dispensing, will require that the patient be provided with the identification of the pharmacist or pharmacy intern providing the service.

B. Only a pharmacist shall perform the following duties:

(1) final check on all aspects of the completed prescription including sterile products and cytotoxic preparations, and assumption of the responsibility for the filled prescription, including, but not limited to, appropriateness of dose, accuracy of drug, strength, labeling, verification of ingredients and proper container;

(2) evaluation of pharmaceuticals for formulary selection within the facility;

(3) supervision of all supportive personnel activities including preparation, mixing, assembling, packaging, labeling and storage of medications;

(4) ensure that supportive personnel have been properly trained for the duties they may perform;

(5) any verbal communication with a patient or patient's representative regarding a change in drug therapy or performing therapeutic interchanges (i.e. drugs with similar effects in specific therapeutic categories); this does not apply to substitution of generic equivalents;

(6) any other duty required of a pharmacist by any federal or state law.

C. Patient records.

(1) A reasonable effort must be made to obtain, record and maintain at least the following information:

(a) name, address, telephone number, date of birth (or age) and gender of the patient;

(b) individual medical history, if significant, including disease state or states, known allergies and drug reactions and a comprehensive list of medications and relevant devices; and

(c) pharmacists comments relevant to the individuals drug therapy.

(2) Such information contained in the patient record should be considered by the pharmacist or pharmacist intern in the exercise of their professional [~~judgement~~] judgment concerning both the offer to counsel and the content of counseling.

D. Prospective drug review.

(1) Prior to dispensing any prescription, a pharmacist shall review the patient profile for the purpose of identifying:

(a) clinical abuse/misuse;

(b) therapeutic duplication;

(c) drug-disease contraindications;

(d) drug-drug interactions;

(e) incorrect drug dosage;

(f) incorrect duration of drug treatment;

(g) drug-allergy interactions;

(h) appropriate medication indication.

(2) Upon recognizing any of the above, a pharmacist, using professional judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include requesting and reviewing a controlled substance prescription monitoring report or another states' reports if applicable and available, and consulting with the prescriber and counseling the patient. The pharmacist shall document steps taken to resolve the potential problem.

E. Prescription monitoring program (PMP) report for opioid prescriptions. When presented with an opioid prescription for a patient, obtaining and reviewing a PMP report for that patient can be an important tool that assists the pharmacist in identifying issues or problems that put his or her patient at risk of prescription drug abuse, overdose, or diversion. A pharmacist shall use professional judgment based on prevailing standards of practice in determining whether to obtain and review a PMP report before dispensing an opioid prescription to that patient, and shall document his or her action regarding such reports.

(1) A pharmacist shall request and review a PMP report covering at least a one year time period and another states' report, where applicable and available if;

(a) a pharmacist becomes aware of a person currently exhibiting potential abuse or misuse of opioids (i.e. over-utilization, early refills, multiple prescribers, appears overly sedated or intoxicated upon presenting a precription for an opioid or an unfamiliar patient requesting an opioid by specific name, street name, color, or identifying marks, or paying cash when the patient has prescription insurance);

(b) a pharmacist receives an opioid prescription issued by a prescriber with whom the pharmacist is unfamiliar (i.e. prescriber is located out-of-state or prescriber is outside the usual pharmacy geographic prescriber care area);

(c) a pharmacist receives an opioid prescription for an unfamiliar patient who resides outside the usual pharmacy geographic patient population area;

(d) a pharmacist receives an initial prescription for any long-acting opioid formulations, including oral and transdermal dosage forms (e.g fentanyl or methadone);

(e) a pharmacist becomes aware of a patient receiving an opioid concurrently with a benzodiazepine or carisoprodol;

(2) The pharmacist shall document the review of these PMP reports.

(3) Upon recognizing any of the above conditions described in Paragraph (1) of Subsection E of 16.19.4.16 NMAC, a pharmacist, using professional [~~judgement~~] judgment, shall take appropriate steps to avoid or resolve the potential problem. These steps may include consulting with the prescriber and counseling the patient. The pharmacist shall document steps taken to resolve the potential problem.

(4) After obtaining an initial PMP report on a patient, a pharmacist shall use professional judgment base on prevailing standards of practice, in deciding the frequency of requesting and reviewing further prescription monitoring reports and other states' reports for that patient. Except that PMP reports shall be reviewed a minimum of once every three months during the continuous use of opioids for each established patient. The pharmacist shall document the review of these reports.

(5) In the event a report is not immediately available, the pharmacist shall use professional judgment in determining whether it is appropriate and in the patient's best interest to dispense the prescription prior to receiving a report.

(6) A prescription for an opioid written for a patient in a long term care facility (LTCF) or for a patient with a medical diagnosis documenting a terminal illness is exempt from Subsection E of 16.19.4.16 NMAC. If there is any question whether a patient may be classified as having a terminal illness, the pharmacist shall contact the practitioner. The pharmacist shall document whether the patient is "terminally ill" or an "LTCF patient".

F. Counseling.

(1) Upon receipt of a new prescription drug order and following a review of the patient's record, a pharmacist or pharmacist intern shall personally offer to counsel on matters which will enhance or optimize drug therapy with each patient or the patient's agent. Upon receipt of a refill prescription drug order a pharmacy technician may query the patient or patient's agent regarding counseling by the pharmacist or pharmacist intern concerning drug therapy. Such counseling shall be in person, whenever practicable, or by telephone, and shall include appropriate elements of patient counseling which may include, in their professional [~~judgement~~] judgment, one or more of the following:

(a) the name and description of the drug;

(b) the dosage form, dosage, route of administration, and duration of drug therapy;

(c) intended use of the drug and expected action;

(d) special directions and precautions for preparation, administration and use by the patient;

(e) common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur;

(f) techniques for self-monitoring drug therapy;

(g) proper storage;

(h) prescriptions refill information;

(i) action to be taken in the event of a missed dose;

(j) the need to check with the pharmacist or practitioner before taking other medication; and

(k) pharmacist comments relevant to the individual's drug therapy, including any other information peculiar to the specific patient or drug.

(2) [REPEALED]

(3) Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs.

(4) Patient counseling, as described above and defined in this regulation shall not be required for in-patients of a hospital or institution where other licensed health care professionals are authorized to administer the drug(s).

(5) A pharmacist shall in no way attempt to circumvent or willfully discourage a patient or patient's agent from receiving counseling. However, a pharmacist shall not be required to counsel a patient or patients's agent when the patient or patients's agent refuses such consultation.

(6) When the patient or agent is not present when the prescription is dispensed including, but not limited to, a prescription that was shipped by the mail, the pharmacist shall ensure that the patient receives written notice of available counseling. Such notice shall include days and hours of availability, and: (a) of his or her right to request counseling; and (b) a toll-free telephone number in which the patient or patient's agent may obtain oral counseling from a pharmacist who has ready access to the patient's record. For pharmacies delivering more than fifty percent of their prescriptions by mail or other common carrier, the hours of availability shall be a minimum of 60 hours per week and not less than six days per week. The facility must have sufficient toll-free phone lines and personnel to provide counseling within 15 minutes.

(7) In every pharmacy there shall be prominently posted in a place conspicuous to and readable by prescription drug consumers a notice concerning available counseling.

G. [REPEALED]

H. Regulatory assessment. Profiles, either electronic or hard copy, shall be available for inspection, and shall provide the capability of storing the described historical information. The profiles must demonstrate that an effort is being made to fulfill the requirements by the completion of the detail required. A patient record shall be maintained for a period of not less than three years from the date of the last entry in the profile record. [8/27/1990; 16.19.4.16 NMAC - Rn, 16 NMAC 19.4.16, 3/30/2002; 16.19.4.16 NMAC - Rn, 16.19.4.17 NMAC, 12/15/2002; A, 2/1/2004; A, 11/30/2004; A, 1/15/2005; A, 1/31/2007; A, 8/31/2012; A, 10/25/2012; A, 10/19/2019; A, 9/13/2022]

16.19.4.17 PHARMACIST CLINICIAN:

A. Purpose: The purpose of these regulations is to implement the Pharmacist Prescriptive Authority Act, Sections 61-11B-1 through 61-11B-3 NMSA 1978 by providing minimum standards, terms and conditions for the certification, registration, practice, and supervision of pharmacist clinicians. These regulations are adopted pursuant to Section 61-11B-3 NMSA 1978 of the Pharmacist Prescriptive Authority Act.

B. Initial certification and registrants.

(1) The board may certify and register a pharmacist as a pharmacist clinician upon completion of an application for certification and satisfaction of the requirements set forth in these regulations.

(2) A pharmacist who applies for certification and registration as a pharmacist clinician shall complete application forms as required by the board and shall pay a fee. The fee shall be set by the board to defray the cost of processing the application, which fee is not returnable.

(3) To obtain initial certification and registration as a pharmacist clinician, the following must be submitted:

(a) proof of completion of 60 hour board approved physical assessment course, followed by a 150 hour, 300 patient contact preceptorship supervised by a physician or other practitioner with prescriptive authority, with hours counted only during direct patient interactions;

(b) the applicant will submit a log of patient encounters as part of the application;

(c) patient encounters must be initiated and completed within two years of the application;

(d) a pharmacist clinician requesting a controlled substance registration to prescribe controlled substance in schedule II or schedule III shall be trained in responsible opioid prescribing practices. Educational programs shall include an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction, and diversion, and awareness of the state and federal regulations of the prescribing of controlled substances.

(4) The board shall register each pharmacist certified as a pharmacist clinician.

(5) Upon certification and registration by the board, the name and address of the pharmacist clinician, (name of the supervising physician if applicable), and other pertinent information shall be enrolled by the board on a roster of pharmacist clinicians.

C. Biennial renewal of registration.

(1) Renewal applications shall be submitted prior to the license expiration.

(2) Applications for renewal must include:

(a) after January 1, 2013, documentation of continuing education hours, including proof of completion of 2.0 CEU 20 contact hours of live CPE or continuing medical education (CME) approved by (ACPE) or [~~AACME~~]-ACCME (live programs provided by other continuing education providers may be submitted for review and approval to the board), beyond the required hours in 16.19.4.10 NMAC (as amended), as required by the board; and

(b) effective January 1, 2015, a pharmacist clinician with a controlled substance registration to prescribe controlled substances listed in schedule II or schedule III shall complete a minimum of 0.2 CEU (two contact hours) per renewal period in the subject area of responsible opioid prescribing practices, and

(c) a current protocol of collaborative practice signed by the supervising physician (if prescriptive authority is sought); and

(d) a copy of the pharmacist clinicians registration with the supervising physicians board (if prescriptive authority is sought); and

(e) other additional information as requested by the board.

D. Prescriptive authority, guidelines or protocol.

(1) Only a registered pharmacist clinician with current protocols, registered with the New Mexico medical board [~~or the New Mexico board of osteopathic medical examiners~~], may exercise prescriptive authority.

(2) A pharmacist clinician seeking to exercise prescriptive authority shall submit an application to the board. The application must include the supervising physicians' name and current medical license, protocol of collaborative practice and other information requested by the board. A pharmacist may submit the application with the initial application for certification or as a separate application after becoming certified and registered as a pharmacist clinician.

(3) The protocol will be established and approved by the supervising physician as set forth in these regulations and will be kept on file at each practice site of the pharmacist clinician and with the board.

(4) The protocol must include:

(a) name of the physician(s) authorized to prescribe dangerous drugs and name of the pharmacist clinician;

(b) statement of the types of prescriptive authority decisions the pharmacist clinician is authorized to make, including, but not limited to:

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

(ii) ordering lab tests and other tests appropriate for monitoring of drug therapy;

(iii) procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) activities to be followed by the pharmacist clinician while exercising prescriptive authority, including documentation of feedback to the authorizing physician concerning specific decisions made; documentation may be made on the prescriptive record, patient profile, patient medical chart or in a separate log book;

(d) description of appropriate mechanisms for consulting with the supervising physician, including a quality assurance program for review of medical services provided by the pharmacist clinician, (this quality assurance program will be available for board review); and

(e) description of the scope of practice of the pharmacist clinician.

(5) Pharmacist clinicians shall not prescribe dangerous drugs including controlled substances for self-treatment or treatment of immediate family members, except under emergency situations. This will not apply to medications that may be prescribed under 16.19.26 NMAC.

E. Scope of practice.

(1) A pharmacist clinician shall perform only those services that are delineated in the protocol and are within the scope of practice of the supervising physician or alternate supervising physician(s).

(2) A pharmacist clinician may practice in a health care institution within the policies of that institution.

(3) A pharmacist clinician may prescribe controlled substances provided that the pharmacist clinician:

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

(b) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Subsection A of 61-11B-3 NMSA 1978 of the Pharmacist Prescriptive Authority Act.

(4) The board may, in its discretion after investigation and evaluation, place limitations on the tasks a pharmacist clinician may perform under the authority and direction of a supervising physician or alternate supervising physician(s).

F. Prescription monitoring program:

(1) A pharmacist clinician exercising prescriptive authority in the prescribing of a controlled substance;

(a) shall register with the board to become a regular participant in PMP inquiry and reporting;

(b) may authorize delegate(s) to aceess the PMP report consistent with 16.19.29 NMAC; while a pharmacist clinician's delegate may obtain a report from the states' PMP, pharmacist clinician is solely responsible for reviewing the PMP report and documenting the receipt and review of a report in the patient's medical record;

(c) before a pharmacist clinician prescribes for the first time, a controlled substance in schedule II, III or IV to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substance for 30 days or more, the pharmacist clinician shall review a PMP report for the patient for the preceeding 12 months; when available, the pharmacist [~~clinicain~~] clinician shall review similar reports from adjacent states; the pharmacist [~~clinicain~~] clinician shall document the receipt and review of such reports in the patient's medical record;

(d) a PMP report shall be;

(i) reviewed a minimum of once every three months during the continuous use of an opioid, benzodiazepine, or carisoprodol for each patient; and

(ii) reviewed a minimum of once every six months during the continuous use of a controlled substance in schedule II, III or IV which is not an opioid, benzodiazepine, or carisoprodol for each patient; and

(iii) the pharmacist clinician shall document the review of these reports in the patient's medical record; nothing in this section shall be construed as preventing a pharmacist clinician from reviewing PMP reports with geater frequency than that required by this section;

(e) a pharmacist clinician does not have to obtain and review a PMP report before prescribing, ordering, or dispensing a controlled substance in schedule II, III or IV;

(i) to a patient in a nursing facility; or

(ii) to a patient in hospice care.

(f) upon review of a PMP report for a patient, the pharmacist clinician shall identify and be aware of a patient currently receiving:

(i) opioids from multiple prescribers;

(ii) opioids and benzodiazepines concurrently;

(iii) opioids for more than 12 consecutive weeks;

(iv) more than one controlled substance analgesic;

(v) opioids totaling more than 90 morphine milligram equivalents per day;

(vi) exhibiting potential for abuse [~~of~~] or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

(g) upon recognizing any of the above conditions described in Subparagraph (f) of Paragraph (1) of Subsection F of 16.19.4.17 NMAC, the pharmacist clinician using professional [~~judgement~~] judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose; these steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, offering or arranging treatment for opioid or substance use disorder; the pharmacist clinician shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

(2) Pharmacist clinician's licensed to practice in an opioid treatment program, as defined in 7.32.8 NMAC, shall review a PMP report upon a patients' initial enrollment into the opioid treatment program and every three months thereafter while prescribing, ordering, administering, or dispensing opioid treatment medications in schedule II or III for the purpose of treating opioid use disorder. The pharmacist clinician shall document the receipt and review of a report in the patients' medical record.

G. Complaints and appeals.

(1) The chair of the board will appoint two members of the board, and the president of the supervising physician respective board will appoint two members of the respective board to the oversight committee; the oversight committee will review complaints concerning the pharmacist clinician practice; the oversight committee will make a report that may include non-binding recommendations to both the board and respective board(s) regarding disciplinary action. Each board can accept or reject the recommendations.

(2) Any applicant for certification or any pharmacist clinician may appeal a decision of the board in accordance with the provisions of the Uniform Licensing Act, Sections 61-1-1 to 61-1-33 NMSA 1978.

[3/14/1998; 16.19.4.17 NMAC - Rn, 16 NMAC 19.4.17, 3/30/2002; 16.19.4.17 NMAC - Rn, 16.19.4.18 NMAC, 12/15/2002; A, 9/30/2003;

A, 1/31/2007; A, 5/14/2010; A, 8/16/2010; A, 10/25/2012; A, 3/23/2013; A, 6/29/2013; A, 8/12/2013; A, 10/19/2019; A 9/14/2021; A, 9/13/2022]

REGULATION AND LICENSING DEPARTMENT
PHARMACY, BOARD OF

This amendment to 16.19.10 NMAC, Sections 1, 3, 7, 10, and 11, effective 9/13/2022

16.19.10.1 ISSUING AGENCY: [~~Regulation and Licensing Department~~,] Board of Pharmacy, [~~Albuquerque, NM.~~] [2/15/1889...2/15/1996; 16.19.10.1 NMAC - Rn, 16 NMAC 19.10.1, 3/30/2002; A, 8/12/2013; A, 9/13/2022]

16.19.10.3 STATUTORY AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 requires the Board of Pharmacy to provide for the licensing of industrial and public health clinics and for the inspection of their facilities and activities. Pursuant to Paragraphs (6), (7), (12), and (13) of Subsection B of Section 61-11-14 NMSA 1978, the Board is authorized to issue drug permits, as defined and limited by Board regulation, for industrial health clinics, community health clinics, animal control facilities, and wholesalers, retailers and distributors of veterinary drugs. Subsection (A) of Section 26-1-16 NMSA 1978 prohibits the sale, disposal or possession of any dangerous drug except by individuals and entities identified in the statute, including clinics licensed by the Board.
[2/15/1996; A, 3/31/1998; 16.19.10.3 NMAC - Rn, 16 NMAC 19.10.3, 3/30/2002; A, 9/13/2022]

16.19.10.7 DEFINITIONS: All terms defined in the Pharmacy Act or elsewhere in the Board Regulations shall have the same meanings in this regulation unless otherwise defined below:

A. "Clinic", means any facility where one or more licensed practitioners diagnose and treat patients, and where drugs are stored, dispensed, distributed or administered for the diagnosis and treatment of the facility's patients; provided that this definition shall not include the privately owned practice of any licensed practitioner or group of licensed practitioners exempt under Section 61-11-22 NMSA 1978, of the Pharmacy Act.

B. "Dispensing Unit", means a container or containers of a drug entity, either prepackaged (repackaged per Board requirements) or the manufacturer's original container(s), containing a quantity suitable for the prescribed treatment or condition.

C. "Distribute" means delivery of a dispensing unit (as defined in this section) by a licensed practitioner to a patient of the clinic by means other than dispensing.

D. "Drug Storage Area", means an area restricted to the storage, dispensing and distribution of dangerous drugs.

E. "Medical Records", means the medical information gathered and maintained for a clinic's patient, including but not restricted to the patients weight, height, sex, D.O.B., allergies, diagnosis and treatments.

F. [~~"Transfer", means the direct delivery, physically or electronically, of dangerous drug stock unopened containers, except samples, from a clinic or the clinic's supplier to a pharmacy to be dispensed by the pharmacy to patients of the clinic.~~] "Mobile narcotic treatment program" means a narcotic treatment program (NTP) operating from a motor vehicle, as defined in this section, that serves as a mobile component (conveyance) and is operating under the registration of the NTP, and engages in maintenance and/ or detoxification treatment with narcotic drugs in schedules II–V, at a location or locations remote from, but within the same state as, its registered location. Operating a mobile NTP is a coincident activity of an existing NTP.

G. Motor vehicle means a vehicle propelled under its own motive power and lawfully used on public streets, roads, or highways with more than three wheels in contact with the ground. This term does not include a trailer.

H "Transfer", means the direct delivery, physically or electronically, of dangerous drug stock unopened containers, except samples, from a clinic or the clinic's supplier to a pharmacy to be dispensed by the pharmacy to patients of the clinic.
[02-15-96; 16.19.10.7 NMAC - Rn, 16 NMAC 19.10.7, 03-30-02; A, 9/13/2022]

16.19.10.10 ANIMAL CONTROL CLINICS:

A. The New Mexico Board of Pharmacy acknowledges the establishment of animal control clinics. In order to protect the people who utilize such clinics, laws and safeguards pertaining to drugs must be observed. Medications must occasionally be used and therefore require Board of Pharmacy supervision.

B. The veterinarian in charge of and responsible for the clinic must specify the dangerous drugs to be used in such clinic. In order to purchase and stock any controlled substances, the clinic must obtain a separate controlled substance registration to be issued under the name of the clinic.

C. All dangerous drugs must be under lock when the veterinarian or his designee is not in attendance. Extra precautions should be provided for security of controlled substances.

D. A record indicating the following information shall be kept to account for the administration of all dangerous drugs:

(1) Date of administration;

(2) Type of animal;

(3) Name of medication;

(4) Dosage administered;

(5) Name of veterinarian responsible for the order;

(6) Name of individual administering the dose.

E. SCHEDULE II - Controlled substances administration records must be kept in a separate record with the same information recorded.

F. SCHEDULE III, [~~AND~~] IV, and V controlled substances may be kept in the same record in which dangerous drugs are recorded provided a mechanism is employed to identify these entries (such as a red "C" marked in the margin of these entries).

G. The record must be kept up-to-date at all times and is subject to inspection by the Board of Pharmacy Drug inspectors.

H. Any clinic licensed by the Board of Pharmacy is required to have a consultant pharmacist.

(1) If the animal control facility does not use any controlled substance in its' operation, a consultant pharmacist should visit the facility at least annually.

(2) If the animal control facility uses any controlled substance in its' operation, a consultant pharmacist should visit the facility at least quarterly.
[3/7/1980; 7/29/1993; 16.19.10.10 NMAC - Rn, 16 NMAC 19.10.10, 3/30/2002; A, 9/13/2022]

16.19.10.11 PUBLIC HEALTH CLINICS:

A. Clinic Licensure: All clinics where dangerous drugs are administered, distributed or dispensed shall obtain a limited drug permit as described in Paragraph (7) of Subsection B of Section 61-11-14 NMSA 1978 of the Pharmacy Act which consists of the following types:

(1) Class A clinic drug permit for clinics where:

(a) dangerous drugs are administered to patients of the clinic;

(b) more than 12,500 dispensing units of dangerous drugs are dispensed or distributed annually;

(c) clinics dispensing only one class of dangerous drug or controlled substance, such as oral contraceptives [~~or methadone~~], may be approved by the board as a Class B3 clinic;

(2) Class B clinic drug permit for clinics where dangerous drugs are:

(a) administered to patients of the clinic; and

(b) dispensed or distributed to patients of the clinic. Class B drug permits shall be issued by categories based on the number of dispensing units of dangerous drugs to be dispensed or distributed annually, as follows: 1. CATEGORY 1 up to 2,500 dispensing units; 2. CATEGORY 2 from 2,501 - 7,500 dispensing units; 3. CATEGORY 3 from 7,501 - 12,500 dispensing units;

(3) Class C clinic drug permit for clinics where dangerous drugs are administered to patients of the clinic.

(4) Class D clinic drug permit for school based emergency medicine (SBEM) clinic (which does not include a Class A, B, or C school based health clinic) - any school based facility that chooses to possess a stock supply of emergency dangerous drugs; these emergency dangerous drugs are albuterol aerosol canisters with spacers and epinephrine standard-dose and pediatric-dose auto-injectors; these emergency dangerous drugs are for administration to students of the school; these emergency dangerous drugs shall be the property of the facility; these facilities will not stock of any other dangerous drug.

(5) Class E Narcotic Treatment Program (NTP) clinic drug permit for clinics where opioid agonist treatment medications that are approved by the Food and Drug Administration under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in the treatment of opioid use disorder are used. An NTP shall be licensed and certified as required by state and federal law, including registration under 21 USC 823(g)(1) and certified as an Opioid Treatment Program by the Substance Abuse and Mental Health Services Administration in accordance with 42 CFR 8.11.

B. Formularies:

(1) For all clinic types, drug procurement and storage is limited to the drugs listed in the dispensing formulary for the clinic. The formulary shall be developed by the pharmacy and therapeutics committee of the facility, or if no such committee exists, by the pharmacist and medical director of the clinic. The formulary drugs shall be appropriate for the scope of medical services provided at the clinic facility. A dangerous drug with the same generic name is considered one drug within the formulary (ie) all dosage forms and packages of ampicillin are considered one drug.

(2) For all clinic types, drug procurement and storage is limited to the drugs listed in the administration formulary for on-site administration. The formulary shall be developed by the pharmacy and therapeutics committee of the facility, or if no such committee exists, by the pharmacist and medical director of the clinic. The formulary drugs shall be appropriate for the scope of medical services provided at the clinic facility. A dangerous drug with the same generic name is considered one drug within the formulary (ie) all dosage forms and packages of ampicillin are considered one drug.

(3) For Class D, (SBEM) clinic may only stock the approved dangerous drugs; albuterol aerosol canisters with spacers and epinephrine standard-dose and pediatric-dose auto-injectors.

(4) A clinic may petition the board for an alternative dispensing formulary as set forth in Subsection R of 16.19.10.11 NMAC.

C. Consultant Pharmacist:

(1) Any facility licensed as a clinic by the board which does not employ a staff pharmacist must engage the services of a consultant pharmacist, whose duties and responsibilities are described in Subsection C of 16.19.4.11 NMAC.

(2) The consultant pharmacist shall wear an identification badge listing ~~his~~ name and job title while on duty in the clinic.

D. Pharmacy Technicians and Support Personnel:

(1) Pharmacy technicians, working in a clinic under the supervision of the pharmacist, may perform activities associated with the preparation and distribution of medications, including prepackaging medications and the filling of a prescription or medication order. These activities may include counting, pouring, labeling and reconstituting medications.

(2) The pharmacist shall ensure that the pharmacy technician has completed the initial training required in Subsection A of 16.19.22.9 NMAC.

(3) A written record of the initial training and education will be maintained by the clinic pursuant to requirements of Subsection C of 16.19.22.9 NMAC.

(4) The permissible ratio of pharmacy technicians to pharmacists on duty is to be determined by the pharmacist in charge or consultant pharmacist.

(5) Support personnel may perform clerical duties associated with clinic pharmacy operations, including computer data entry, typing of labels, processing of orders for stock, duties associated with maintenance of inventory and dispensing records.

(6) The pharmacist is responsible for the actions of personnel; allowing actions outside the limits of the regulations shall constitute unprofessional conduct on the part of the pharmacist.

(7) Name tags including job title, shall be required of all personnel while on duty in the clinic.

E. Procurement or Receipt of Dangerous Drugs:

(1) The system of procurement for all drugs shall be the responsibility of the pharmacist.

(2) Records of receipt of dangerous drugs and inventories of controlled substances shall be maintained as required by the Drug, Device and Cosmetic Act 26-1-16 and the Controlled Substances Act 30-31-16 and board of pharmacy regulation 16.19.20 NMAC.

F. Repackaging:

(1) Repackaging from bulk containers to dispensing units for distribution at locations other than the site of repackaging requires FDA registration, whether or not the repackaged drugs enter interstate commerce. (See FDA Regulations Title 21, Sections 207, 210 and 211).

(2) Repackaging of drug from bulk containers into multiple dispensing units for future distribution to clinic patients at the site of repackaging may be done by a physician, dentist, pharmacist, or by a pharmacy technician under the supervision of the pharmacist as defined in Subsection B of 16.19.22.7 NMAC. All drugs repackaged into multiple dispensing units by a pharmacy technician must undergo a final check by the pharmacist.

(3) A record of drugs repackaged must be maintained, to include the following.

(a) Date of repackaging.

(b) Name and strength of drug.

(c) Lot number or control number.

(d) Name of drug manufacturer.

(e) Expiration date (per USP requirements).

(f) Total number of dosage units (tabs, caps) repackaged (for each drug).

(g) Quantity per each repackaged unit container.

(h) Number of dosage units (tabs, caps) wasted.

(i) Initials of repackager.

(j) Initials of person performing final check.

(4) All dispensing units of repackaged medication must be labeled with the following information.

(a) Name, strength, and quantity of the drug.

(b) Lot number or control number.

(c) Name of manufacturer.

(d) Expiration date.

(e) Date drug was repackaged.

(f) Name or initials of repackager.

(g) Federal caution label, if applicable.

(5) Repackaged units must be stored with the manufacturer's package insert until relabeled for dispensing. as specified under Subsection G of 16.19.10.11 NMAC.

G. Clinic Dispensing or Distributing:

(1) Drugs shall be dispensed or distributed only to clinic patients on the order of a licensed practitioner of the clinic.

(2) The clinic practitioner shall record the prescribed drug therapy on the patient medical record indicating the name, strength, quantity and directions for use of the prescribed drug. This information shall be initialed or signed by the practitioner. A separate prescription form in addition to the medical record may be used.

(3) The prescription order may then be prepared by the practitioner, pharmacist or technician under the supervision of the pharmacist and a dispensing label affixed to the

dispensing unit of each drug. The following information shall appear on the label affixed to the dispensing unit.

(a) Name of patient.

(b) Name of prescriber.

(c) Date of dispensing.

(d) Directions for use.

(e) Name, strength, and quantity of the drug.

(f) Expiration date.

(g) Name, address and phone number of the clinic.

(h) Prescription number, if applicable.

(4) The pharmacist or practitioner must then provide a final check of the dispensing unit and sign or initial the prescription or dispensing record.

(5) Refill prescription orders must also be entered on the patient's medical record and the dispensing record.

H. Patient Counseling:

(1) Each clinic licensed by the board shall develop and provide to the board policies and procedures addressing patient counseling which are at least equivalent to the requirements of Subsection F of 16.19.4.16 NMAC.

(2) If the consultant pharmacist is absent at the time of dispensing or distribution of a prescription from clinic drug stock to a clinic patient, the patient shall be provided written information when appropriate on side effects, interactions, and precautions concerning the drug or device provided. Alternative forms of patient information may be used to supplement patient counseling when appropriate. Examples include, but not limited to, written information leaflets, pictogram labels and video programs. The clinic shall make the consultant pharmacist's phone number available to patients for consultation on drugs provided by the clinic.

I. Dispensing Records: A record shall be kept of the dangerous drugs dispensed indicating the date the drug was dispensed, name and address of the patient, the name of the prescriber, and the quantity and strength of the drug dispensed. The individual recording the information and the pharmacist or clinic practitioner who is responsible for dispensing the medication shall initial the record.

J. Sample Drugs: Samples of medications which are legend drugs or which have been restricted to the sale on prescription by the New Mexico board of pharmacy are subject to all the record keeping, storage and labeling requirements for prescription drugs as defined by Section 26-1-16 NMSA 1978 and other applicable state and federal laws.

K. Drug Storage:

(1) Space for the storage and dispensing of drugs shall have proper ventilation, lighting, temperature controls, refrigeration and adequate security as defined by the board or its' agent. Minimum space requirements for main drug storage areas are as follows:

(a) for Class A clinics - 240 square foot room;

(b) for Class B clinics;

(i) categories 1, and 2 - 48 square foot room; and

(ii) category 3 - 96 square foot room;

(c) for Class C clinics - an area adequate for the formulary.

(d) for Class D clinics - an area adequate for the formulary:

(i) medication is stored in its original packaging until the time of administration, and secured in a secondary tamper-evident container;

(ii) the dangerous drug is stored in a restricted area, secure but unlocked, and readily accessible to authorized, trained personnel;

(iii) for Class D clinics only, the pre-licensing inspection may be completed by a New Mexico board of pharmacy state drug inspector's approval of record keeping procedures; the policy and procedure manual; any other required forms or documents; and photographs of the proposed dangerous drug storage area, secondary tamper-evident container, and drug storage area thermometer; this pre-licensing inspection may not require an onsite inspection.

(e) for Class E clinics – 96 square foot room.

(2) Controlled substances must be stored as defined in 16.19.20.48 NMAC.

(3) All drug containers in the facility shall be clearly and legibly labeled as required under Subsection F of 16.19.10.11 NMAC – (REPACKAGING and Sections 26-1-10 and 26-1-11 of the Drug, Device and Cosmetic Act).

(4) Purchase, storage and control of drugs shall be designed to prevent having outdated, deteriorated, impure or improperly standardized drugs in the facility.

(5) Access to the drug storage area shall be limited to clinic practitioners, the pharmacist, and supportive personnel who are performing pharmacy-related functions.

(6) Clinics licensed by the board prior to adoption of this regulation are exempt from the minimum space requirements set forth in Paragraph (1) of Subsection K of 16.19.10.11 NMAC. When these facilities change ownership, remodel the drug storage area, or relocate after May 15, 1996, the requirements of Paragraph (1) of Subsection K of 16.19.10.11 NMAC shall apply.

L. Dispositon of Unwanted or Outdated Drugs:

(1) The pharmacist shall be responsible for removal of recalled, outdated, unwanted or otherwise unusable drugs from the clinic inventory.

(2) Options for disposal are destruction under the supervision of the pharmacist or return to the legitimate source of supply. Controlled substance disposition shall occur in accordance with 16.19.20.38 NMAC.

M. Reference Material: Adequate reference materials are to be maintained in the clinic. These shall include a current product information reference such as USPDI, facts and comparisons, or American hospital formulary service; a copy of the state drug laws and regulations and a poison treatment chart with the regional poison control center's telephone number.

N. Procedures Manual:

(1) Written policies and procedures shall be developed by the pharmacy and therapeutics committee, or if none, by the pharmacist-in-charge and clinic's executive director, and implemented by the pharmacist-in-charge.

(2) The policy and procedure manual shall include but not be limited to the following:

(a) a current list of the names and addresses of the pharmacist-in-charge, consultant-pharmacist, staff pharmacist(s), supportive personnel designated to provide drugs and devices, and the supportive personnel designated to supervise the day-to-day pharmacy related operations of the clinic in the absence of the pharmacist;

(b) functions of the pharmacist-in-charge, consultant pharmacist, staff pharmacist(s) and supportive personnel;

(c) clinic objectives;

(d) formularies;

(e) a copy of the written agreement, if any, between the pharmacist and the clinic;

(f) date of the last review or revision of policy and procedure manual; and

(g) policies and procedures for

(i) security;

(ii) equipment;

(iii) sanitation;

(iv) licensing;

(v) reference materials;

(vi) drug storage;

(vii) packaging and repackaging;

(viii) dispensing and distributing;

(ix) supervision;

(x) labeling and relabeling;

(xi) samples;

(xii) drug destruction and returns;

(xiii) drug and device procuring;

(xiv) receiving of drugs and devices;

(xv) delivery of drugs and devices;

(xvi) record keeping; and

(xvii) scope of practice.

(3) The procedures manual shall be reviewed on at least an annual basis. A copy of the manual shall be kept at the clinic at all times.

(4) A written agreement defining specific procedures for the transfer, storage, dispensing and record keeping of clinic dangerous drug stock from a licensed New Mexico pharmacy will be included in the procedures manual. The agreement will be signed by a clinic official and pharmacy official and reviewed annually.

O. Patient Record: clinics shall maintain patient records as defined in Subsection C of 16.19.4.16 NMAC.

P. Drug Transfer to a Pharmacy:

(1) Dangerous drug stock unopened containers, except samples, may be transferred physically or electronically to a pharmacy licensed in New Mexico for dispensing to clinic patients.

(a) record of transfer shall be maintained at the clinic and the pharmacy. It will include:

(i) date of transfer or shipment;

(ii) name and strength of drug;

(iii) package size;

(iv) number of packages;

(v) manufacturer or repackager; and

(vi) lot number and expiration date, unless transferred from a clinic supplier to a pharmacy.

(b) A copy of the transfer or shipment record will be provided to the pharmacy at the time of transfer. This record will be compared with the drugs for accuracy and retained by the pharmacy as the receipt document separate from other receiving records of the pharmacy.

(c) Transferred clinic drugs will be stored in the restricted area of the pharmacy and physically separated from all other pharmacy drugs.

(d) Drugs returned to the clinic by the pharmacy will be documented in a transfer record as described in Subparagraph (a) of Paragraph (1) of Subsection P of 16.19.10.11 NMAC. A copy will be maintained by the pharmacy and the clinic.

(2) A clinic may petition the board for an alternative drug transfer system as set forth in Subsection Q of 16.19.10.11 NMAC.

(3) The formulary of transferred drugs for pharmacy dispensing is restricted to the clinic's scope of practice.

Q. Pharmacy Dispensing: Clinic drug stock may be transferred to, and maintained by, a pharmacy for dispensing to clinic patients as provided in this regulation. Clinic drug stock may be dispensed by the pharmacy if:

(1) the drugs are dispensed only to a clinic patient with a valid prescription from a practitioner of that clinic;

(2) clinic prescriptions for clinic drugs are maintained separately from other prescriptions of the pharmacy;

(3) the prescription is dispensed in a container with a label attached which reads "DISPENSED FOR (clinic name and address) BY (pharmacy name and address)";

(4) all packaging and labeling requirements for prescriptions dispensed by a pharmacy have been met; and

(5) patient records and counseling requirements have been maintained separately for all clinic patients whose prescriptions were filled by the pharmacy from clinic drug stock.

R. Petition for Alternative Plan:

(1) A clinic may petition the board for an alternative visitation schedule, dispensing formulary, or drug transfer system (each an "alternative plan") as follows.

(a) Prior to implementation of any alternative plan, the clinic shall provide to the board a written petition that describes the proposed alternative plan and justifies the request. The petition shall include an affidavit that states that the clinic has a current policy and procedures manual on file, has adequate security to prevent diversion of dangerous drugs, and is in compliance with all rules applicable to the clinic. The affidavit shall be signed by the medical director, the consultant pharmacist, and the owner or chief executive officer of the clinic. In addition, a petition for an alternative drug transfer system must include a detailed, written description of the proposed alternative transfer system in the policy and procedures manual describing:

(i) drug ownership;

(ii) drug ordering;

(iii) drug shipping;

(iv) drug receiving;

(v) drug accountability system;

(vi) formulary for transfer; and

(vii) records of transfer.

(b) The board may approve or deny the petition for an alternative plan, at the board's discretion. The board may consider the following:

(i) degree of compliance by the clinic on past compliance inspections;

(ii) size and type of the patient population;

(iii) number and types of drugs contained in the clinic's formulary;

(iv) the clinic's objectives; and

(v) impact on the health and welfare of the clinic's patients.

(2) A copy of the board approved alternative plan shall be maintained at the clinic's license location for review by the board or its agent.

(3) The board may terminate the alternative plan if the board determines that the clinic's status or other circumstances justifying the alternative plan have changed.

S. Class D (SBEM) clinic:

(1) Only trained personnel may administer epinephrine. Trained personnel can be a school employee, agent or volunteer who has completed epinephrine administration training documented by the school nurse, school principal or school leader and approved by the New Mexico department of health and who has been designated by the school principal or school leader to administer epinephrine on a voluntary basis outside of the scope of employment. Epinephrine is administered on the standing order of a health care practitioner employed or authorized by the New Mexico department of health. If administering epinephrine, written policies and procedures must be maintained on the premises. These policies and procedures must follow New Mexico department of health requirements as well as any policy or procedure requirement listed in 16.19.10.11 NMAC. Documentation of New Mexico department of health required training must be maintained on-site for each trained and authorized person.

(2) Only a school nurse may administer albuterol to a student who is perceived to be in respiratory distress. Written policies and procedures must be maintained at the licensed location. Documentation of New Mexico department of health required training must be maintained on-site for each nurse.

(3) The following records must be kept on-site and available for inspection for three years:

(a) receipt records;

(b) destruction or other disposition records;

(c) storage records; storage records include daily (on school days) documented drug storage area temperature; documented verification that medication is sealed in its original packaging until the time of administration, and secured but unlocked in a secondary tamper-evident container; dangerous drugs are stored in a restricted area, unlocked, and readily accessible to trained personnel; policies and procedures must be in place to ensure proper drug storage conditions on non-school days;

(d) usage records; if a dangerous drug is used, a record must be kept; the consultant pharmacist must be notified within a 72-hour period in order to review the record; in

addition, all New Mexico department of health guidelines must be followed;

(e) annual self-assessment form; this form will be supplied by the New Mexico board of pharamcy and shall be reviewed by the consultant pharmacist at least annually;

(f) consultant pharmacist record of activities and comments;

(g) a current copy of facility's New Mexico board of pharmacy registration and the consultant pharmacist's current license will be posted in the drug storage area;

(h) policy and procedure manual.

(4) Albuterol and epinephrine must be stored in a secure but unlocked, temper evident, container. This container must be in a restricted area but readily accessible to trained personnel. A list of the contents, including expiration dates, must be posted on the outside of the container.

T. NTP clinic:

(1) Administering, dispensing, distributing or supplying:

(a) Drugs shall be administered, dispensed, distributed, or supplied only to clinic patients on the order of a licensed practitioner of the clinic. This provision does not prohibit guest dosing pursuant to policies and procedures and in compliance with federal law, or supplying an opioid antagonist for rescue use.

(b) The clinic practitioner shall record the prescribed drug therapy on the patient medical record indicating the name, strength, quantity and directions for use of the prescribed drug.

(c) The order may then be prepared by the practitioner, pharmacist, or technician under the supervision of the pharmacist and a dispensing label affixed to the dispensing unit of each drug. The pharmacist or practitioner must then provide a final check of the dispensing unit and sign or initial the prescription or dispensing record.

(d) Methadone for take-home purposes may be supplied to a clinic patient in a properly labeled dispensing unit by a registered nurse or licensed practical nurse employed by the NTP. Supplying of methadone in this manner is not considered dispensing.

(e) The following information shall appear on the label affixed to the take home medication unit:

(i) name of patient;

(ii) name of prescriber;

(iii) date of dispensing;

(iv) directions for use;

(v) name, strength, and quantity of the drug;

(vi) expiration date;

(vii) name, address and phone number of the clinic;

(viii) prescription number, if applicable; and

(ix) additional required information, such as federal statement(s).

(2) Records and reports:

(a) Each NTP clinic, including a mobile NTP, shall maintain records with the following information for each dangerous drug administered, dispensed, distributed or supplied indicating:

(i) name of substance;

(ii) strength of substance;

(iii) dosage form;

(iv) date dispensed;

(v) adequate identification of the patient;

(vi) the name of the prescriber

(vii) amount consumed;

(viii) amount, units, and dosage form taken home by patient; and

(ix) initials of personnel who administered, dispensed, distributed or supplied.

(b) These records will be maintained in an administration or dispensing, distributing or supplying log at the NTP site, or in the case of a mobile NTP, at the registered site of the NTP.

(c) As an alternative to maintaining a paper administration or dispensing, distributing of supplying log, an NTP or its mobile component may also use an automated/computerized data processing system for the storage and retrieval of the program's dispensing records, if the following conditions are met:

(i) The automated system maintains the information required in Paragraph (a) above;

(ii) the automated system has the capability of producing a hard copy printout of the program's administration or dispensing, distributing or supplying records;

(iii) the NTP or its mobile component prints a hard copy of each day's administration or dispensing, distributing or supplying log, which is then initialed appropriately by each person who administered, dispensed, distributed or supplied medication to the program's patients;

(iv) the automated system is approved by DEA;

(v) the NTP or its mobile component maintains an off-site back-up of all computer generated program information; and

(vi) the automated system is capable of producing accurate summary reports for both the registered site of the NTP and any mobile component, for any time-frame selected by board personnel during an investigation. If these summary reports are maintained

in hard copy form, they must be kept in a systematically organized file located at the registered site of the NTP.

(d) The NTP must retain all records for the NTP as well as any mobile component for three years from the date of execution.

(3) Patient counseling: Each NTP clinic shall develop and provide to the board policies and procedures addressing patient counseling which are at least equivalent to the requirements of Subsection F of 16.19.4.16 NMAC. When a medication is started, the patient should be provided with patient information to supplement patient counseling. Examples of patient information include, but not are limited to, written information leaflets, pictogram labels and video programs. The clinic shall maintain a mechanism for the patient to be provided with medication information and counseling as requested.

(4) Policies and procedures: In addition to requirements of Subsection N of 16.19.10.11 NMAC (Procedures Manual), NTPs must maintain procedures to:

(a) ensure appropriate training and qualifications of personnel for competent performance of assigned functions.

(b) ensure appropriate medication administration and supplying,

(c) ensure appropriate supervision consistent with state and federal law.

(d) support prevention of medication errors, including through adequate staffing, training, and supervision.

(5) Controls: Each NTP clinic must maintain effective controls and procedures to ensure maintance of required records in proper form and to identify theft or diversion of NTP clinic controlled substances.

(6) Responsibility: While the consultant pharmacist is responsible for overall clinic pharmacy services, a corresponding responsibility rests with the NTP clinic, the practitioner, and nurses for ensuring proper completion of medication related functions and record maintenance as applicable.

(7) Prescription monitoring program (PMP) utilization: The consultant pharmacist shall request and review a PMP report covering at least a one year time period and another states' report for each program patient receiving an opioid, at least quarterly. The pharmacist will use professional judgement to determine whether more frequent monitoring is appropriate, as in the case of patients who are receiving a benzodiazepine or carisoprodol, or an opioid prescribed outside of the NTP. The pharmacist will use professional judgment in taking steps to avoid or resolve potential isues identified on PMP report review. The pharmacist shall document review of these PMP reports, and his or her action regarding such reports.

(8) Moblie NTP: An NTP may operate one or more mobile NTPs, subject to:

(a) For any NTP intending to operate a mobile NTP, the NTP must notify the board, in writing, of its intent to do so, and the NTP must receive written approval from the board prior to operating the mobile NTP. The mobile NTP may only operate in New Mexico.

(b) An NTP clinic is not required to obtain a separate clinic license or registration for conveyances (mobile components) utilized by the NTP to transport controlled substances away from registered locations for administration or provision of take home doses at unregistered locations as part of a mobile NTP. Vehicles must possess valid county/city and state information (e.g., a vehicle information number (license plate number) on file at the registered location of the NTP.

(i) mobile NTP is not permitted to reverse distribute, share, or transfer controlled substances from one mobile component to another mobile component while deployed away from the registered location. NTPs with mobile components are not allowed to modify their registrations to authorize their mobile components to act as collectors under 21 CFR 1301.51 and 1317.40. Mobile components of NTPs may not function as hospitals, long-term care facilities, or emergency medical service vehicles, and will not transport patients.

(ii) A mobile NTP may operate at any remote location or locations within the state, including correctional facilities, so long as doing so is otherwise consistent with applicable federal, state, tribal, and local laws and regulations, and so long as the local DEA office, does not otherwise direct.

(c) Physical security controls, mobile NTP; storage areas:

(i) For any conveyance operated as a mobile narcotic treatment program (NTP), a safe must be installed and used to store narcotic drugs in schedules II–V for the purpose of maintenance or detoxification treatment, when not located at the clinic's registered location. The safe must conform to the requirements set forth in 21 CFR 1301.72 (a)(1).

(ii) The mobile component must also be equipped with an alarm system that conforms to the requirements set forth 21 CFR 1301.70 (a)(1)(iii).

(iii) Accessibility to storage areas. The controlled substances storage areas shall be accessible only to an absolute minimum number of specifically authorized employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the NTP shall provide for adequate observation of the area by an employee specifically authorized in writing. The storage

area for controlled substances in a mobile component of an NTP must not be accessible from outside of the vehicle. Personnel transporting the controlled substances on behalf of the mobile NTP are required to retain control over all controlled substances when transferring them between the registered location and the conveyance, and when providing medication to patients at remote locations. At all other times during transportation, all controlled substances must be properly secured in the safe. Upon completion of the operation of the mobile NTP on a given day, the conveyance must be immediately returned to the registered location, and all controlled substances must be removed from the conveyance and secured within the registered location. After the conveyance has returned to the registered location and the controlled substances have been removed, the conveyance may be parked until its next use at the registered location or any secure, fenced-in area, once the local DEA office has been notified of the location of this secure, fenced-in area. All NTPs with mobile components shall be required to establish a standard operating procedure to ensure, if the mobile component becomes inoperable (mechanical failure, accidents, fire, etc.), that all controlled substances on the inoperable conveyance are accounted for, removed from the inoperable conveyance, and secured at the registered location.

(iv) Upon completion of the operation of the mobile NTP on a given day, the conveyance must be immediately returned to the registered location, and all controlled substances must be removed from the conveyance and secured within the registered location. An NTP may apply for an exception to this requirement after receiving an exception from the DEA.

(d) Other security controls: Persons enrolled in any NTP, including those receiving treatment at a mobile NTP, will be required to wait in an area that is physically separated from the narcotic storage and preparation area by a physical entrance such as a door or other entryway. Patients must wait outside of a mobile NTP component if that conveyance does not have seating or a reception area that is separated from the narcotic storage and preparation area. This requirement will be enforced by the program practitioner and NTP employees.

(e) Any controlled substances being transported for disposal from the remote location of a mobile NTP shall be secured and disposed of in compliance with 21 CFR part 1317, and all other applicable federal, state, tribal, and local laws and regulations.

(f) A conveyance used as part of a mobile NTP may only be supplied with narcotic drugs by the registered NTP that operates such conveyance.

[5/15/1996; 16.19.10.11 NMAC - Rn, 16 NMAC 19.10.11, 3/30/2002; A, 8/12/2013; A, 10/24/2014; A, 12/13/2015; A, 9/13/2022]

End of Adopted Rules

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Other Material Related to Administrative Law

GOVERNOR, OFFICE OF THE

EXECUTIVE ORDER 2022-120

RENEWING THE STATE OF PUBLIC HEALTH EMERGENCY INITIALLY DECLARED IN EXECUTIVE ORDER 2020-004, OTHER POWERS INVOKED IN THAT ORDER, AND ALL OTHER ORDERS AND DIRECTIVES CONTAINED IN EXECUTIVE ORDERS TIED TO THE ONGOING PUBLIC HEALTH EMERGENCY

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization ("WHO"). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to as "COVID-19."

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states. The President of the United States declared a national state of emergency for COVID-19 on March 13, 2020. As of August 16, 2022 the Centers for Disease Control and Prevention ("CDC") reported over 98 million people have been infected in the United States, with over 1,032,000 related deaths, and the New Mexico Department of Health has reported 603,450 positive COVID-19 cases and 8,321 related deaths in New Mexico.

Public health organizations have implemented emergency measures intended to slow the spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO declared a Public Health Emergency of International Concern shortly thereafter. All of our sister states subsequently declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19; many, if not most, have kept such states of emergency in place.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its impacts. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State's response to COVID-19, particularly the New Mexico Department of Health. The hard work of a variety of state employees has made a difference in our fight against COVID-19. Due to the continued spread of COVID-19, it is necessary for all branches of State government to continue taking actions to minimize transmission of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, 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**:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-55, 2020-059, 2020-064, 2020-073, 2020-080, 2020-085, 2021-001, 2021-004, 2021-010, 2021-011, 2021-012, 2021-023, 2021-030, 2021-044, 2021-049, 2021-054, 2021-058, 2021-061, 2021-067, 2022-004, 2022-007, 2022-012, 2022-016, 2022-024, 2022-067, 2022-109, and 2022-115 shall be renewed and extended through September 15, 2022.

2. All other powers, directives, and orders invoked in Executive Order 2020-004 remain in effect.

3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency or that was not explicitly stated shall continue with the same effect, including any orders appropriating emergency funding as well as Executive Orders 2020-016, 2020-020, 2020-021, 2020-025, and 2020-039.

4. This Order supersedes any previous orders, proclamations, or directives in conflict. This Order shall take effect on August 17, 2022 and shall remain in effect until September 15, 2022 unless renewed, modified, or rescinded.

ATTEST:
DONE AT THE EXECUTIVE OFFICE
THIS 17TH DAY OF AUGUST 2022
WITNESS MY HAND AND THE GREAT SEAL OF THE STATE OF NEW MEXICO

/ S /
MAGGIE TOULOUSE OLIVER
SECRETARY OF STATE

/ S /
MICHELLE LUJAN GRISHAM
GOVERNOR

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
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Issue 21	October 27	November 8
Issue 22	November 17	November 29
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The ***New Mexico Register*** is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the ***New Mexico Register*** twice a month pursuant to Section 14-4-7.1 NMSA 1978.

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