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New Mexico Register

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

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The New Mexico Register

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New Mexico Register

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December 13, 2022

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Notices of Rulemaking and Proposed Rules

**HUMAN SERVICES
DEPARTMENT
INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING**

Annual adjustments were made to the income limits found in 8.102.500 NMAC and 8.106.500 NMAC. Each year the Department is required to update the income and resource eligibility standards as well as the deduction amounts available to otherwise eligible households. These amounts are determined by the United States Department of Agriculture (USDA) and Food and Nutrition Services (FNS). The Department received notification of the adjusted amounts on August 9, 2022 and made the adjustments effective for benefit month October 2022 for Federal Fiscal Year (FFY) 2023 to comply with federal law and regulations. These proposed rules are to finalize the rule for FFY 2023.

A public hearing to receive public comment on this proposed rule, pursuant to Section 14-4-5.6 NMSA 1978, will be held on Thursday, January 26, 2023 from 8:30 am-9:30am. The hearing will be held virtually through GoTo Meeting at this link: <https://meet.goto.com/980618957>. If you prefer to join via phone, you may call +1 (408) 650-3123, Access Code: 980-618-957. You may provide written comment during the scheduled public hearing by dropping it off at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505; this drop off site will be for written comment only. The conference room is located on the first floor in the ASD Rodeo Building.

The Human Services Register Vol. 45 No. 21 outlining the proposed regulations are available on the HSD's website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify

or to request a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Santa Fe, New Mexico 87504-2348, or by calling 505-670-1791.

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

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, Thursday, January 26, 2023. The agency shall post all written comments on its website, if one exists, as soon as practicable and no more than 3 business days following receipt to allow for public review. All written comments received by the agency shall also be available for public inspection at the main office of the agency. Please send comments to:

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

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

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

NOTICE OF PUBLIC HEARING

The Construction Industries Commission will convene a public

hearing on the repeal and replacement of rule NMAC 14.10.4-- 2017 New Mexico Electrical Code. 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 January 17, 2023.

The purpose of this public rule hearing is to receive public comments regarding NMAC 14.10.4 adoption of and amendments to the 2020 National Electrical Code.

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, 60-13-14, 60-13-18, 60-13-33, 60-13-36, 60-39, 60-13-44 and 60-13-45.

The hearing is scheduled as follows:

An in-person hearing shall be held on Tuesday, January 17, 2023, 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.

To Join Via Phone:

+1 505-312-4308,,314917844#
United States, Albuquerque
Phone Conference ID: 314 917 844#

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@rld.nm.gov. All written comments must be received no later than 5:00 p.m., on Monday, January 16, 2023. 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@rld.nm.gov; Fax No. (505) 476-4702.

Summary of the Proposed Changes to the Administrative Codes:

14.10.4 NMAC – 2017 New Mexico Electrical Code, repeal and replace with the 2020 National Electrical Code with amendments.

REGULATION AND LICENSING DEPARTMENT

FINANCIAL INSTITUTIONS DIVISION

NOTICE OF PUBLIC HEARING AND PROPOSED RULEMAKING

The Financial Institutions Division of the Regulation And Licensing Department Hereby Gives Notice of Public Hearing to Consider Proposed Amendments To **12.18.3 NMAC**

– MANDATORY BROCHURE FOR SMALL BUSINESS LOANS, 12.18.4 NMAC – MANDATORY SIGNAGE FOR ALL SMALL LOAN COMPANIES, 12.18.8 NMAC – LICENSING OF NONRESIDENT LENDERS, 12.18.9 NMAC – REFUND ANTICIPATION LOANS, and 12.18.10 NMAC – ELECTRONIC MEDIA REQUIREMENTS.

The Financial Institutions Division of the Regulation and Licensing Department (“Division”) will hold a public hearing on beginning at 10:00 am on Friday, January 13, 2023, and continuing on subsequent days, as necessary, in person at 2550 Cerrillos Road, Santa Fe, NM 87505 and via the WebEx video conferencing platform. The purpose of the hearing is to provide all interested persons a reasonable opportunity to submit data, views or arguments orally or in writing on the proposed amendments to Title 12, Chapter 18 – Loan Companies. The Division, at its sole discretion, may determine whether to hold more than one hearing.

Information for attending the virtual hearing via the WebEx conferencing platform will be available on the Division’s website, www.rld.nm.gov/financial-institutions/, at least 30 days prior to the hearing and is as follows:

Meeting link: <https://nmrld.webex.com/nmrld/j.php?MTID=m7ae1093043a381f88118707870e2d35b>
Meeting number: 2490 959 8151
Meeting password: 3trZVYyXz24 (38798999 from video systems)
To join by phone: +1-415-655-0002 (United States Toll)
Access code: 24909598151##

Join from a video system or application: Dial 24909598151@nmrld.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join using Microsoft Lync or Microsoft Skype for Business: Dial 24909598151.nmrld@lync.webex.com

The proposed amendments to Title 12,

Chapter 18 – Loan Companies, are available on the Division’s website, at www.rld.nm.gov/. The proposed amendments may also be obtained electronically by contacting Farrah D. Diaz, the Division’s Legal Clerk, at Farrah.Diaz@rld.nm.gov or (505) 690-7450.

The hearing will be conducted in accordance with the New Mexico Bank Installment Loan Act of 1959, NMSA 1978, Sections 58-7-1 to -11 (1959, as amended through 2020), the New Mexico Small Loan Act of 1955, NMSA 1978, Sections 58-15-1 to -42 (1953, as amended through 2020), and the Default Procedural Rule for Rule Making 1.24.25 NMAC.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing, to introduce relevant exhibits and to examine witnesses testifying at the public hearing.

Persons desiring to present technical testimony at the hearing must file with the Division a written notice of intent. The notice of intent to present technical testimony shall:

1. Identify the person or entity for whom the witness(es) will testify;
2. State whether the person filing the statement supports or opposes the Petition;
3. Identify each witness, including name, address, affiliation(s), and educational and work background;
4. Estimate the length of the direct testimony of each witness;
5. Identify all exhibits which are part of the Record Proper and, for exhibits not part of the Record Proper, attach a copy;
6. List or make available all technical materials relied upon by each witness in making statement of technical of fact or opinion contained in his or her direct testimony; and
7. Attach a summary of the testimony of each witness, stating any opinion(s) to be offered by such witness, and an explanation of the basis for such opinion(s).

Please provide submit any notices of intent to present technical testimony to the Division’s Legal Clerk, Farrah D. Diaz, as soon as possible. Any member of the general public may present non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony before or at the hearing.

All documents filed in this matter, including notices of intent, must be filed electronically via email to the Division’s Legal Clerk, at Farrah D. Diaz, as Farrah.Diaz@rld.nm.gov

Any individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing should contact Farrah D. Diaz, Legal Clerk for the Division, at Farrah.Diaz@rld.nm.gov or (505) 690-7450, at least 14 days prior to the hearing. TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

**REGULATION
AND LICENSING
DEPARTMENT
PHARMACY, BOARD OF**

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

The New Mexico Board of Pharmacy will convene on January 19th and 20th, 2023 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board’s website: <https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/pharmacy/pharmacy-board-information/pharmacy-board-meetings/>. All proposed language

regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

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

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

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

The Board will address:

All Board Matters:

Rule Hearings: January 19, 2023, at 9:10 a.m.

16.19.12 NMAC – FEES – Section 3 is amended to include medicinal gas repackagers and sellers. Section 13 is amended by lowering the fee for seller or dispenser of contact lenses,

and adding a fee for medical gas repackager or seller. Section 15 is amended by addition of Class E clinic to Clinic License Fees.

STATUTORY AUTHORITY: Subsection B of Section 61-11-14 NMSA 1978 authorizes the board of pharmacy to define and limit by regulation sellers or dispensers of contact lenses, clinics, medicinal gas repackagers and medicinal gas sellers. Paragraph (4) of Subsection C of Section 61-11-14 authorizes the board to set a fee for each of these license types not to exceed two hundred dollars per year.

16.19.14 NMAC – DEVICES,
MEDICAL GAS REPACKAGERS
AND SELLERS – Section 1,

administrative updates. Section 3, administrative update and update to statutory authority to include reference to Paragraphs 18 and 19 of Subsection B of Section 61-11-14 which authorize the Board to license and otherwise establish minimum standards for medical gas sellers and repackagers. Section 6, update to include objective for establishing standards for the repackaging and selling of medical gases, to minimize the risk of injury from the distribution and use of adulterated or misbranded medical gases. In Section 7, definitions were added. New Sections 13, 14, 15, 16, 17, 18, 19 and 20, to address medical gas repackager or seller procedure for licensure, license requirements, minimum qualifications, minimum requirements, change in location, transfer of ownership, prescription requirement, and report of robbery, fire and flood.

STATUTORY AUTHORITY: Paragraphs 18 and 19 of Subsection B of Section 61-11-14 authorize the Board to license and otherwise establish minimum standards for medicinal gas sellers and repackagers.

16.19.27 NMAC –
DISHONORABLE CONDUCT

– Section 3, update to statutory authority. Section 7, adding

provisions to dishonorable conduct by a business to include: failure to provide a work environment that allows performance of duties requiring professional judgment, and duties of a pharmacist; introducing or enforcing factors such as quotas that interfere with the ability to provide appropriate professional services to the public; and retaliation against a pharmacy employee for reporting or filing a complaint regarding violation of board requirements that the business has the authority to correct.

STATUTORY AUTHORITY:
Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Paragraph (7) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the board of pharmacy to enforce the provisions of all state laws pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs, cosmetics or poisons, including the New Mexico Drug, Device and Cosmetic Act.

16.19.29 NMAC – CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM – Section 2, update scope to include reference to drugs of concern. Section 3, update to statutory authority. Sections 6 and 7, update to reference and define drugs of concern. “Drug of concern” means a non-controlled dangerous drug that the Board has by rule determined to require dispenser PMP reporting of in the same manner as controlled substance prescription dispensing, when required reporting is expected to protect patients due to interaction of the drug of concern with controlled substances or other compelling issue. Gabapentin is a drug of concern. Sections 8, 9 and 10, update to include reference to drugs of concern.

STATUTORY AUTHORITY:
Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978

authorizes the board of pharmacy to promulgate rules to carry out the provisions of the Pharmacy Act, Paragraph (18) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the Board to promulgate rules that prescribe the activities and duties of pharmacy owners and pharmacists in each practice setting. Section 61-11-8 NMSA requires drug records to be kept for all dangerous drugs pursuant to the Pharmacy Act.

Disciplinary Hearing(s): note – the information below is tentative. Final hearing date and time for each case will be included in the agenda posted to the board’s website at least 72 hours before the meeting. Additional hearing(s), if scheduled, will be included in the agenda.

January 19, 2023, 1:30 p.m. B. Tom White, RPh, PhC, Case 2021-001 and 2021-033

Executive Director’s Report:

Published in NM Register: December 13, 2022

Published in Albuquerque Journal: December 13, 2022.

TAXATION AND REVENUE DEPARTMENT

NOTICE OF PROPOSED RULEMAKING AND PUBLIC RULE HEARING

The New Mexico Taxation and Revenue Department hereby gives notice as required under Section 14-4-5.2 NMSA 1978 and 1.24.25.11 NMAC that it proposes to repeal and replace rules providing guidance on licensure restrictions for people with epilepsy and other episodic disorders as authorized by Section 6-5-19 NMSA 1978:

Summary of Proposed Changes:

The New Mexico Taxation and Revenue Department proposes to

repeal and replace the following rule(s):

Motor Vehicle Code, Section 66-5-19 NMSA 1978

18.19.5.33 NMAC - Restricted License - Intrastate Commercial Driving

18.19.5.34 NMAC - Shortening Of Licensure Period

Technical Information: No technical information was consulted in drafting these proposed rule changes.

Purpose of Proposed Rule: The proposed rules are being repealed and replaced to change the requirement that an applicant with epilepsy or another episodic disorder must meet to be granted a restricted license waiver.

Notice of Public Rule Hearing: A public hearing will be held on the proposed rule changes on January 19, 2023 at 9:00AM through the internet, email, and telephonic means.

The Public Hearing will be accessible via Zoom:

<https://us02web.zoom.us/j/88216117736?pwd=VjV1a1Naa0lHM1JqTk1WSkdvK1doQT09>

or by telephone by dialing 1 346 248 7799 Meeting ID: 882 1611 7736 Passcode: 510542. Any oral comments made during this hearing will be recorded and any electronic written comments can be submitted during the hearing at policy.office@tax.nm.gov.

The proposals were placed on file in the Office of the Secretary on December 1, 2022. Pursuant to Regulation 3.1.2.9 NMAC under Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about February 20, 2023.

Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public

hearing are asked to contact George Stephan at George.Stephan@tax.nm.gov. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Copies of the proposed rules may be found at www.tax.newmexico.gov/proposed-regulations-hearing-notice.aspx or are available upon request by contacting the Tax Policy Office at policy.office@tax.nm.gov.

Notice of Acceptance of Written Public Comment: Written comments on the proposals can be submitted by email to policy.office@tax.nm.gov or by mail to the Taxation and Revenue Department, Tax Information and Policy Office, Post Office Box 630, Santa Fe, New Mexico 87504-0630 on or before January 19, 2023. All written comments received by the agency will be posted on www.tax.newmexico.gov no more than 3 business days following receipt to allow for public review.

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

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Adopted Rules

Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

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

This is an amendment to 3.3.14 NMAC, amending Sections 3, 7, 8, 9, 10, 11, 15, 17 and 19, effective 12/13/2022.

3.3.14.3 STATUTORY AUTHORITY: 3.3.14 NMAC is established under the authority of [~~Laws 2020, Chapter 13, Section 1~~] Section 7-2-18.31 NMSA 1978 and Section 9-1-5 NMSA 1978. [3.3.14.3 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.7 DEFINITIONS:

A. “Applicant” means a New Mexico taxpayer that has installed a solar energy system at a residence, business or agricultural enterprise that the taxpayer owns who desires to have the department certify the solar energy system pursuant to 3.3.14 NMAC so that the [~~tax payer~~] taxpayer may receive a state tax credit.

B. “Application package” means the application documents an applicant submits to the department for certification to receive a state tax credit.

C. “Array” means the collectors of a solar thermal system or the modules of a photovoltaic system.

D. “Balance of system” means portions of a solar energy system other than the array.

E. “Building code authority” means the New Mexico regulation and licensing department, construction industries department or the local government agency having

jurisdiction for building, electrical and mechanical codes.

F. “Certified” or **“certification”** means department approval of a solar energy system, which makes the applicant owning the system eligible for a state tax credit.

G. “Collector” means the solar thermal system component that absorbs solar energy for conversion into heat or electricity.

H. “Collector aperture” means the area of a solar thermal collector that absorbs solar energy for conversion into usable heat.

I. “Component” means a solar energy system’s equipment and materials.

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

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

L. “Energy system” means an engineered system that delivers solar energy to an end use by flow of fluid or electricity caused by energized components such as pumps, fans, inverters or controllers.

M. “Install” or **“installation”** means the direct work of placing a solar energy system into service to operate and produce energy at the expected level for a system of its size, which shall include completion of any required final inspections or contractor certification of installation on tribal or pueblo land.

~~**N. “Interconnection”** means connection of a photovoltaic system that an electric utility customer operates to that utility’s distribution grid system.~~

~~**O. “Interconnection agreement”** means an agreement allowing the applicant to interconnect a solar energy system of a specified type and size to a suitable electric transmission or distribution line.]~~

~~**P. N. “Module”** means the photovoltaic system component that absorbs sunlight for conversion into electricity.~~

~~**Q. “New”** means the condition of being recently manufactured and not used previously in any installation.~~

~~**R. P. “New solar market development income tax credit”** means the personal income tax credit the state of New Mexico issues to a taxpayer for a solar energy system the department has certified pursuant to 3.3.14 NMAC.~~

~~**S. Q. “Non-residential”** means a business or agricultural enterprise.~~

~~**T. R. “OG”** means operating guidelines that the solar rating and certification corporation has or will establish including system performance or component characteristics as defined in the applicable SRCC [defines in its] directory. Operating guidelines shall be from the SRCC directory in effect on March 1, 2006 [~~and all~~] or any applicable successive revisions.~~

~~**U. S. “Portable”** means not permanently connected to a residence, business or agricultural enterprise or connected to a mobile vehicle that is a part of a residence, business or agricultural enterprise.~~

~~**V. T. “Solar collector”** means a solar thermal collector or photovoltaic module.~~

~~**W. U. “Solar energy system”** means a solar thermal system or photovoltaic system.~~

~~**X. V. “Solar storage tank”** means a tank provided as a component in a solar thermal system that is not heated by electricity or a heating fuel.~~

~~**Y. W. “SRCC”** means the solar rating and certification corporation.~~

~~**Z. X. “Standard test**~~

conditions” means the environmental conditions under which a manufacturer tests a photovoltaic module for power output, which are a photovoltaic cell temperature of 25 degrees Celsius and solar insolation of 1000 watts per square meter on the photovoltaic cell surface.

~~[AA:]~~ **Y.** “**State tax credit**” means the new solar market development income tax credit. [3.3.14.7 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.8 GENERAL PROVISIONS:

A. Only a New Mexico ~~[applicant]~~ individual taxpayer, business or agricultural enterprise who has purchased and installed, on property they own, an operating solar energy system ~~[on property he or she owns and that]~~ the department has certified pursuant to 3.3.14 NMAC is eligible for a state tax credit for the tax year in which the system is installed.

B. An applicant must own the residence, business, or agriculture enterprise on which the solar energy system is located to qualify for the tax credit. The applicant may rent a residence, business or agricultural enterprise that the applicant owns to another entity ~~[The];~~ however, the renter does not qualify for the tax credit.

C. The annual aggregate amounts of the state tax credit available to applicants owning certified solar energy systems is limited to ~~[\$8,000,000]~~ \$12,000,000 per calendar year. When the ~~[\$8,000,000]~~ \$12,000,000 limit for solar energy systems is reached based on the total of applicants certified, the department will no longer certify systems in that year. Applications received after the aggregate limit is reached shall not be approved and will be returned to applicant. The department shall keep a record of the order of receipt of all application packages to ensure the annual aggregate amount is not exceeded in any given year.

D. In the event of a discrepancy between a requirement

of 3.3.14 NMAC and an existing New Mexico regulation and licensing department or New Mexico taxation and revenue department rule promulgated prior to 3.3.14 NMAC’s adoption, the existing rule shall govern.

[3.3.14.8 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.9 APPLICATION:

A. To apply for a state tax credit an applicant shall submit an application ~~[package]~~ for a certificate of eligibility to the division ~~[through a secure]~~ using either a department-developed application or an approved electronic [portal or by mail] application system as directed by the division director. The department will not accept applications submitted by ~~[email]~~ e-mail unless specifically authorized by the division. An applicant may obtain a state tax credit application form and system installation form from the division.

B. An application package shall include a completed state tax credit application form and written attachments for a solar thermal system or photovoltaic system. ~~[The applicant shall submit]~~ To be considered complete, an application must include the state tax credit application form and any required attachments ~~[required at the same time as a complete application package],~~ partial applications will not be accepted. An applicant shall submit one application package for each eligible solar energy system. If there are multiple owners of the property where the solar energy system is installed a joint application must be submitted. ~~[All material submitted in the application package shall be capable of being provided on 8½-inch x 11-inch paper.]~~

C. The application package shall meet 3.3.14 NMAC’s requirements. If an application package fails to meet a requirement, the department shall disapprove the application.

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

(1) the applicant’s name, mailing address, e-mail address, telephone number and social security number or employer identification number (EIN) provided by a business or agricultural enterprise;

(2) the address where the solar energy system is located, if located at a residence, business or agricultural enterprise, or a location description if located at an agricultural enterprise;

(3) the solar energy system’s type and description;

(4) the date the solar energy system ~~[started continuous operation]~~ was installed;

(5) if a contractor installed the solar energy system, the contractor’s name, address, telephone number, e-mail address, license category and license number;

(6) acknowledgement ~~[that]~~ the applicant installed the solar energy system, if applicable;

(7) the net cost of equipment, materials and labor of the solar energy system, excluding the expenses and income listed in 3.3.14 NMAC; and

(8) a statement ~~[that]~~ the applicant signed and dated, which may be a form of electronic signature if approved by the department, agreeing ~~[that]:~~

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

(b) applicant has read the certification requirements contained in 3.3.14 NMAC;

(c) applicant understands that there is annual aggregate cap on available state tax ~~[credit limit]~~ credits in place for solar energy systems and they are only eligible for a credit in the year the system was installed;

(d) applicant understands ~~[that]~~ the department must certify the solar energy system documented in the

application package before becoming eligible for a state tax credit;

(e) applicant agrees to make any changes the department requires to the solar energy system for compliance with 3.3.14 NMAC; and

(f) to ensure compliance with 3.3.14 NMAC applicant agrees to allow the department or its authorized representative to inspect the solar energy system [that is] described in the application package at any time after the date of submittal of the application package until three years after the department has certified the solar energy system, upon the department providing a minimum of five days' notice to the applicant.

E. [The application form shall request the following information from the applicant:
 (1) applicant's email address; and
 (2) contractor's email address;

F.] The application package shall consist of the following information provided as attachments:

(1) a copy of a current property tax bill [to the applicant] or other equivalent proof of ownership in the applicant's name for the residence, business or agricultural enterprise where the solar energy system is located;

(2) a copy of the invoice of itemized equipment and labor costs for the solar energy system;

(3) a copy of the solar energy system's design schematic and technical specifications as described in 3.3.14 NMAC;

(4) a completed system installation form;

(5) if application is for a solar thermal system, a completed solar thermal list form that includes the:

(a) manufacturer or supplier of system components and their model numbers;

(b) number of collectors;

(c) collector aperture dimensions;

(d) orientation of collectors by providing the azimuth angle from true south and tilt angle from horizontal;

(e) SRCC solar collector certification identification number;

(f) a description of the freeze protection;

(g) a description of overheating protection;

(h) thermal storage fluid or material and its volume, if thermal storage is a part of the system and if the thermal storage does not have energy provided from a non-solar or non-renewable source; and

(i) manufacturer's specifications for collectors, if collectors are unglazed;

(6) if application is for a photovoltaic system, a completed solar photovoltaic list form that includes the:

(a) manufacturer or supplier of major system components and their model numbers;

(b) number of modules;

(c) module rated direct current power output in watts under manufacturer's standard test conditions;

(d) collectors' orientation by providing the azimuth angle from true south and tilt angle from horizontal;

(e) total inverter capacity in kilowatts, if an inverter is a part of the system; and

(f) battery storage size and capacity in kilowatts and kilowatt-hours, if battery storage is a part of the system; and

(g) the contract number and a copy of the signature pages of the interconnection agreement with the electric utility if the photovoltaic system is interconnected to a utility transmission line or distribution system; and]

(7) other information the department needs to

evaluate the specific system type for certification.

[G.] E. The completed system installation form shall include the following information:

(1) printed name of the applicant who is identified on the application form;
 (2) printed name, title and telephone number of the contractor's authorized representative, if applicable, who approved the system installation form;

(3) printed organizational name, e-mail address and telephone number of the building code authority issuing the building permit, if applicable;

(4) date on which solar energy system installation was [substantially] complete and [ready to operate] received a passing inspection pursuant to applicable rules or code if applicable;

(5) if a contractor installed the solar energy system, a statement [that] the contractor's authorized representative has signed and dated, which may be a form of electronic signature if approved by the department, agreeing [that]:

(a) the solar energy system was installed in full compliance with all applicable federal, state and local government statutes or ordinances, rules or regulations and codes and standards [that are] in effect at the time of installation;

(b) contractor has read 3.3.14 NMAC's certification requirements;

(c) the date on which the solar energy system [was ready to operate] received a passing inspection pursuant to applicable rules or code if applicable;

(d) the installed solar energy system will work properly with regular maintenance; and

(e) contractor provided written operations and maintenance instructions to the applicant and posted a one-page summary of these instructions

in a sheltered accessible location acceptable to the applicant and which is near or at the solar energy system's array or balance of system components; and

(6) the building code authority's permit number and issuance date, and date of successful inspection, if applicable, noted on a physical form, photo of inspection sticker or a web-based report the applicable building code authority approves.
[3.3.14.9 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.10 APPLICATION REVIEW PROCESS:

A. The department shall consider complete applications in the order received. If the department receives multiple applications on the same day that would cumulatively exceed the overall limit of state tax credit availability, the department shall certify the first application received for the last remaining tax credit.

B. The department shall review the application package to calculate the state tax credit, check the accuracy of the applicant's documentation and determine whether the department shall certify the solar energy system. The department shall disapprove an application that is not complete, correct or does not meet the approval criteria.

C. If the department finds ~~[that]~~ the application package meets 3.3.14 NMAC's requirements and a state tax credit is available, the department shall certify the applicant's solar energy system and document the applicant as eligible for a state tax credit. If a state tax credit is not available in the calendar year when the application was submitted, the applicant is notified ~~[that]~~ the program has reached the tax credit cap and their application is not certified. The department provides certification through written notification to the applicant. The notification shall include the applicant's contact information, last four digits of the social security number or EIN, system certification number and the state tax credit amount.

D. The department shall report to the taxation and revenue department the information required to verify, process and distribute each state tax credit by providing a copy of the department's certification notification.

E. The applicant may submit a revised application package to the department ~~[The department];~~ however, the division shall place the resubmitted application in the review schedule as if it were a new application unless the application is disapproved because the annual cap has been reached.

~~F. [The department shall disapprove an application that is not complete or correct or does not meet the approval criteria. The department shall also disapprove applications received after the annual cap for that calendar year is reached. The] If applicable, the department's disapproval letter shall state the reasons why the department disapproved the application.~~

The applicant may resubmit the application package for ~~[the] a~~ disapproved project ~~[The department places the resubmitted application in the review schedule],~~ but it shall be reviewed as if it were a new application.

[3.3.14.10 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.11 SAFETY, CODES AND STANDARDS:

A. Solar energy systems ~~[that]~~ the department may certify shall meet the following requirements:

- (1) compliance with the latest adopted version of all applicable federal, state and local government statutes or ordinances, rules or regulations and codes and standards that are in effect at the time that the applicant submits the application package;
- (2)

~~[compliance with all applicable utility company or heating fuel vendor requirements, if the system being served with a solar energy system is also served by utility electricity or a heating fuel;~~

~~_____~~ ~~(3)]~~ compliance with the building code authority's structural design requirements, as applicable to new and existing structures upon which solar energy system components may be mounted and support structures of solar energy system components;

~~[(4)]~~ (3) permitted and inspected by the applicable building code authority for building, electrical or mechanical code compliance, as applicable to the type of solar energy system installed, if applicable; and

~~[(5)]~~ (4) a written final inspection approval obtained from the applicable building code authority after the solar energy system's installation, as applicable to the solar energy system type, if applicable.

B. Solar thermal systems that the department may certify shall meet the following requirements:

- (1) installation by a certified mechanical journeyman who is an employee of a company holding a valid New Mexico mechanical contractor license; and

(2) design, permitting and installation in full compliance with all applicable provisions of the New Mexico Plumbing Code 14.8.2 NMAC, the New Mexico Mechanical Codes 14.9.2 NMAC, Solar Energy Code 14.9.6 NMAC, the New Mexico General Construction Building Codes, 14.7.2 to 14.7.7 NMAC and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under Sections 3-17-6 and 3-18-6 NMSA 1978.

C. Photovoltaic systems ~~[that]~~ the department may certify shall meet the following requirements:

- (1) installed by a certified electrical journeyman who is an employee of a company holding a valid New Mexico electrical contractor license; and

(2) design, permitting and installation in full compliance with all applicable

provisions of the New Mexico Electrical Code 14.10.4 NMAC and any amendments to these codes adopted by a political subdivision that has validly exercised its planning and permitting authority under Sections 3-17-6 and 3-18-6 NMSA 1978. [3.3.14.11 NMAC - N, 8/25/2020; A, 12/13/2022]

3.3.14.15 CALCULATING THE SOLAR ENERGY SYSTEM COST:

- A. A state tax credit shall be based on the equipment, materials and labor costs of a solar energy system the department has certified.
- B. The equipment, materials and labor costs of a solar energy system the department certifies shall be documented ~~[in writing]~~ by an itemized invoice.
- C. The cost of a solar energy system the department certifies shall be the net cost of acquiring the system and shall not include the following:
 - (1) expenses, including but not limited to:
 - (a) unpaid labor or the applicant's labor;
 - (b) unpaid equipment or materials;
 - (c) land costs or property taxes;
 - (d) costs of structural, surface protection and other functions in building elements that would be included in building construction if a solar energy system were not installed;
 - (e) mortgage, lease or rental costs of the residence, business or agricultural enterprise;
 - (f) legal and court costs;
 - (g) research fees or patent search fees;
 - (h) fees for use permits or variances;
 - (i) design fees, permitting inspection fees, review stamp fees and interconnection fees;
 - (j) membership fees;

- (k) financing costs or loan interest;
- (l) marketing, promotional or advertising costs;
- (m) repair, operating or maintenance costs;
- (n) warranty or extended warranty costs;
- (o) system resale costs;
- (p) system visual barrier costs;
- (q) adjacent structure modification costs, costs for building structures such as portals, garages or pergolas to hold solar panels or costs for modifications or roof repairs to hold solar panels; ~~[and]~~
- (r) vegetation maintenance costs including tree trimming; ~~[or]~~ contractor or inspector travel, mileage or overnight hotel stays;
- (s) recreational vehicle or hot tub ports;
- (t) trenching exceeding 50 feet; and
- (u) donations to food banks on the applicant's behalf; and
- (v) (2) income, including:
 - (a) payments the solar energy system contractor or other parties provide that reduce the system cost, including rebates, discounts and refunds except for federal, state and local government and utility company solar incentives;
 - (b) services, benefits or material goods the solar energy system contractor or other parties provide by the same or separate contract, whether written or verbal; and
 - (c) other financial incentives provided for solar energy system installation, if applicable.
- D. The department shall make the final determination of the net cost of a solar energy system the department certifies pursuant to 3.3.14 NMAC.

- [3.3.14.15 NMAC - N, 8/25/2020; A, 12/13/2022]
- 3.3.14.17 CLAIMING THE STATE TAX CREDIT:**
- A. An applicant shall apply for the state tax credit with the taxation and revenue department and provide the EMNRD certification and any other information the tax and revenue department requires within 12 months following the calendar year in which the system was installed.
 - B. ~~[If the amount of state tax credit claimed exceeds the applicant's individual income tax liability, the applicant may carry the excess forward for up to five consecutive taxable years: ————C.]~~ An applicant claiming a state tax credit shall not claim a state tax credit pursuant to another law for costs related to the same solar energy system costs. [3.3.14.17 NMAC – N, 8/25/2020; A, 12/13/2022]
- 3.3.14.19 INSPECTION OF SOLAR ENERGY SYSTEMS:**
- A. The [inspections] only inspection required through the application process for certification of an applicant's solar energy system ~~[are:~~
 - (1) is an inspection by the applicable building code authority for building, electrical or mechanical code compliance, as applicable to the solar energy system type [~~;~~and ~~———(2)———inspection for compliance with], if applicable. But an applicant should be aware their electric utility company may have additional inspection requirements for photovoltaic systems that are interconnected to the distribution grid of that electric utility company [~~;~~if applicable]. The applicant is solely responsible for compliance with such requirements.~~
 - B. ~~[For purposes of inspecting the solar energy system's installation, the]~~ The department [or its authorized representative shall have] retains the right to inspect a solar energy system ~~[an applicant owns and the department] it has certified, within three years after the~~

department's certification, upon the department providing a minimum of five days' notice to [the] an applicant with a certified system. [3.3.14.19 NMAC - N, 8/25/2020; A, 12/13/2022]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.200.400 NMAC, Sections 10 and 13, effective 1/1/2023.

**8.200.400.10 BASIS FOR
DEFINING GROUP - MEDICAID
CATEGORIES:**

A. Except where noted, the HSD income support division (ISD) determines eligibility in the categories listed below:

- (1) other adult (Category 100);
- (2) parent caretaker (Category 200);
- (3) pregnant women (Category 300);
- (4) pregnancy-related services (Category 301);
- (5) loss of parent caretaker due to earnings from employment or due to spousal support (Categories 027 and 028);
- (6) newborn (Category 031);
- (7) children under age 19 (Categories 400, 401, 402, 403, 420, and 421);
- (8) children, youth, and families department medicaid (Categories 017, 037, 046, 04, 066, and 086); and
- (9) family planning (Category 029).

B. Medicare savings program (MSP): MSP assists an eligible recipient with the cost of medicare.

(1) Medicare is the federal government program that provides health care coverage for individuals 65 or older; or under 65 who have a disability. Individuals under 65 who have a disability are subject to a waiting period of 24

months from the approval date of social security disability insurance (SSDI) benefits before they receive medicare coverage. Coverage under medicare is provided in four parts.

(a) Part A hospital coverage is usually free to beneficiaries when medicare taxes are paid while working.

(b) Part B medical coverage requires monthly premiums, co-insurance and deductibles to be paid by the beneficiary.

(c) Part C advantage plan allows a beneficiary to choose to receive all medicare health care services through a managed care organization.

(d) Part D provides prescription drug coverage.

(2) The following MSP programs can assist an eligible recipient with the cost of medicare.

(a) **Qualified medicare beneficiaries (QMB) - Categories 041 and 044:** QMB covers low income medicare beneficiaries who have or are conditionally eligible for medicare Part A. QMB benefits are limited to the following:

- (i) cost for the monthly medicare Part B premium;
- (ii) cost of medicare deductibles and coinsurance; and
- (iii) cost for the monthly medicare Part A premium (for those enrolling conditionally).

(b) **Specified low-income medicare beneficiaries (SLIMB) - Category 045:** SLIMB medicaid covers low-income medicare beneficiaries who have medicare Part A. SLIMB is limited to the payment of the medicare Part B premium.

(c) **Qualified individuals 1 (QI1s) - Category 042:** QI1 medicaid covers low-income medicare beneficiaries who have medicare Part A. QI1 is limited to the payment of the medicare part B premium.

(d) **Qualified disabled working individuals (QDI) - Category 050:** QDI medicaid covers low income individuals who lose entitlement to free medicare Part A hospital coverage due to gainful employment. QDI is limited to the payment of the monthly Part A hospital premium.

(e) **Medicare Part D prescription drug coverage - low income subsidy (LIS) - Category 048:** LIS provides individuals enrolled in medicare Part D with a subsidy that helps pay for the cost of Part D prescription premiums, deductibles and co-payments. An eligible recipient receiving medicaid through QMB, SLMB or QI1 is automatically deemed eligible for LIS and need not apply. Other low-income medicare beneficiaries must meet an income and resource test and submit an application to determine if they qualify for LIS.

C. Supplemental security income (SSI) related medicaid:

(1) **SSI - Categories 001, 003 and 004:** Medicaid for individuals who are eligible for SSI. Eligibility for SSI is determined by the social security administration (SSA). This program provides cash assistance and medicaid for an eligible recipient who is:

- (a) aged (Category 001);
- (b) blind (Category 003); or
- (c) disabled (Category 004).

(2) **SSI medicaid extension - Categories 001, 003 and 004:** MAD provides coverage for certain groups of applicants or eligible recipients who have received supplemental security income (SSI) benefits and who have lost the SSI benefits for specified reasons listed below and pursuant to 8.201.400 NMAC:

- (a) the pickle amendment and 503 lead;
- (b) early widow(er);
- (c) disabled widow(er) and a disabled surviving divorced spouse;

(d) child insurance benefits, including disabled adult children (DAC);
 (e) nonpayment SSI status (E01);
 (f) revolving SSI payment status “ping-pongs”; and
 (g) certain individuals who become ineligible for SSI cash benefits and, therefore, may receive up to two months of extended medicaid benefits while they apply for another MAD category of eligibility.

(3) Working disabled individuals (WDI) and medicare wait period - Category 074:

There are two eligibility types:
 (a) a disabled individual who is employed; or
 (b) a disabled individual who has lost SSI medicaid due to receipt of SSDI and the individual does not yet qualify for medicare.

D. Long term care medicaid:

(1) medicaid for individuals who meet a nursing facility (NF) level of care (LOC), intermediate care facilities for the intellectually disabled (ICF-ID) LOC, or acute care in a hospital. SSI income methodology is used to determine eligibility. An eligible recipient must meet the SSA definition of aged (Category 081); blind (Category 083); or disabled (Category 084).

(2) Institutional care (IC) medicaid - Categories 081, 083 and 084:

IC covers certain inpatient, comprehensive and institutional and nursing facility benefits.

(3) Program of all-inclusive care for the elderly (PACE) - Categories 081, 083 and 084:

PACE uses an interdisciplinary team of health professionals to provide dual medicaid/medicare enrollees with coordinated care in a community setting. The PACE program is a unique three-way partnership between the federal government, the state, and the PACE organization. The

PACE program is limited to specific geographic service area(s). Eligibility may be subject to a wait list for the following:

- (a) the aged (Category 081);
- (b) the blind (Category 083); or
- (c) the disabled (Category 084).

(4) Home and community-based 1915 (c) waiver services (HCBS) - Categories 090, 091, 092, 093, 094, 095 and 096:

A 1915(c) waiver allows for the provision of long term care services in home and community based settings. These programs serve a variety of targeted populations, such as people with mental illnesses, intellectual disabilities, or physical disabilities. Eligibility may be subject to a wait list.

(a) There are two HCBS delivery models:

- (i) traditional agency delivery where HCBS are delivered and managed by a MAD enrolled agency; or
- (ii) mi via self-directed where an eligible recipient, or [his or her] their representative, has decision-making authority over certain services and takes direct responsibility to manage the eligible mi via recipient’s services with the assistance of a system of available supports; self-direction of services allows an eligible mi via recipient to have the responsibility for managing all aspects of service delivery in a person-centered planning process.

(b) HCBS waiver programs include:

- (i) elderly (Category 091), blind (Category 093) and disabled (Category 094);
- (ii) medically fragile (Category 095);
- (iii) developmental disabilities (Category 096); and
- (iv) self-directed model for Categories 090, 091, 093, 094, 095, 096 and 092).

E. Emergency medical services for non-citizens (EMSNC): EMSNC medicaid covers certain non-citizens who either are undocumented or who do not meet the qualifying non-citizen criteria specified in 8.200.410 NMAC. Non-citizens must meet all eligibility criteria for one of the medicaid categories noted in 8.285.400 NMAC, except for citizenship or qualified non-citizen status. Medicaid eligibility for and coverage of services under EMSNC are limited to the payment of emergency services from a medicaid provider.

F. Refugee medical assistance (RMA) - Categories 049 and 059: RMA offers health coverage to certain low-income refugees during the first [eight] 12 months from their date of entry to the United States (U.S.) when they do not qualify for other medicaid categories of eligibility. [A] An RMA eligible refugee recipient has access to a benefit package that parallels the full coverage medicaid benefit package. RMA is funded through a grant under Title IV of the Immigration and Nationality Act (INA). [A] An RMA applicant who exceeds the RMA income standards may “spend-down” below the RMA income standards for Category 059 by subtracting incurred medical expenses after arrival into the U.S.

G. Breast and cervical cancer (BCC) - Category 052: BCC medicaid provides coverage to an eligible uninsured woman, under the age of 65 who has been screened and diagnosed by the department of health (DOH) as having breast or cervical cancer to include pre-cancerous conditions. The screening criteria are set forth in the centers for disease control and prevention’s national breast and cervical cancer early detection program (NBCCEDP). Eligibility is determined using DOH notification and without a separate medicaid application or determination of eligibility.
 [8.200.400.10 NMAC - Rp, 8.200.400.10 NMAC, 1/1/2019; A, 1/1/2022; A, 1/1/2023]

8.200.400.13 AUTHORIZED REPRESENTATIVE: HSD must permit applicants and beneficiaries to designate an individual or organization to act responsibly on their behalf in assisting with the individual’s application and renewal of eligibility and other ongoing communications.

A. Such a designation must be in writing including the applicant’s signature, and must be permitted at the time of application and at other times. Legal documentation of authority to act on behalf of an applicant or beneficiary under state law, such as a court order establishing legal guardianship or a power of attorney, shall serve in the place of written authorization by the applicant or beneficiary.

B. Representatives may be authorized to:

- (1) sign an application on the applicant’s behalf;
- (2) complete and submit a renewal form;
- (3) receive copies of the applicant or beneficiary’s notices and other communications from the agency; and
- (4) act on behalf of the applicant or beneficiary in all other matters with the agency.

C. The power to act as an authorized representative is valid until the applicant or beneficiary modifies the authorization or notifies the agency that the representative is no longer authorized to act on [~~his-or-her~~] their behalf, or the authorized representative informs the agency that [~~he-or-she-is~~] they are no longer acting in such capacity, or there is a change in the legal authority upon which the individual’s or organization’s authority was based. Such notice must be in writing and should include the applicant or authorized representative’s signature as appropriate.

D. The authorized representative is responsible for fulfilling all responsibilities encompassed within the scope of the authorized representation to the same extent as the individual [~~he-or-she-represents~~] they represent, and must

agree to maintain, or be legally bound to maintain, the confidentiality of any information regarding the applicant or beneficiary provided by the agency.

E. As a condition of serving as an authorized representative, a provider, staff member or volunteer of an organization must sign an agreement that [~~he-or-she~~] they will adhere to the regulations relating to confidentiality (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility’s behalf), as well as other relevant state and federal laws concerning conflicts of interest and confidentiality of information (42 CFR 435.923). [8.200.400.13 NMAC - Rp, 8.200.400.13 NMAC, 1/1/2019; A, 1/1/2023]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.249.400 NMAC, Sections 6, 7 and 9, effective 1/1/2023.

8.249.400.6 OBJECTIVE: The objective of this rule is to provide specific instructions when determining eligibility for the medicaid program and other health care programs. Generally, applicable eligibility rules are detailed in the medical assistance division (MAD) eligibility policy manual 8.200 NMAC, *Medicaid Eligibility - General Recipients Policies*. Processes for establishing and maintaining medicaid eligibility are detailed in the income support division (ISD) general provisions policy manual 8.100 NMAC, *General Provisions for Public Assistance Programs*. Refugee medical assistance (RMA): The RMA offers health coverage for a refugee within the first [~~eight~~] 12 months from [~~his-or-her~~] their date of entry to the United States (U.S.) when [~~he-or-she-does~~] they do not qualify for other medicaid eligibility categories. An RMA eligible refugee has access to

a benefit package that parallels the full medicaid services. This program is not funded by medicaid; funds are provided through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of a refugee and to assist him or her to achieve economic self-sufficiency as quickly as possible.

[8.249.400.6 NMAC - Rp, 8.249.400.6 NMAC, 1/1/2014; A, 1/1/2023]

8.249.400.7 DEFINITIONS:

“Refugee” is an immigrant, who because of persecution or fear of persecution on account of race, religion or political opinion, fled from [~~his-or-her~~] their home country and cannot return because of fear of persecution because of race, religion or political opinion.

[8.249.400.7 NMAC - N, 1/1/2014; A, 1/1/2023]

8.249.400.9 REFUGEE MEDICAL ASSISTANCE ONLY - CATEGORY 049 AND 059:

A. A medicaid eligible refugee recipient must meet the following non-financial eligibility requirements:

- (1) is ineligible for full medicaid coverage;
- (2) is not a full-time student in an institution of higher education, except where enrollment is part of an individual employability plan for a refugee enrolled in the refugee cash assistance program;

(3) is in the U.S. fewer than [~~eight~~] 12 months and meets one of the following statuses:

- (a) is admitted as a refugee under Section 207 of the Immigration and Nationality Act;
- (b) is paroled into the U.S. as a refugee or asylee under Section 212 (d)(5) of the Immigration and Nationality Act;
- (c) is granted asylum under Section 208 of the Immigration and Nationality Act;

(d) is admitted as an Amerasian immigrant from Vietnam through the orderly departure program, under Section 584 of the Foreign Operations Appropriations Act, incorporated in the fiscal year 1988 Continuing Resolution P.L. 100-212;

(e) is a Cuban-Haitian entrant who was admitted as a public interest parolee under Section 212 (d)(5) of the Immigration and Nationality Act;

(f) is certified as a victim of human trafficking by the federal office of refugee resettlement (ORR);

(g) is an eligible family member of a victim of human trafficking certified by ORR who has a T-2, T-3, T-4, or T-5 Visa;

(h) is admitted as a special immigrant from Iraq or Afghanistan under Section 101 (a)(27) of the Immigration and Nationality Act; or

(i) is a lawful permanent resident (LPR) when the individual had previously met a status as listed in Subparagraphs (a) through (h) above;

(4) an individual who meets the following eligibility requirements pursuant to 8.200.410 NMAC and 8.200.420 NMAC of citizenship or non-citizen status, enumeration, residence, non-concurrent receipt of assistance and applications for other benefits;

(5) appropriate to the size of the budget group (not including the ineligible parent due to citizenship or non-citizen status or enumeration), countable gross income must be less than one hundred and eighty-five percent of the standard of need (SON) countable net income must be less than the SON pursuant to 8.200.520 NMAC and 8.202.500 NMAC; and

(6) an applicant or an eligible recipient may have other creditable health insurance coverage.

B. An eligible recipient may have other creditable health insurance coverage. If the eligible recipient has other creditable health

insurance coverage, RMA is the second payor.

C. An individual who is an inmate of a public institution is not eligible pursuant to 8.200.410 NMAC. [8.249.400.9 NMAC - Rp, 8.249.400.9 NMAC, 1/1/2014; A, 1/1/2022; A, 1/1/2023]

**HUMAN SERVICES
DEPARTMENT
MEDICAL ASSISTANCE
DIVISION**

This is an amendment to 8.249.600 NMAC, Sections 9, 11, 12, 14 and 15, effective 1/1/2023.

8.249.600.9 BENEFIT DESCRIPTION: Refugee medical assistance (RMA) offers health coverage for refugees within the first [eight] 12 months from their date of entry to the United States, when they do not qualify for medicaid. RMA eligible refugees have access to a benefit package that parallels the full coverage medicaid benefit package. This program is not funded by medicaid. RMA is funded through a grant under Title IV of the Immigration and Nationality Act. The purpose of this grant is to provide for the effective resettlement of refugees and to assist them to achieve economic self-sufficiency as quickly as possible. Refer to 8.100.100 NMAC.

[8.249.600.9 NMAC - Rp, 8.249.600.9 NMAC, 1/1/2019; A, 1/1/2023]

8.249.600.11 INITIAL BENEFITS:
A. Approval or denial of application: After the eligibility determination is made, the income support specialist (ISS) sends notice to the applicant or applicant group. The denial notice contains information on the reason for the denial and explanation of appeal rights to the applicant(s).

B. Date of eligibility: Eligibility starts with the first day of the month of application after all

eligibility requirements are met. The [eight-month] 12-month period begins with the month the refugee enters the United States, as documented by the immigration and naturalization service (INS) (form I-94). For cases involving children born in the United States, the child's eligibility period expires when the refugee parent who arrived last in the United States has been in this country for [eight] 12 months.

[8.249.600.11 NMAC - Rp, 8.249.600.11 NMAC, 1/1/2019; A, 1/1/2023]

8.249.600.12 ONGOING BENEFITS: No periodic review is required, since coverage is limited to a maximum of [eight] 12 months from the date of entry into the United States.

[8.249.600.12 NMAC - Rp, 8.249.600.12 NMAC, 1/1/2019; A, 1/1/2023]

8.249.600.14 CASE CLOSURES: Cases are closed when refugee medical assistance recipients no longer meet eligibility standards or after the [eight-month] 12-month eligibility period expires, whichever comes first.

[8.249.600.14 NMAC - Rp, 8.249.600.14 NMAC, 1/1/2019; A, 1/1/2023]

8.249.600.15 CHANGES AND REDETERMINATIONS OF ELIGIBILITY:

A. A re-determination of eligibility is not required.

B. Changes in income are not reportable. Reported income changes are not acted upon.

C. A refugee who received medicaid for [seven] 11 or fewer months during the RMA period is eligible for RMA for any remaining months in the [eight-month] 12-month RMA period. Eligibility for RMA is determined without a new eligibility determination or application.

D. Residence changes must be reported within 10 days after the change for individuals placed in a public institution or those individuals

moving out of New Mexico. Refer to 8.200.450 NMAC.
[8.249.600.15 NMAC – Rp, 8.249.600.15 NMAC, 1/1/2019; A, 1/1/2023]

**REGULATION
AND LICENSING
DEPARTMENT
ATHLETIC TRAINER
PRACTICE BOARD**

The Athletic Trainer Practice Board, after a rule hearing conducted on November 14, 2022 has approved a repeal of its rule 16.3.10 NMAC- Emergency Licensure, (filed 11/23/2006) it was repealed and replaced by 16.3.10 NMAC- Expedited Licensure, effective 12/30/2022. The rule repeal was adopted on November 14, 2022 and is effective December 30, 2022.

The Athletic Trainer Practice Board, after a rule hearing conducted on November 14, 2022 has approved a repeal of its rule 16.3.11 NMAC- Licensure For Military Service Members, Spouses, and Veterans, (filed 11/23/2006) it was repealed, effective 12/30/2022. The rule repeal was adopted on November 14, 2022 and is effective December 30, 2022.

**REGULATION
AND LICENSING
DEPARTMENT
ATHLETIC TRAINER
PRACTICE BOARD**

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 3 ATHLETIC
TRAINERS
PART 10 EXPEDITED
LICENSURE**

16.3.10.1 ISSUING
AGENCY: New Mexico athletic trainer practice board.
[16.3.10.1 NMAC - Rp, 16.3.10.1 NMAC, 12/30/2022]

16.3.10.2 SCOPE: The provisions in Part 10 of Chapter 3 apply to all applicants for expedited licensure.
[16.3.10.2 NMAC - Rp, 16.3.10.2 NMAC, 12/30/2022]

16.3.10.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Athletic Trainer Practice Act, Sections 61-14D-1 to -19 NMSA 1978.
[16.3.10.3 NMAC - Rp, 16.3.10.3 NMAC, 12/30/2022]

16.3.10.4 DURATION: Permanent.
[16.3.10.4 NMAC - Rp, 16.3.10.4 NMAC, 12/30/2022]

16.3.10.5 EFFECTIVE DATE: December 30, 2022, unless a later date is cited at the end of a section.
[16.3.10.5 NMAC - Rp, 16.3.10.5 NMAC, 12/30/2022]

16.3.10.6 OBJECTIVE: The objective of Part 10 is to promote, preserve and protect the public health, safety and welfare by regulating and setting professional standards for applicants for expedited licensure.
[16.3.10.6 NMAC - Rp, 16.3.10.6 NMAC, 12/30/2022]

16.3.10.7 DEFINITIONS:
A. “Eligible jurisdiction” means:

- (1) any state or territory of the United States except those included in the list of disapproved licensing jurisdictions in 16.3.10.8 NMAC; and
- (2) any foreign country included in 16.3.10.9 NMAC.

B. “Expedited license” means a provisional license that confers the same rights, privileges and responsibilities as a regular license issued by the board.

C. “Good standing” means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license.

D. “Jurisdiction” has the same meaning as defined in Subsection F of Section 61-1-2 NMSA 1978.

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

F. “Military service member” has the same meaning as defined in Paragraph (2) of Subsection E of Section 61-1-34 NMSA 1978.

G. “Qualified applicant” means an applicant who:

(1) holds a current license in good standing in another jurisdiction, provided that an applicant who is not a military service member or veteran must hold a current license in good standing in an eligible jurisdiction;

(2) does not have a disqualifying criminal conviction, as defined the board’s rules; and

(3) is not subject to pending disciplinary action in New Mexico.

H. “Veteran” has the same meaning as defined in Paragraph (3) of Subsection E of Section 61-1-34 NMSA 1978.
[16.3.10.7 NMAC - Rp, 16.3.10.7 NMAC, 12/30/2022]

16.3.10.8 LIST OF DISAPPROVED LICENSING JURISDICTIONS; REASONS.

A. No state or territory of the United States that currently licenses, registers, or certifies athletic trainers is disapproved or excluded from expedited licensure under Section 61-14D-4.1 NMSA 1978, of the Athletic Trainer Practice Act.

B. An applicant may not apply for expedited licensure on the basis of practice in any jurisdiction that does not license, register, or certify athletic trainers, including each of the following:

- (1) American Samoa
- (2) California
- (3) Guam
- (4) Northern Mariana Islands
- (5) Puerto Rico

(6) Virgin Islands
[16.3.10.8 NMAC - Rp, 16.3.10.8 NMAC, 12/30/2022]

16.3.10.9 [RESERVED]
[16.3.10.9 NMAC - N, 11/23/2006; Repealed 12/30/2022]

16.3.10.10 EXPEDITED LICENSURE APPLICATION

A. A candidate for expedited licensure under Section 61-1-31.1 NMSA 1978 must submit to the board a complete application containing all of the following:

- (1) A completed and signed application form;
- (2) Proof of current licensure in an eligible jurisdiction as defined in these rules;
- (3) Certificate of good standing for the license held by the applicant in an eligible jurisdiction; and
- (4) Payment of the required application fee.

B. An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by subsection A, including documentation from third parties.

C. Upon receipt of a complete application, the board's staff shall process the application and issue the expedited license to a qualified applicant within 30 days.

D. If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-14D-16 NMSA 1978:

- (1) The matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting;
- (2) The license may not be issued within 30 days of submission of the complete application; and
- (3) The board may vote to grant the application or refer the matter to its administrative prosecutor for denial of the

application as provided by the board's rules.
[16.3.10.10 NMAC - N, 12/30/2022]

16.3.10.11 EXPEDITED LICENSURE APPLICATION FOR MILITARY SERVICE MEMBERS AND VETERANS

A. A candidate for expedited licensure under Section 61-1-34 NMSA 1978 must submit to the board a complete application containing all of the following:

- (1) A completed and signed application form;
- (2) proof of current licensure in another jurisdiction;
- (3) certificate of good standing for the license held by the applicant in another jurisdiction, including a branch of the United States armed forces.

(4) Submission of the following documentation:

- (i) for military service member: a copy of military orders;
- (ii) for spouse of military service members: copy of military service member's military orders, and copy of marriage license;
- (iii) for spouses of deceased military service members: copy of decedent's DD 214 and copy of marriage license;
- (iv) for dependent children of military service members: a copy of military service member's orders listing dependent child, or a copy of military orders and one of the following: a copy of birth certificate, military service member's federal tax return or other governmental or judicial documentation establishing dependency;
- (v) for veterans (retired or separated): a copy of DD 214 showing proof of honorable discharge.

B. An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff

is in receipt of, all of the materials required by Subsection A, including documentation from third parties.

C. Upon receipt of a complete application, the board's staff shall process the application and issue the expedited license to a qualified applicant within 30 days.

D. If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-14D-16 NMSA 1978:

- (1) The matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting;
- (2) The license may not be issued within 30 days of submission of the complete application; and
- (3) The board may vote to grant the application or refer the matter to its administrative prosecutor for denial of the application as provided by the board's rules.

E. A military service member or veteran who is issued an expedited license shall not be charged a licensing fee for the first three years of licensure with the board.
[16.3.10.11 NMAC - N, 12/30/2022]

16.3.10.12 EXPEDITED LICENSE DURATION AND RENEWAL

A. An expedited license shall be valid for the same length of time as a regular license issued by the board and must be renewed on or before August 31 of each year, as provided by 16.3.7.8 NMAC. Initial licenses, including expedited licenses, may be issued for a period greater than twelve months, but less than twenty-four months, in order to align the license expiration date with the board's renewal cycle.

B. A licensee holding an expedited license may apply for license renewal in the manner provided by the board's rules, provided that, upon renewal, the licensee must also satisfy the following examination requirements:

(1) The licensee shall be required to pass the New Mexico jurisprudence examination.

(2) If the licensee holding an expedited license was not required by the licensee’s original jurisdiction outside of New Mexico to pass the BOC examination, the licensee shall be required to do so as a prerequisite to license renewal.

C. Upon renewal, the board shall issue a regular license to a licensee holding an expedited license issued pursuant to these rules.
[16.3.10.12 NMAC - N, 12/30/2022]

History of 16.3.10 NMAC:

16.3.10 NMAC – Emergency Licensure filed 11/23/2006, was repealed and replaced by 16.3.10 NMAC – Expedited Licensure, effective 12/30/2022.

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINER PRACTICE BOARD

This is an amendment to 16.3.4 NMAC, Changing the part name and Section 8, effective 12/30/2022.

PART 4 ~~INITIAL LICENSING REQUIREMENTS~~ LICENSURE BY EXAMINATION

16.3.4.8 APPLICANTS FOR LICENSURE BY EXAMINATION: [As an athletic trainer] Applicants for licensure by examination must possess the following qualifications and provide the required documentation with the application.

A. Application for licensure shall be made on forms prescribed by the board.

(1) Completed application signed and dated.

(2) Applications must be accompanied by the required fee, which shall be non-refundable.

(3) Education requirements: holds a baccalaureate degree.

(4) Current BOC certification.

(5) Current competence in cardiopulmonary resuscitation (CPR) and; use of automated electrical defibrillator units (AED).

B. Documentation required for licensure:

(1) completed application;

(2) one hundred twenty-five (\$125.00) application fee (non-refundable);

(4) proof of current BOC certification;

(5) proof of current competence in CPR and; use of AED;

(6) demonstrates professional competence by satisfactorily passing the New Mexico jurisprudence examination; and

(7) demonstrates professional competency by satisfactorily passing the BOC examination; and

(8) proof of disqualifying criminal convictions as provided in 16.3.4.9 NMAC, if applicable.

C. Each applicant must, in addition to the other requirements, pass an examination on the New Mexico laws and regulations pertaining to the practice of athletic training before an initial license may be issued (jurisprudence examination).

[1/16/2000; 16.3.4.8 NMAC - Rn & A, 16 NMAC 3.4.8, 8/16/2001; A, 11/23/2006; A, 12/24/2021; A, 12/30/2022]

REGULATION AND LICENSING DEPARTMENT ATHLETIC TRAINER PRACTICE BOARD

This is an amendment to 16.3.7 NMAC, Section 8, effective 12/30/2022.

16.3.7.8 ANNUAL RENEWAL OF LICENSES:

A. All licenses expire annually on August 31st. Initial licenses, including expedited licenses, may be issued for a period greater than 12 months, but less than 24 months, in order to align the license expiration date with the board’s renewal cycle.

B. Licensees shall be responsible for filing a current mailing address and name change with the board.

C. Each person licensed under the act shall renew his/her license annually on or before the expiration date by submitting a renewal application, the renewal fee, proof of current CPR certification, AED certification and proof of current BOC certification.

D. Failure to submit the required documents and fees by August 31st shall cause the license to lapse and the license holder must refrain from practicing.

E. The licensee may renew within a 30 day grace period, by submitting payment of the renewal fee of \$165.00, late fee of \$75.00 and compliance with all renewal requirements. Failure to renew a license within the thirty-day grace period shall cause the license to automatically expire.

F. A license that has not renewed within the 30 days of expiration is automatically expired and the applicant must reapply as a new applicant.

[1/16/2000; 16.3.7.8 NMAC - Rn, 16 NMAC 3.7.8, 8/16/2001; A, 11/23/2006; A, 12/24/2021; A, 12/30/2022]

REGULATION AND LICENSING DEPARTMENT CANNABIS CONTROL DIVISION

This is an emergency amendment to 16.8.7 NMAC amending section 15, effective 11/18/2022.

16.8.7.15 REQUIRED TESTING OF CANNABIS PRODUCTS: A cannabis establishment shall segregate a batch of cannabis product and arrange for samples to be collected and tested by a cannabis testing laboratory if required by this section. The batch must pass all required tests prior to the sale or delivery to a qualified patient, primary caregiver or consumer.

A. Required testing: Unless an exception applies:

(1) A cannabis producer, cannabis producer microbusiness, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in Table 1, *Required Testing of Cannabis Products*, below, of any cannabis flower and trim that it harvests prior to:

- (a) packaging for retail sale;
- (b) transfer to another cannabis establishment for the purposes of retail sale;
- (c) retail sale; or
- (d) delivery to a patient or consumer.

(2) A cannabis manufacturer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall arrange for and pay for the testing specified in Table 1 of any cannabis product, including but not limited to a concentrate or extract, that it manufactures prior to:

- (a) packaging for retail sale
- (b) transfer to another cannabis establishment for the purposes or retail sale;
- (c) retail sale; or
- (d) delivery to a qualified patient, primary caregiver or consumer.

(3) A cannabis retailer, vertically integrated cannabis establishment, or integrated cannabis microbusiness shall not sell or deliver to a patient or consumer any cannabis product unless the cannabis product has undergone all testing required by this section.

~~(4)~~ Testing for homogeneity will be required beginning April 1, 2024.]

Product category	Potency	Homogeneity of Batch	Visual Inspection	Microbiological	Residual Pesticides	Residual Solvents
Flower	X	[X]	X	X	X	
Trim	X	[X]	X	X	X	
Concentrate (volatile solvent)	X			X	X	X
Kief	X		X	X	X	
Pre-rolls	X			X	X	
Concentrate (non-volatile solvent)	X		X	X	X	
Extract – alcohol	X			X	X	
Extract – other liquid	X			X	X	
Topical	X			X		
Edible	X			X	*	
Other inhalable	X				*	X
Other	X			X	*	X

*Pesticide testing required unless exempted by Subsection E, below.

B. Staggered implementation:

(1) The division may within its discretion delay implementation of sample collection and testing requirements of this section, in whole or in part.

(2) In determining the start date of an individual testing requirement, the division shall

consider whether a cannabis testing laboratory has validated a method for conducting the test.

(3) In determining the date on which a cannabis establishment must have its samples collected by an employee or contractor of a cannabis testing laboratory, the division shall consider the capacity of cannabis testing laboratories to collect and transport samples.

(4) The division may establish different implementation dates for sample collection requirements for:

(a) cannabis producer microbusinesses and integrated cannabis microbusinesses located up to 100 miles by automobile from the nearest licensed cannabis testing laboratory location;

(b) cannabis producers, cannabis manufacturers, and vertically integrated cannabis establishments located up to 200 miles by automobile from the nearest licensed cannabis testing laboratory location;

(c) cannabis producer microbusinesses and integrated cannabis microbusinesses located more than 100 miles by automobile from the nearest licensed cannabis testing laboratory location;

(d) cannabis producers, cannabis manufacturers, and vertically integrated cannabis establishments located more than 200 miles by automobile from the nearest licensed cannabis testing laboratory location; and

(e) cannabis establishments for which travel to a licensed cannabis testing laboratory location requires passing through a United States border patrol checkpoint.

C. Collection and transportation of samples:

A cannabis testing laboratory is responsible for the collection of samples for the performance of any required test, re-test after a failing result, re-test after remediation, or test for the purposes of labeling.

(1) A cannabis testing laboratory may perform sample collection using:

(a) Laboratory employees with requisite training, as specified in 16.8.2.26 NMAC; or

(b) Contractors who have completed the sampling agent training offered by the U.S. department of agriculture’s domestic hemp production program and sign an affidavit that they have no ownership interest in, and are not employed by, any cannabis establishment that produces or manufactures cannabis. The contractor shall obtain necessary training to comply with the cannabis testing laboratory’s protocols, and the cannabis testing laboratory may reject any sample that it suspects was collected outside of its protocols.

(2) A cannabis testing laboratory may transport samples using:

(a) Laboratory employees with requisite training, as specified in 16.8.2.26 NMAC; or

(b) Contractors who sign an affidavit that they have no ownership interest in, and are not employed by, any cannabis establishment that produces or manufactures cannabis. Transporting cannabis for a cannabis establishment on a contractual basis does not preclude a person or entity from transporting samples in secure containers for cannabis testing laboratories.

(3) Nothing in these rules shall be interpreted to require a cannabis testing laboratory to collect samples from or transport samples on behalf of any cannabis establishment.

(4) If the division has delayed implementation of the requirement that the cannabis testing laboratory collect the sample from a cannabis establishment, based on its distance from the nearest cannabis testing laboratory or location beyond a U.S. border patrol checkpoint, then any person collecting or transporting samples for required

testing must receive training in sample collection and transportation protocols.

(a) Nothing in these rules shall be interpreted to require a cannabis testing laboratory to accept samples from a cannabis establishment.

(b) The cannabis testing laboratory may reject any sample that it suspects was collected outside of its protocols.

(5) A cannabis establishment may specify reasonable precautions prevent the contamination of batches of cannabis, except that the cannabis establishment must provide access to the entire batch of cannabis product. Precautions may include, but are not limited to:

(a) requiring the use of gloves and other personal protective equipment

(b) inspecting tools and containers prior to their use;

(c) specifying the location within the cannabis establishment at which the samples will be collected;

(d) specifying locations within the cannabis establishment to which laboratory employees or contractors do not have access; and

(e) the right to refuse entry to any laboratory employee or contractor not in compliance with the precautions

(6) Nothing in these rules shall be interpreted to require routine testing of cannabis products before the cannabis establishment segregates cannabis products into batches and places the batches into containers for storage while awaiting test results.

(7) This Subsection C of 16.8.7.8 NMAC is effective March 1, 2023.

D. Compliance with all rules and applicable laws required: Passage of testing does not relieve an establishment of its obligation to comply with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, the Pesticide Control Act, division

rules, or other local, state, and federal laws not in conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

(1) A cannabis establishment shall waste and dispose of any cannabis product to which a pesticide has been applied in violation of division rules or the Pesticide Control Act or any product manufactured using an unapproved solvent.

(2) Nothing in this rule shall be interpreted as precluding regulatory activities by other state agencies that do not conflict with the Cannabis Regulation Act or the Lynn and Erin Compassionate Use Act.

E. Exceptions to required testing:

(1) A cannabis establishment shall not be required to have tested for pesticide residue any cannabis product made from cannabis concentrate or cannabis extract with verified pesticide residue test results, so long as the establishment can demonstrate that the resulting product will not exceed action levels for that type of cannabis product.

(2) A cannabis establishment shall not be required to have tested a cannabis product acquired from another cannabis establishment if the batch, in present form, was previously determined to have passed the testing requirements of this rule and is accompanied by a *Certificate of Analysis* issued by a licensed cannabis testing laboratory within the previous 90 days.

(3) If additional testing requirements take effect after a cannabis testing laboratory obtains a sample of a cannabis product for required testing, the laboratory is required to perform only those tests required at the time the sample was obtained.

F. Visual inspection: A sample shall pass visual inspection if, under a minimum of 40X magnification, laboratory personnel detect in a one gram sample:

- (1) no living or dead insects, hair, eggs, or feces; and
- (2) no more than two percent sand, soil, mold, or rocks.

G. Microbiological testing: A sample shall pass microbiological testing if the sample contains concentrations of target microbes not exceeding the action levels set forth in Table 2, *Microbiological Testing Requirements*, below.

(1) The division may require required testing for additional microbes if quality control or inspection testing conducted by cannabis testing laboratories, NMDA, the department of health, or the division identifies their presence, in a quantity or amount that poses a threat to public health, in a cannabis product produced, manufactured, or sold by any cannabis establishment. The division shall provide written notice to licensees 30 days before requiring required testing for additional pesticide residues, except that such notice is not required when human illness is linked to contaminated cannabis products.

(2) The cannabis testing laboratory may report a collective total of the four *Aspergillus* strains listed without distinguishing individual totals.

(3) The test results shall be reported as “Present,” “Absent,” or in colony forming units (CFU) per one gram sample.

(4) Testing for shiga-toxin producing *E. coli*, *Clostridium botulinum*, and *Pseudomonas aeruginosa* is effective July 1, 2022.

Table 2. Microbiological Testing Requirements

Target Microbe	Action Level
* <i>E. coli</i>	100 CFU/gram
<i>Aspergillus flavus</i> , <i>Aspergillus fumigatus</i> , <i>Aspergillus niger</i> , or <i>Aspergillus terreus</i>	Present in 1 gram
<i>Salmonella</i> spp.	Present in 1 gram
†Shiga-toxin producing <i>E. coli</i>	Present in 1 gram
† <i>Clostridium botulinum</i>	Present in 1 gram
† <i>Pseudomonas aeruginosa</i>	Present in 1 gram
*Cannabis product may be tested for shiga-toxin producing <i>E. coli</i> , rather than generic <i>E. coli</i> . †Testing for shiga-toxin producing <i>E. coli</i> , <i>Clostridium botulinum</i> , and <i>Pseudomonas aeruginosa</i> is required only for edible cannabis products manufactured from fresh cannabis with a water activity of 0.65 or greater.	

H. Residual solvent testing: A sample shall pass residual solvent testing if the sample contains concentrations of residual solvents lower than the action levels set forth in Table 3, *Residual Solvent Testing Requirements*, below. The test results shall be reported as described in the notes to Table 3.

Table 3. Residual Solvent Testing Requirements				
Target Compounds	Common Chemical Name	IUPAC Name	CAS Number	Action Level*
Propane	Propane	Propane	74-98-6	5000
Butanes	<i>n</i> -butane	Butane	106-97-8	5000
	Isobutane	2-methylpropane	75-28-5	5000
Pentane	<i>n</i> -pentane	Pentane	109-66-0	5000
Hexane	<i>n</i> -hexane	Hexane	110-54-3	290
Benzene	Benzene	Benzene	71-43-2	2.0
Toluene	Toluene	Methylbenzene	108-88-3	890
Heptane	<i>n</i> -heptane	Heptane	142-82-5	5000
Ethylbenzene and Xylenes	Ethylbenzene	Ethylbenzene	100-41-4	2170 Total
	<i>ortho</i> -xylene	1,2-dimethylbenzene	95-47-6	
	<i>meta</i> -xylene	1,3-dimethylbenzene	108-38-3	
	<i>para</i> -xylene	1,4-dimethylbenzene	106-42-3	
Ethanol†	ethyl alcohol	Ethanol	64-17-5	5000
Methanol	methyl alcohol	Methanol	67-56-1	3000
Isopropanol	Isopropyl alcohol	2-propanol	67-63-0	5000
Acetone	Acetone	2-propanone	67-64-1	5000

Use two significant digits when reporting residual solvent results.
Report levels less than the Limit of Quantitation for each solvent according to the following example:
"Benzene < 2.0 µg/g"
*Micrograms solvent per gram (µg/g) of sample/parts per million (ppm).
†Unless exempt from testing.

[H. — Potency and homogeneity testing:—

(1) — Potency testing requires determining the quantity of tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA) per gram of sample and the calculation of THC potency and CBD potency, according to Table 4, *Potency Testing Requirements*, below.

(2) — Batch-level homogeneity testing is performed by testing for total THC potency. The number of samples to be tested shall be based on the size of the batch according to the method validated by the cannabis testing laboratory; however, the total number of samples tested shall be not less than three for any batch of material five pounds or less.

(3) — Product-level homogeneity testing is performed by segregating a single retail package or an identical quantity of a solid or semi-solid and testing for total THC potency a minimum of three randomly selected increments of the product.

(4) — A set of samples shall pass homogeneity testing if the relative standard deviation of total THC potency of the samples is no more than twenty percent.]

I. Potency testing: Potency testing requires determining the quantity of tetrahydrocannabinol (THC), tetrahydrocannabinolic acid (THCA), cannabidiol (CBD), cannabidiolic acid (CBDA) per gram of sample and the calculation of THC potency and CBD potency, according to Table 4, *Potency Testing Requirements*, below.

Cannabinoid	Abbreviation	CAS Number	Reporting Units
Tetrahydrocannabinolic Acid	THCA	23978-85-0	For solids: mg of analyte/gram of sample and percentage by weight
Tetrahydrocannabinol	THC	1972-08-3	
Cannabidiolic Acid	CBDA	1244-58-2	For liquids: mg/ml
Cannabidiol	CBD	13956-29-1	
Total THC Potency (solids)	THC Potency = (Percent THCA × 0.877) + Percent THC		Percentage by weight
Total CBD Potency (solids)	CBD Potency = (Percent CBDA × 0.877) + Percent CBD		
Total THC Potency (liquids)	THC Potency = (mg/ml THCA × 0.877) + mg/ml THC		mg/ml

J. Pesticide testing: A sample shall pass pesticide testing if concentrations of residues of pesticides are lower than the action levels listed in Table 5, *Pesticide Testing Requirements*, below.

(1) The division may adopt required testing for additional pesticide residues if quality control or inspection testing conducted by cannabis testing laboratories, NMDA, the department of health, or the division identifies their presence in a cannabis product produced or manufactured by any cannabis establishment. The division shall provide written notice to licensees 30 days before implementing required testing for additional pesticide residues.

(2) Nothing in this section shall be interpreted to waive or diminish any requirement of the Pesticide Control Act, §§76-4-1 et seq. NMSA 1978. The division, alone or in conjunction with NMDA, may investigate any suspected use of a pesticide not registered with NMDA for use on cannabis.

(3) This Subsection J of 16.8.7.8 NMAC is effective July 1, 2022.

Targeted Pesticide	CAS Number	Action Level: Inhalable*	Action Level: Non-Inhalable*
†Abamectin	71751-41-2	0.1	0.15
†Acequinocyl	57960-19-7	2.0	2.0
†Bifenazate	149877-41-8	0.2	0.2
†Bifenthrin	82657-04-3	0.1	0.1
†Etoxazole	153233-91-1	0.1	1.0
†Imazalil	35554-44-0	0.1	0.1
†Imidacloprid	138261-41-3	0.1	3.0
†Myclobutanil	88671-89-0	0.1	0.4
†Pacllobutrazol	76738-62-0	0.04	0.04
Piperonyl butoxide	51-03-6	3.0	8.0
†Pyrethrins (cumulative total)	121-21-1 25402-06-6 4466-14-2	0.5	1.0
†Spinosyn A, D (cumulative total)	131929-60-7 131929-63-0	0.1	3.0
†Spiromesifen	283594-90-1	0.1	0.2

†Spirotetramat	203313-25-1	0.1	0.2
†Trifloxystrobin	141517-21-7	0.02	0.02
Other pesticide not registered with NMDA for use on cannabis	Varies	0.02	0.02

*Micrograms of pesticide per gram ($\mu\text{g/g}$) of sample/parts per million (ppm).
 Report levels less than the Limit of Quantitation for each pesticide residue according to the following example:
 "Paclobitrazol < 0.4 $\mu\text{g/g}$ "
 †Not registered with NMDA for use on cannabis.

K. Release of batch after testing: A cannabis establishment may release an entire batch of cannabis product for immediate manufacture, sale, or other use, provided that the sample taken from the batch passes the tests required in this section.

L. Procedures for testing: A cannabis establishment shall adhere to the following procedures:

(1) After collection of samples, a batch of cannabis product shall be segregated in a secure container and stored under controlled environmental conditions (temperature, humidity, light) designed to limit microbial growth or other spoilage until the cannabis establishment receives a certificate of analysis indicating the batch meets the testing requirements of this rule.

(2) The secured container shall be labeled with the identification number used in the track and trace system, the name of the cannabis testing laboratory, the date on which the samples were taken, and, in minimum 12-point font, all capital letters, "AWAITING TEST RESULTS. DO NOT TRANSFER."

(3) The cannabis testing laboratory and the cannabis establishment submitting samples each shall appropriately document in the track and trace system the sampling and testing of cannabis product.

(4) A cannabis establishment shall maintain all results of laboratory tests conducted on cannabis products produced or manufactured by the cannabis establishment for a period of at least two years and shall make those results available to consumers or cannabis retailers upon request.

M. Re-testing: If a sample fails any test, the cannabis establishment may request re-testing by the same cannabis testing laboratory or another cannabis testing laboratory. If the repeated test is within acceptable limits, then the batch may be sold, transferred, or further manufactured.

N. Remediation: Within 120 days of a failed test, a cannabis establishment may remediate and retest the batch according to the procedures described in this subsection. A cannabis establishment shall adopt and maintain on the premises protocols regarding remediation consistent with this rule.

(1) A cannabis establishment may remediate dried cannabis or cannabis concentrates that fail microbiological testing by means of extraction using an approved volatile solvent. Other products that fail microbiological testing may not be remediated.

(2) A cannabis establishment may remediate any cannabis product that fails homogeneity testing through any approved manufacturing process, including extraction, chopping, melting, mixing, infusing, or otherwise combining the batch.

(3) A cannabis establishment may remediate any cannabis product that fails residual solvent testing by evaporating solvent using heat, vacuum pressure, or a combination of methods.

(4) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of mold by means of extraction using an approved volatile solvent.

(5) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of insects, hair, eggs, or feces by removing the contaminants, followed by extraction using an approved volatile solvent.

(6) A cannabis establishment may remediate cannabis that fails visual inspection for the presence of soil or rocks by removing the contaminants.

(7) Cannabis product that has been remediated must undergo any test that was previously failed.

(8) Cannabis product that has been remediated with the use of volatile solvents must additionally undergo residual solvent testing.

O. Notice and destruction: Any cannabis product that fails a test and cannot be remediated, including any remediated cannabis product that fails any test after remediation, is subject to destruction in accordance with the wastage requirements of 16.8.2.15 NMAC. The cannabis establishment shall notify the division within 24 hours and shall confirm the wastage and disposal of the usable cannabis in accordance with this rule. The wasted product shall

be removed from inventory, and the removal from inventory shall be noted in the track and trace system.

P. Interpretation of differing results: Results produced by a cannabis testing laboratory are valid only for the sample tested. A differing result produced by quality control or inspection testing of a different sample pursuant to 16.8.2.16 NMAC is not grounds for action against the cannabis testing laboratory that produced the original testing result.

[16.8.7.15 NMAC – N, 07/12/2022; A/E, 11/18/2022]

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

This is an amendment to 14.5.2 NMAC, amending Section 10, effective 1/13/2023

14.5.2.10 SUBMITTAL DOCUMENTS:

A. Submittal documents.

(1) With each application for a permit, two sets of the following documents (collectively, submittal documents) must be submitted:

- (a) type, occupancy including occupant load and kind of structure;
- (b) plans;
- (c) specifications;
- (d) engineering calculations;
- (e) diagrams;
- (f) soil investigation reports;
- (g) exterior wall envelope; submittal documents for all buildings shall describe the exterior wall envelope in sufficient detail to enable the plan review to determine compliance with the NMCBC the NMRBC and NMECC; the submittal documents

shall show the exterior wall envelope in detail as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves, or parapets, means of drainage, water-resistive membrane, and details around openings; roofing systems and manufacturers specifications are required to be submitted;

(h) mechanical design criteria for all buildings must be included with the submittal documents; ~~and~~.

(i) any other data or document required by the AHJ’s plan review official.;

(j) public buildings under the authority of the construction industries division shall have a structural engineer/architect determine the floodplain elevation, and the applicant shall ensure that all work is performed in compliance with floodplain requirements under the New Mexico Commercial Building Code (“NMCBC”). The construction industries division shall then pre-determine the design flood elevation verified by the New Mexico structural engineer/architect, prior to plan submittal to the division; and

(k) In riverine flood hazard areas where design flood elevations are identified but floodways have not been designated, the applicant shall demonstrate, to CID, that the effect of the proposed buildings and structures on design flood elevations, including fill, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the design flood elevation more than one foot at any point within the jurisdiction. If it is determined that the construction is within a floodplain, the work shall comply with NMCBC.

(2) For construction subject to the NMCBC, see Sections 107.1 and 107.2 of the IBC for other requirements regarding submittal documents, including form, means of egress, and site plans. See Subsection H of 14.5.2.8 NMAC and 14.7.2.45 NMAC for requirements for baby changing facilities.

(3) For construction subject to NMRBC, see Sections 106.1.1, 106.1.2, 106.1.3 and 106.2 of the IRC for other requirements regarding submittal documents, including form, manufacturer’s installation instructions, construction in floodplain areas, and site plans.

(4) Upon approval, one set of the submittal documents shall be retained by the division during construction and one set shall be returned to the permittee, which shall be available at the work site, and available for inspection by the AHJ or inspector during the performance of the permitted work.

(5) Submissions may be required of any specifications, drawings or diagrams necessary to show clearly the kind and extent of building construction work.

B. Professional seals requirements: An architect or engineer stamp is required for all uses listed in table 1004.1.2 of the IBC or when deemed relevant and required at the discretion of the AHJ pursuant to Subsection I of 14.5.2.10 NMAC.

C. Exceptions: The requirement for plans and specifications to be prepared by an architect or engineer shall not be required, in any of the following instances unless, in the discretion of the TBC or CBO, such an exception is not in the best interests of public safety or health. These exceptions are authorized pursuant to The Architectural Act, Section 61-15-9 NMSA 1978, and the Engineers & Surveyors Practice Act, § 61-23-22 NMSA 1978 and Subsection C of 16.39.4.8 NMAC.

(1) Single-family dwellings, not more than two stories in height.

(2) Multiple dwellings not more than two stories in height and containing not more than four dwelling units constructed of materials approved for use pursuant to the NMRBC, and provided this exception is not construed to allow a person who is not a properly licensed architect to design multiple clusters of

up to four dwelling units each where the total exceeds four dwelling units on each lawfully divided lot.

(3) Garages or other structures not more than two stories in height which are appurtenant to buildings described in Paragraphs (1) and (2) of this subsection.

(4) Group A, B, E divisions 1 and 2, F, M, S, U buildings or additions having a total occupant load of 10 or less and not more than two stories in height.

(5) Alteration to buildings or structures that present no unusual conditions or hazards or change in occupancy.

D. Submission may be waived. The CBO or TBC may waive the submission of plans, calculations, construction inspection requirements and other data if it is determined that the nature of the work applied for is such that plan review is not necessary to obtain compliance with the New Mexico construction codes.

E. Deferred submittals. For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted with the application for the permit, and that are to be submitted, thereafter, within a period specified by the AHJ or the plan review official.

F. Approval and phased approval.

(1) Approval. Deferral of any submittal items must have the prior approval of the TBC or CBO. The responsible design professional shall list which submittals are deferred with the submittal documents accompanying the permit application. Submittal documents for deferred submittal items must be submitted to the responsible design professional who shall review and forward them to the AHJ with a notation indicating the deferred submittal documents have been reviewed and they have been found to be in general conformance with the design of the building. The items identified in the deferred submittals shall not be installed until

the TBC or CBO has approved their design and submittal documents.

(2) Phased approval. All submittal documents need not be submitted with the initial application for a permit.

G. Responsible design professional. When submittal documents are required to be prepared by a registered design professional, the permit application shall indicate the registered design professional responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. This design professional shall be deemed to be the "responsible design professional." The permittee shall notify the division in writing within a reasonable period of time, not to exceed 10 business days, if the responsible design professional is changed or is unable to continue to perform all of the responsible design professional's required duties.

H. Special submissions. The AHJ or plan review official is authorized to require, before and after the commencement of a project, the submission of any specification, drawing or diagram necessary to adequately and clearly show the kind, extent, and occupancy of the general building, mechanical or plumbing, and electrical work on the project covered by the issued permits, or that is required to be permitted pursuant to CID rules.

I. Correction of submittal documents. The issuance of a permit based on certain plans and specifications shall not prevent the AHJ from thereafter requiring the correction of any error in such plans or specifications, or from prohibiting work pursuant to those plans or specifications when a violation of the applicable code would result.

J. Electrical projects.
(1) Submittal documents shall be submitted and sealed by an engineer with a specialty in electrical work, licensed in accordance with the New Mexico Engineering and Surveying Practice Act for an electrical installation when;

(a) there is a calculated service capacity over 100 kVA single-phase;

(b) there is a calculated service capacity over 225 kVA three-phase;

(c) electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 400 amps single-phase;

(d) electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 600 amps on 120/208 volt three-phase systems;

(e) electrical wiring for new or altered branch circuits or feeders with over-current protection devices exceeding 500 amps on 120/240 volt three-phase systems;

(f) electrical wiring for new or altered branch circuits or feeders with over-current protection devices over 300 amps on 480 volt three-phase systems;

(g) a project with a total valuation over \$600,000; or

(h) a structure in which the total occupancy of 50 or more;

(2) The following shall not require submittal documents to be sealed by an engineer with a specialty in electrical work:

(a) Electrical wiring at remote locations with the approval of the appropriate AHJ.

(b) electrical installations under the following criteria may be sealed by an validly licensed engineer or architect to include:

(i) a calculated service capacity under 100 kVA single-phase;

(ii) a calculated service capacity under 225 kVA three-phase;

(iii) a project valued under \$600,000; or

(iv) a structure in which the total occupancy is less than 50.

(3) Any commercial project that requires an architect or engineer seal pursuant to this part shall be submitted to the appropriate electrical AHJ for review and approval.

(4) Submittal documents shall show the electrical riser, conductor size, grounding conductor size, method of grounding (available electrodes, etc.), load calculations, available fault calculations, size and location of disconnects, panel schedules, wiring methods, site and floor plan. General expressions such as “work shall be done in accordance with the New Mexico Electrical Code” or “work shall be done to the satisfaction of the state building official” shall be considered inadequate; and incomplete.

(5) No permit for electrical work shall be issued for the addition to, or alteration of, wiring of an existing building unless the building as it will be wired conforms to the requirements of the code for new buildings, except that those portions of the existing wiring that have not been disturbed and are deemed not a hazard to life or property by the inspector, and approved by the CBO or TBC, may remain in service.

(6) No permit for a permanent electrical service shall be issued unless the end use of the service is specified by the appropriate valid permit.

(7) A permit may be issued for a temporary construction electrical service (temp pole) or permanent electrical services for a project site if the permanent permit, as required by 14.5.2.8 NMAC, has not yet been issued and the electrical service is in compliance with the electrical code and these rules, including but not limited to 14.5.2.17 NMAC, and all required documents are completed and submitted to the AHJ.

K. Mechanical projects.

(1) The AHJ may require the stamp of a professional engineer, licensed in accordance with the New Mexico Engineering and Surveying Practice Act on permits for mechanical or plumbing work with a total value of \$200,000.00, or more, or for commercial buildings three stories and higher.

(2) For plans of buildings more than two stories in height, other than R-3 and U occupancies, see the construction documents section of the currently adopted NMMC.

L. Permit contents and display. Pursuant to CILA Section 60-13-59 NMSA 1978, every permit or notice of permit issued by the AHJ shall:

(1) clearly indicate the name and address of the property owner;

(2) contain a legal description of the property by “lot and block” or “meters and bounds”_description in a subdivision, by street address in a municipality, or by township, range and section if outside a municipality or platted subdivision;

(3) contain the name, address and license number of the contractor or the homeowner to whom the permit is issued, and the name of the architect or engineer as may be required by the AHJ ; and

(4) must be prominently displayed on the site where the permitted work is to be performed.

M. Preliminary inspection. As part of the document review process, before issuing a building permit, the AHJ is authorized to examine or cause to be examined buildings, structures and sites for which an application for a building permit has been filed.

[14.5.2.10 NMAC - Rp, 14.5.2.10 NMAC, 3/10/2022; A, 01/13/2023]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.6.3 NMAC, amending Section 8, effective 1/13/2023.

14.6.3.8 LICENSE AND QUALIFYING PARTY REQUIREMENTS.

A. General information.

(1) To act in the capacity of a contractor as defined in Section 60-13-3 NMSA 1978, an entity must be issued a license.

(2) No business entity, the majority of which is owned by an individual who is 17 years of age or younger, is eligible for licensure.

(3) Contractor licenses issued by CID:

(a) Are issued only to qualified business entities which employ or are owned by one or more qualifying parties validly certified by CID to perform the classification of contracting in which the licensee intends to engage;

(b) grant only the authority to engage in contracting in the classification specified on the license issued to the entity, and on the certificate issued to its qualifying party;

(c) are not transferable and may not be used by any person other than the entity to which it is issued, and any entity that permits another person to use its license, or knows that its license is being used by another person and fails to promptly notify CID of such use, shall be subject to disciplinary action, up to and including revocation of the license; and

(d) authorize only the entity as named on the license to engage in contracting and no licensee may engage in contracting using a name other than the name that is shown on the license issued to it.

(4) No license shall be issued to an entity that is using a name containing word(s) identifying a construction or contracting trade, craft, discipline or expertise that is not covered by the classification of license for which the entity is qualified.

(5) In the event a licensee loses its qualifying party, through termination of employment or otherwise, both the licensee and the qualifying party must notify CID or its designee in writing of the separation within 30 days thereof.

(6) CID shall address all written communication with a licensee to its address of record which is the address shown on the application or any different address of which CID has received written notice from the licensee. A licensee shall report in writing to CID or its designee any change of address within 30 days after such change. Failure to do so is cause for disciplinary action.

(7) For additional information regarding journeyman certification, please see 14.6.4 NMAC.

B. Types of entities.

(1)

Corporations, limited liability companies (LLC), limited partnership (LP) and limited liability partnerships (LLP).

(a) Corporations, LLCs, LPs and LLPs are each required to be licensed even though one or more stockholders, members or partners have a license or qualifying party certificate.

(b)

Corporations, LLCs, LPs and LLPs must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(c)

Any license issued to a corporation, LLC, LP or LLP shall automatically cancel when the entity ceases to exist under New Mexico law.

(2) Joint ventures.

(a)

No two or more persons shall

submit a joint bid or jointly engage in contracting unless operating as a validly licensed joint venture.

(b)

To be eligible to apply for, renew or retain a license, each entity comprising the joint venture must hold a valid New Mexico contractor license and be legally authorized to do business in New Mexico.

(c)

Any license issued to a joint venture entity shall automatically cancel when the entity ceases to exist under New Mexico law.

(3)

Partnerships.

(a) A

partnership must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b)

Any license issued to a partnership shall automatically cancel when the partnership ceases to exist under New Mexico law.

(4) Sole

proprietorships.

(a)

A sole proprietorship must be legally authorized to do business in New Mexico in order to be eligible to apply for, renew or retain a license.

(b)

On the death of a sole proprietor, the license shall automatically cancel.

C. Proof of financial responsibility.

(1) Upon

initial licensure and as a condition of renewal each applicant shall furnish to the division a bond in the amount of ten thousand dollars (\$10,000) underwritten by a corporate surety authorized to transact business in New Mexico.

(2) The date

of effectiveness of the bond shall cover the entire period of licensure for initial application and each renewal cycle. Maintaining the bond for the entire period of licensure is a condition of licensure.

(3) Payment

from a bond required by Section 60-13-49 NMSA 1978, shall be used to cure division certified code violations

caused and not corrected by the licensee.

(4) Claims

against the bond shall be made within two years following final inspection or within two years of issuance of a certificate of occupancy, whichever is earlier.

(5) The surety

for such a bond shall remain in effect and liable, for the entire term of potential liability, under the provisions of the bond for all obligations of the principal pertaining to bond terms that occur before the bond is canceled, expires or otherwise becomes ineffective.

(6) The bond

carrier shall provide to the division and to the licensee thirty days prior written notice of intent to cancel a bond as required pursuant to Section 60-13-49 NMSA 1978. The division shall notify the licensee that a new bond is required. If the licensee has not provided a new bond according to the statute, action shall be taken immediately for cancellation of the license.

D. Application for licensure or certification.

(1) Every

application for licensure, certification, and all requests for formal action to be taken on a license or certificate, such as renewal or addition of a classification, must be made on the applicable form issued by CID or its designee and accompanied by the applicable fee as required by 14.5.5 NMAC.

(2) An

incomplete or insufficient application shall be rejected and returned to the applicant, with a statement of the reason for the rejection.

(3) All

requirements for licensing or certification must be met within six months from the date the application is received by CID or its designee. Any application not completed within the six month period shall expire and any fees paid in connection with the expired application shall automatically forfeit.

(4)

An application for licensure or

certification may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

(5) CID may deny an application on the basis of an applicant's conduct to the extent that such conduct violates the Construction Industries Licensing Act, the LP and CNG Act or their accompanying rules, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Subsection F below.

E. Qualifying party certificates.

(1) Qualifying party certificates issued by CID:

- (a) Are issued only to individuals who are 18 years of age or older;
- (b) Grant only the authority for the licensee to engage in contracting in the classification specified on the certificate;
- (c) Are not transferable and may not be used by any individual other than the individual to whom it is issued, and any individual who permits another person to use his certificate, or knows that his certificate is being used by another person and fails to promptly notify CID of such use, shall be subject to disciplinary action, up to and including revocation of the certificate.

(2) While validly attached to, and qualifying a license, no qualifying party shall accept or engage in any employment that would conflict with his responsibilities as a qualifying party for, or conflict with his ability to adequately supervise the work performed by, the licensee.

(3) No individual may qualify more than one licensed entity, other than a joint venture, unless there is at least thirty percent common ownership among the qualified entities. CID may require

evidence of such ownership that is satisfactory to the director.

(4) A qualifying party may only perform work authorized by the qualifying party certificate while validly attached to a validly licensed entity.

F. Potential denial of licensure based on disqualifying criminal conviction(s).

(1) Pursuant to Section 28-2-4 NMSA 1978, the division may refuse to grant or renew a license or certificate if an applicant has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) To deny an application for licensure or certification based on a disqualifying criminal conviction the following must be considered:

(a) CID shall not consider an applicant's criminal conviction to deny licensure or certification unless the conviction is one of the disqualifying criminal convictions listed in Paragraph (4) below.

(b) Should an applicant be denied a license or certificate based on a disqualifying criminal conviction, the applicant may submit a written justification providing evidence of mitigation or rehabilitation for reconsideration by the division.

(c) Should CID deny the license or certification after receipt of the written justification stated above, the denial may be appealed and subject to a hearing pursuant to the Uniform Licensing Act to determine whether the denial is properly based upon a disqualifying criminal conviction.

(3) In connection with an application for licensure, the division shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

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

(b) a juvenile adjudication; or
(c) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph (4), Subsection F of this rule.

(4) Disqualifying felony criminal convictions that may allow the denial of licensure or certification or the denial of renewal of licensure or certification, whether in New Mexico or their equivalent in any other jurisdiction include:

- (a) conviction involving attempts to evade or defeat payment of a tax that is owed or may be lawfully assessed;
- (b) conviction involving physical harm to a person or for an attempt, conspiracy or solicitation to commit such crimes;
- (c) robbery, larceny, burglary, fraud, forgery, embezzlement, arson, theft of identity, extortion, racketeering or receiving stolen property or for an attempt, conspiracy or solicitation to commit such crimes;
- (d) conviction involving bribery of a public officer or public employee or for an attempt, conspiracy or solicitation to commit such crimes.

G. Qualifying party certification process.

(1) Except for individuals seeking expedited licensure as military service members, an individual applying for a qualifying party certificate must provide proof of work experience, as required in the act and Title 14, NMAC, in the classification of contracting for which application is made. Training that is classified as technical training by an accredited college, university, manufacturer's accredited training program, technical vocational institute or an accredited apprenticeship program will be considered in lieu of work experience. Each year of equivalent training shall be applied as one-half year of experience, but in no case shall accredited training exceed one-half of the total work experience requirement.

(2) Examination Procedure.
 (a) No applicant for a qualifying party certificate is eligible to take a qualifying examination until providing satisfactory work experience, as to four years within the 10 years immediately prior to application, documentation to the division.

(b) Examinations shall be administered by CID, or its designee.

(c) A passing exam score is seventy-five percent or higher.

(d) An applicant who fails to appear for a scheduled exam or fails to attain a passing score of seventy-five percent or higher may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee and does not repeat the exam more than twice in any 30-day period.

(e) If CID or its designee determines that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, and any license or certificate issued on the basis of that exam shall be automatically and immediately voided. The applicant will not be eligible to take any exam administered by CID, or its designee, for one year after the date of such an event.

(f) The bureau chief may waive the state specific written trade exam requirement for a qualifying party who has passed the general construction, electrical, or electrical journeyman, national association of state contractors licensing agencies (NASCLA) accredited examination at the passing exam score when applying and successfully completing all other qualifying party requirements and journeyman certification requirements.

H. Qualifying party process for expedited certification for military service members.

(1) The applicant shall submit a completed

division approved qualifying party application.

(2) In lieu of work experience verification the applicant shall provide the following documentation satisfactory to the division:

(a) Applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensing or certification requirements in that jurisdiction and the minimal licensing requirements in that jurisdiction are substantially equivalent to the certification requirements for New Mexico; and

(c) submit the following documentation:

(i) For military service member: copy of military orders;

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

(iii) for spouses of deceased military service members: copy of deceased service member's DD214 and copy of marriage license;

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

(v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

(3) The certificate shall be issued by the division as soon as practicable but no later than 30 days after a qualified military service member, spouse, dependent child, or

veteran files a completed division approved application and provides a background check, if required, for the certification.

(4) Military service members and veterans shall not be charged a fee for the first three years for a license or certificate issued pursuant to this rule. The three-year exemption for licensing fees does not include fees for copies of documents, replacement licenses or other expenses related to a license, which fees shall be charged according to the division's fees currently in effect. A license issued pursuant to this section shall be valid for a three-year period subject to renewal requirements of Subsection I below.

I. License renewals.

(1) CID or its designee shall mail to every licensee a renewal application form at least 30 days prior to the expiration of the license to the current address of record for that licensee. Whether or not the application form is received, it is the sole duty and responsibility of each licensee to timely renew its license.

(2) The filing date of the renewal application shall be the date the envelope is postmarked or, if hand delivered, the date it is received by CID or its designee.

(3) The signatures of all current qualifying parties on each license must appear on the renewal form.

(4) If a renewal application is not timely received, or if received but is rejected for failure to comply with renewal requirements, the license shall be suspended and subject to cancellation pursuant to Subsections E and F of Section 60-13-18 NMSA 1978, of the Act.

(5) An application for renewal of a license or certificate may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsections F of 14.6.3.8 NMAC.

J. Change of name.
(1) The licensee must submit a written request for a name change accompanied by:

(a) An amended registration certificate from the New Mexico department of taxation and revenue.

(b) A rider from the bonding company;

(c) If a corporation, LLC, LP or LLP, a copy of the New Mexico certificate of amendment or other document issued by the state showing that the name change has been officially recorded.

(2) A change of name is not effective until approved and posted by CID. Conducting business under the new name prior to CID's approval and notification within CID's licensee database may constitute a violation of Subsection K of Section 60-13-23 NMSA 1978, of the Act.

K. Validity of licenses and certificates.

(1) The following events may cause a license or certificate to be, or to become, invalid:

(a) Failure to renew pursuant to Sections 60-13-18 and 60-13-39 NMSA 1978, of the Act.

(b) Failure to maintain proof of financial responsibility pursuant to Section 60-13-49 NMSA 1978, of the Act.

(c) Failure to comply with workers' compensation laws pursuant to Section 60-13-23 NMSA 1978, of the Act.

(d) Failure to comply with the Parental Responsibility Act.

(e) Failure of a license to be qualified by a qualifying party certificate.

(f) Loss of authorization to conduct business in New Mexico.

(g) Death of a sole proprietor.

(h) Revocation or suspension of a license pursuant to Section 60-13-23 NMSA

1978, of the Construction Industries Licensing Act, the Criminal Offender Employment Act or 14.5.8 NMAC.

(i) Revocation or suspension of a certificate pursuant to Section 60-13-24 and 36 NMSA 1978, of the Construction Industries Licensing Act, the Criminal Offender Employment Act or 14.5.8 NMAC.

(2) When a license ceases to be qualified by a qualifying party certificate, the license will be automatically cancelled and the licensee may not bid or commence any new work in that classification. Any bid or new work commenced after a license is cancelled pursuant to this rule shall be considered unlicensed and will subject the licensee to disciplinary action. Work in progress at the time of the cancellation may continue for not more than 120 days. After 120 days, any permit that was issued to the licensee for work in the affected classification shall be automatically cancelled, no inspection shall be conducted pursuant to any such cancelled permit, and any work continued or undertaken shall be deemed to be unlicensed activity and will subject the licensee to prosecution pursuant to Section 60-13-52 NMSA 1978, of the Act.

(3) A qualifying party certificate that is not qualifying a valid license will automatically expire as follows:

(a) A new qualifying party certificate that does not qualify a valid license within 12 months from the date on which the exam score was reported to CID, or its designee, shall automatically expire.

(b) A qualifying party who does not qualify a valid license for any consecutive two - year period shall lose-eligibility as a qualifying party and the certificate shall automatically expire. Any individual who wishes to become recertified in the same classification after the expiration of the certificate pursuant to this rule must apply, retest, and pay all applicable fees. The director may

waive the exam requirement for an additional 12 months if the applicant submits documentation of work experience indicating technical and business knowledge equivalent to that indicated by exam scores.

(4) Any work in progress at the time a sole proprietor dies or an entity ceases to exist or be authorized to do business, as described in subpart B. of this rule, may continue for not longer than 120 days provided that CID receives written notice of the death or event that causes the entity to lose its authorization to do business within 30 calendar days thereafter. At the end of the 120 days, all permits issued to the entity shall be cancelled, no inspections on such permits shall be performed, and any work performed thereafter by the entity shall be deemed unlicensed activity and may be prosecuted under Section 60-13-52 NMSA 1978, of the Act. If the licensee, or the licensee's representative fails to notify CID as required in this rule, any work performed after the death of the sole proprietor or the termination of the entity's authorization to do business in New Mexico shall constitute unlicensed activity under the act and may be prosecuted by CID.

L. Compliance with Parental Responsibility Act.

(1) Pursuant to the Parental Responsibility Act (PRA), any person who fails to come into compliance with all court ordered child support obligations within 30 days after receiving notice of non-compliance from CID will be subject to revocation of all licenses and certificates, pursuant to the due process requirements of the Uniform Licensing Act.

(2) The only proof of compliance with the PRA is a certificate of compliance issued to the license or certificate holder by the human services department (HSD certificate).

(3) If a license or certificate has been suspended or revoked pursuant to the requirements of the PRA and this rule, it shall be re-instated upon receipt by CID of an

HSD certificate and payment of any fines, fees or other amounts owing to CID, subject to the following conditions:

(a)

If more than 90 days have elapsed since the expiration date of a revoked license, the license shall not be reinstated. The respondent will be required to apply for a new license pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the act shall not apply.

(b)

If more than 180 days have elapsed since the expiration of a revoked certificate of competence, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the requirements of the act and these rules; provided, however, that the one year waiting period required by Section 60-13-29 NMSA 1978, of the Act shall not apply.

(c)

If a more than two years have elapsed since the date of an order revoking a qualifying party certificate, the certificate shall not be reinstated. The respondent will be required to apply for a new certificate pursuant to the act and these rules; provided, however, that the one year waiting period required by Section 60-13-16 NMSA 1978, of the act shall not apply.

(d)

Nothing in this rule or the PRA shall require CID to reinstate a license or certificate if cause exists to suspend or revoke the license or certificate on other grounds.

[14.6.3.8 NMAC - Rp, 14.6.3.8 NMAC, 3/10/2022; A, 01/13/2023]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 14.6.4 NMAC, amending Section 8, effective 1/13/2023.

14.6.4.8 JOURNEYMAN CERTIFICATION.

A. General information.

(1) A

journeyman :certificate of competence in the appropriate trade classification for the work to be performed is required of all individuals performing electrical wiring, or mechanical and plumbing work; provided however, that an apprentice, as defined in Section 60-13-2 NMSA 1978, of the act, may work under the direct supervision of a validly certified journeyman, as defined in Section 60-13-2 NMSA 1978, of the act, who is employed by a validly licensed person, as defined by Section 60-13-2 NMSA 1978, of the act, or a holder of a valid annual permit.

(2) A

journeyman certificate of competence is issued to an individual only and is not transferable or assignable.

(3) No

individual under the age of 18 shall be issued a certificate of competence.

(4)

Journeyman certificates are classified according to the type of work the journeyman is certified to perform. A journeyman may engage in the trade authorized by the certificate of competence issued to the journeyman only when employed by a licensed entity: (1) that is validly licensed to perform the type of work for which the journeyman is certified; or, (2) holding a valid annual permit authorizing the entity to engage in the type of work for which the journeyman is certified.

(5) For

information regarding compliance with the Parental Responsibility Act, revocations and suspensions and administrative penalties, please see Subsections H and I of 14.6.3.8 NMAC and 14.6.3.9 NMAC.

B. Application.

(1)

An application submitted for a journeyman certificate of competence shall be on a form approved by CID and shall be accompanied by the prescribed certification fee.

(2) An

incomplete or insufficient application shall be rejected and returned to the applicant with a statement of the reason for the rejection.

(3) All

requirements for certification must be met within six months after the date the application is received by CID or its designee. Any application not completed within the six month period shall expire and any fees paid in connection with the expired application shall automatically forfeit.

(4) The

applicant must submit proof of the required experience with the application on form(s) approved by CID or must meet all of the requirements for expedited certification for a military service member as defined Section 60-1-34 NMSA 1978.

(5) An

application for certification may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

C. Journeyman certification process.

(1) Except

for individuals seeking expedited licensure as military service members, an individual applying for a journeyman certificate must provide proof of [four years of] work experience within the 10 years immediately prior to application, as required in the act and Title 14, NMAC, in the classification for which application is made. Training that is classified as technical training by an accredited college, university, manufacturer’s accredited training program, technical vocational institute or an accredited apprenticeship program will be considered in lieu of work experience. Each year of equivalent training shall be applied as one-half year of experience, but in no case shall accredited training exceed one-half of the total work experience requirement.

(2)

Examination procedure.

(a) No applicant for a journeyman certificate is eligible to take an examination until providing satisfactory work experience documentation to the division.

(b) Examinations shall be administered by CID, or its designee.

(c) A passing exam score is seventy-five percent or higher.

(d) An applicant who fails to appear for a scheduled exam or fails to attain a passing score of seventy-five percent or higher may take another regularly scheduled exam, provided the applicant reapplies to take the exam, pays the fee and does not repeat the exam more than twice in any 30-day period.

(e) If CID or its designee determines that an applicant has cheated, the exam shall be deemed invalid, all fees shall be forfeited, and any license or certificate issued on the basis of that exam shall be automatically and immediately voided. The applicant will not be eligible to take any exam administered by CID, or its designee, for one year after the date of such an event.

D. Journeyman process for expedited certification for military service members.

(1) The applicant shall submit a completed division approved journeyman application.

(2) In lieu of work experience verification the applicant shall provide the following documentation satisfactory to the division:

(a) applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensure or certification requirements in that jurisdiction and the minimal licensing or certification requirements in that jurisdiction are substantially

equivalent to the certification requirements for New Mexico; and

(b) submit the following documentation:

(i) for military service member: copy of military orders;

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

(iii) for spouses of deceased military service members: copy of deceased service member's DD214 and copy of marriage license;

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

(v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

(3) The certificate shall be issued by the division as soon as practicable but no later than thirty days after a qualified military service member, spouse, dependent child, or veteran files a completed division approved application and provides a background check, if required, for the certification.

(4) Military service members and veterans shall not be charged a fee for the first three years for a certificate issued pursuant to this rule. The three-year exemption for certification fees does not include fees for copies of documents, replacement certificates or other expenses related to a certificate, which fees shall be charged according to the division's fees currently in effect.

(5) A certificate issued pursuant to this section shall be valid for a three-

year period subject to renewal requirements of Subsection E below.

E. Electrical journeyman classifications. Requires two years of experience unless otherwise specified.

(1) **EE-98J. Journeyman residential and commercial electrical.** Requires four years of experience. Can work under EE-98, ER-1 and all electrical specialty licenses. If working under an ER-1 or a specialty license the journeyman holding this certification may perform work only within the scope of the contractor's license.

(2) **ER-1J. Journeyman residential wiring.** Can work under an EE-98 or an ER-1 license.

(3) **EL-1J. Journeyman electrical distribution systems, including transmission lines.** Requires four years of experience. Can work under an EL-1 license.

(4) **ES-1J. Journeyman electrical signs and outline lighting.** Can work under an ES-1 or an EE-98 license.

(5) **ES-2. Journeyman cathodic protection and lightning protection systems.** Can work under an ES-2 or an EE-98 license.

(6) **ES-3J. Journeyman sound, intercommunication, electrical alarm systems, and systems 50 volts and under.** Can work under an ES-3, ER-1 or an EE-98 license.

(7) **ES-7J. Journeyman telephone communication systems and telephone interconnect systems.** Can work under an ES-7, ER-1 or EE-98 license.

(8) **ES-10RJ. Journeyman residential water well pump installer.** Can work under an ES-10R or EE-98 license.

(9) **ES-10J. Journeyman water well pump installer.** Can work under an ES-10 or EE-98 license.

F. Mechanical-plumbing journeyman classifications. Requires two years of experience unless otherwise specified.

(1) **JP**
Journeyman plumber. Can work under an MM-1, MS-3, MS-6 or MM-98 license.

(2) **JPF**
Journeyman pipe fitter. Can work under an MM-1, MM-2, MM-4 or MM-98 license

(3) **JG**
Journeyman natural gas fitter. Can work under an MM-2 or MM-98 license.

(4) **JPG**
Journeyman plumber and natural gas fitter. Can work under an MM-1, MM-2 or MM-98 license.

(5) **JR**
Journeyman refrigeration. Must demonstrate compliance with environmental protection agency (EPA) recovery requirements before certificate may be issued. Can work under an MM-3, MM-4 or MM-98 or JSM license.

(6) **JS**
Journeyman sprinkler. Can work under an MS-6, MM-1 or MM-98 license.

(7) **JSM**
Journeyman sheet metal. Can work under an MM-3 or MM-98 license.

(8) **JW**
Journeyman welder. Must obtain either a JP, JG, JPG, JPF or JSM certification and show American society of mechanical engineers (ASME) section 9 certification. Is not required to test separately for this certificate of competence. Can work under an MM-1, MM-2, MM-3, MM-4 or MM-98 license.

(9) **JMG**
journeyman medical gas installer. Must obtain either JP, JG, JPG or JPF certification and show approved medical gas certification as referenced in 14.9.5 NMAC. Can work under an MM-1, MM-2, MM-4 or MM-98 license.

(10) **BO1**
journeyman boiler operator. Low pressure only. Requires six months experience; can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

(11) **BO2**
journeyman boiler operator. Low

and high pressure. Requires six months experience; can be employed by an institution that has a boiler; cannot perform construction or repair of a boiler.

(12) **MS-12J**
journeyman fire protection sprinkler systems. Requires four years of experience. Can work for an MS-12, MM-4, or an MM-98 license.

(13) **MS-14J**
journeyman dry chemical fire protection. Requires four years of experience. Can work for an MS-14, MM-4 or MM-98 license.

G. Renewal.
 (1) CID, or its designee, shall mail to every certificate holder a renewal application form at least 30 days prior to the expiration of such certificate to the certificate holder's current address of record. Whether or not the application is received, it is the sole duty and responsibility of each certificate holder to timely renew his/her certificate. Incomplete or inaccurately completed renewal applications shall be rejected.

(2) No journeyman certificate shall be renewed in the absence of proof of compliance with the continuing education requirements set forth in Subsection D of this section.

(3) The filing date of the renewal application shall be the date the envelope is postmarked or, if it is hand delivered, the date it is received by CID, or its designee.

(4) If an application for renewal is not timely received or, if it is received but rejected for failure to comply with renewal requirements, the certificate shall be suspended and shall be subject to cancellation pursuant to Subsection C of Section 60-13-39 NMSA 1978, of the act.

(5) An application for renewal of a certificate may be denied if the applicant has been convicted of a felony enumerated as a disqualifying criminal conviction pursuant to Subsection F of 14.6.3.8 NMAC.

H. Continuing education requirements.

(1) The continuing education requirements for renewal of a journeyman certificate apply to the following journeyman classifications:

- (a) plumbing journeyman plumber (JP), journeyman pipefitter (JPF), journeyman gas (JG), journeyman plumber-gas (JPG);
- (b) mechanical - journeyman sheet metal (JSM), journeyman sprinkler (JS), journeyman refrigeration (JR), journeyman fire protection (MS-12J or MS-14J); and
- (c) electrical - journeyman electrician (JE98 also referred to as EE98-J) and journeyman lineman (EL-1J).

(2) Prior to renewal of a journeyman certificate of competence in the applicable classification, the applicant for renewal or reinstatement is required to complete a minimum of 16 hours of approved course work. Proof of completion of such course work, in a form satisfactory to the division, must be submitted with the application for renewal.

(3) A minimum of eight hours of approved course work must cover the current CID code that is enforced by each journeyman classification to be renewed or reinstated.

I. Application for approval of continuing education courses and instructors.

(1) Each applicant for course approval must submit to CID an application for course and instructor approval on a form approved by the division.

(2) Application for course approval must be received by CID no later than 120 days before the date on which the course is proposed to begin.

(3) Each application for course and instructor approval must be complete and legible. Incomplete or illegible applications will not be processed and will be returned to the applicant.

(4) To qualify for approval, continuing education courses must comply with the following standards:

(a) the course content must be relevant to either the plumbing, mechanical or electrical trades and be consistent with all current applicable laws and rules of the state of New Mexico;

(b) the course must be conducted in a classroom, seminar or in an online format; and

(c) the course must be taught by an approved instructor.

(5) To qualify for approval as an instructor, an individual must either be currently teaching, or must have taught within the two years prior to application, at least one course in the electrical, mechanical or plumbing trades in one of the following programs.

(a) a plumbing, mechanical, or electrical trades training program that is approved by the vocational education division of the state of New Mexico department of public education and offered in the curriculum of an accredited New Mexico trade school, college or university;

(b) a plumbing, mechanical or electrical trade training program that is offered through a professional association or organization representing licensees in the plumbing, mechanical and electrical trades;

(c) an apprenticeship program approved by the state of New Mexico apprenticeship council or the bureau of apprenticeship and training;

(d) a plumbing, mechanical or electrical trade training program offered by a nationally recognized testing laboratory, or product manufacturer, and the applicant has at least five years practical experience in the subject taught;

(e) a plumbing, mechanical or electrical trade training program sponsored by an organization that provides

continuing education unit courses in the plumbing, mechanical or electrical trades, and the instructor has at least five years of practical experience in the subject taught; or

(f) a plumbing, mechanical, or electrical trades training program offered by CID.

J. Approval of continuing education courses and instructors

(1) Each application for course and instructor approval will be reviewed by the appropriate bureau chief and the technical advisory council for that bureau each calendar month.

(2) The reviewing bureau chief shall provide to the commission at each commission meeting the bureau chief's recommendation for approval or denial on each application received and reviewed by the bureau chief since the last commission meeting.

(3) The commission shall receive and consider the recommendation of the bureau chief before voting on approval of an application.

(4) Commission approval of a continuing education course and instructors shall be effective for three years from the date of approval; provided, however, that approval of any course that is not offered for 24 consecutive months shall automatically expire.

(5) On the date that is three years after the date on which approval of a course or instructor was issued, the approval will automatically expire and, without further notice from CID, such course or instructor shall no longer be approved. Application to renewal course or instructor approval must be received no less than 120 days prior to the date on which the approval period expires.

(6) The decision of the commission regarding the approval or denial of an application is final and is not subject to review.

(7) Once approved, and as a condition of

continuing approval, a course provider must submit to CID the following information for each journeyman certificate holder, who successfully completes an approved course, within 30 days of the completion of the course:

(a) the name of the course, approval number, and the name of the instructor;

(b) the date on which the course was completed by the certificate holder; and

(c) the address and CID journeyman certificate number of the certificate holder.

(8) Approval of an instructor or a course will be subject-matter specific. Approval to teach courses in more than one trade or code will require the applicant to meet the experience criteria for each trade or code.

[14.6.4.8 NMAC - Rp, 14.6.4.8 NMAC, 2/1/2006; A, 12/14/2009; A, 3/10/2022; A, 01/13/2023]

REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION

This is an amendment to 19.15.40 NMAC, amending Sections 7 and 15, effective 1/13/2023.

19.15.40.7 DEFINITIONS:

A. "Accessible" means having access to; may require the removal of a panel, door or similar covering of the item described.

B. "Approved" means acceptable to the authority having jurisdiction.

C. "Authority having jurisdiction" means the New Mexico LP gas bureau.

D. "Bulk plant" means storage facilities for liquid LP gas awaiting transfer.

E. "Bureau" means the liquefied petroleum and compressed gas bureau of the division.

F. “Certified” means “listed” or “labeled”.

G. “Certificate of competence” means a written certificate issued by the LP gas bureau to an LP gas installer based on evidence of competence.

H. “Clearance” means the distance between the appliance, chimney, vent chimney or vent connector, or plenum and the nearest surface.

I. “Code” means NFPA 52, NFPA 54, NFPA 57, NFPA 58 and NFPA 1192 and other codebooks adopted as amended by the commission.

J. “Commission” means the construction industries commission.

K. “Compressed natural gases” and “CNG” means mixtures of hydrocarbon gases and vapors consisting principally of methane in gaseous form, which has been compressed for vehicular fuel.

L. “Concealed LP gas piping” means all LP gas piping and fittings which, when in place in the finished building, would require removal of permanent construction to gain access to the piping.

M. “Connector, gas appliance” means a connector, used to convey fuel gas three feet or less in length (six feet or less for gas ranges), between a gas shut off valve and gas appliance in the same room.

N. “Consumer’s LP gas system” means any arrangement of LP gas piping, extending from the point of delivery to and including all outlets, appliances and appurtenances, installed under the provisions of the code, which the consumer is responsible to maintain in a serviceable condition, exclusive of piping, tanks, regulators, valves, fittings, etc. owned by the gas company.

O. “Distributing plant” means a facility with the primary purpose of distribution of LP gas, which receives LP gas in tank car, truck transport or truck lots, and distributes such LP gas to end-users by delivery tank truck or through gas piping; such plants have bulk storage

of 2,000 gallons water capacity or more, and usually have container-filling and truck-loading facilities on the premises.

P. “Distributing point” means a facility other than a distributing plant which normally receives gas by tank truck and which fills small containers or the engine fuel tank of motor vehicles on the premises. (An LP gas service station is one type of distributing point).

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

[Q] R. “Division” means the construction industries division of the regulation and licensing department.

[R] S. “Energy efficient water heater” means any LP gas automatic storage water heater that meets or exceeds ASHREA 90-75 standards for energy efficiency.

[S] T. “Fuel gas piping system” means the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel gas to the appliances.

[T] U. “Gas company” means any LP gas company or LP gas distributor.

[U] V. “Gas supply connection” means the terminal end or connection to which a gas supply connector is attached.

[V] W. “Gas supply connector” means tubing or piping connecting the mobile home to the gas supply source.

[W] X. “Gas vents” means factory-built vent piping and vent fittings listed by an approved testing agency, that are assembled and used in accordance with the terms of their listings, for conveying flue gases to the outside atmosphere.

[X] Y. “Heat producing appliance” means all heating and cooking appliances and all fuel burning appliances.

[Y] Z. “Heating appliance” means an appliance for comfort heating or for water heating of a manufactured home.

[Z] AA. “House piping” means the LP gas piping from the point where it enters the building or foundation, up to and including the outlets.

[AA] BB. “Input rating” means the LP gas-burning capacity of an appliance in BTU’s per hour as specified by the manufacturer.

[BB] CC. “Inspector” means a person hired by the bureau to enforce under administrative direction the laws and safety rules and regulations of the LP gas industry and the enforcement of the codes used in CNG, LNG and LCNG in motor vehicles.

[CC] DD. “Labeled” means equipment or materials to which has been attached a label, symbol or other identifying mark of an organization acceptable to the “authority having jurisdiction” and concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials and by whose labeling the manufacturer indicate compliance with appropriate standards or performance in specified manner.

[DD] EE. “Liquefied natural gases”, “liquefied compressed natural gases”, “LNG” and “LCNG” means a fluid in the liquid state composed predominantly of methane and that can contain minor quantities of ethane, propane, nitrogen, or other components normally found in natural gas.

[EE] FF. “Liquefied petroleum gases”, “LPG” and “LP gas” means any material that is composed predominantly of any of the following hydrocarbons or mixtures of them: propane, propylene, butane (normal butane or ISO-butane) and butylenes.

[FF] GG. “Liquid transfer” means the transfer of LP gas in a liquid form from an approved container into another approved container.

[GG] HH. “Liquid withdrawal” means an approved LP gas container designed for the withdrawal of LP gas for utilization in an approved means.

[HH] II. “Listed” means equipment or materials included in a list published by an organization acceptable to the authority having jurisdiction and concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

[H] JJ. “LP gas installation” means the installation of materials, fixtures, appliances or equipment that utilize LP gas, which is installed by a licensee of the LP gas bureau.

[H] KK. “Manufactured homes” means a movable or portable housing structure over 32 feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. Manufactured homes do not include recreational vehicles or modular or pre-manufactured homes, built to building code standards, designed to be permanently affixed to real property.

[KK] LL. “Manufactured home site” means a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

[H] MM. “Manufactured home park” means a parcel (or contiguous parcels) of land which has been so designated and improved so that it contains two or more manufactured home sites available to the general public for the placement thereon of manufactured homes for occupancy.

[OO] NN. “Military service member” has the same

meaning as defined in Paragraph (3) of Subsection F of Section 61-1-34 NMSA 1978.

[MM] OO. “Outlet” means a threaded connection or bolted flange in a pipe system to which an LP gas-burning appliance is or may be attached; such outlet must be located in the room or space where the appliance is or may be installed.

[NN] PP. “Point of delivery” means the initial junction of the consumer’s gas piping with the gas company’s piping, at the outlet side of the first regulator, regardless of whether it is a single-stage regulator system or the first stage regulator of a two-stage regulator system.

[OO] QQ. “Product” or **“products”** of liquefied petroleum gases, compressed natural gases or liquefied natural gas are considered to be liquefied petroleum gases or compressed natural gases or liquefied natural gases respectively.

[PP] RR. “Qualified instructor” means an employee who has passed the required examination and performed for at least one year the work being taught.

[QQ] SS. “Readily accessible” means having direct access without the necessity of removing any panel, door or similar obstruction.

[RR] TT. “Regulator” means a device for controlling and maintaining a uniform pressure to the manifold of gas equipment.

[SS] UU. “Riser” means that portion of the yardline, which protrudes through the grade level of the ground.

[TT] VV. “Roof jack” that portion of venting system, including the cap, insulating means, flashing and ceiling plate, located in and above the roof.

[UU] WW. “Sealed combustion/direct vent system appliance”, “direct vent system appliance” means an appliance which by its inherent design is constructed so that all air supplied for combustion to the combustion system of the appliance, and all products of combustion are completely isolated

from the atmosphere of the space in which it is installed, and all flue gases are discharged to the outside.

[YY] XX. “Substantially equivalent” means the determination by the construction industries division that the education, examination, and experience requirements contained in the statutes and rules of another jurisdiction are comparable to, or exceed the education, examination, and experience requirements of the LP & CNG Act.

[VV] YY. “Yardline” means a buried line servicing utilities from the on-site utility terminal to the manufactured home.

[19.15.40.7 NMAC - Rp, 19.15.40.7 NMAC, 2/1/2006; A, 01/13/2023]

19.15.40.15 LICENSING AND LICENSE CLASSIFICATIONS, SCOPES AND FEES: License classifications are defined and annual license fees are set as follows.

A. LP-1 wholesale sale or delivery of LP gas \$125.00. A licensee under this classification is authorized to wholesale, transport and/or deliver LP gas in vehicular units into or out of any location except that of an ultimate consumer. This classification will allow delivery to the ultimate consumer whose facilities require a bulkhead.

B. LP-3S retail sale of LP gas \$65.00. A licensee under this classification is authorized to deliver, transfer and transport LP gas in a liquid state to the ultimate consumer, both intrastate and interstate. The company employing the LP-3S licensee must also hold an LP-5 license in order to hold a LP-3S license. A person holding this classification is authorized to perform all work as described in classifications LP-1 and LP-9; and may perform an out of gas leak test for an existing customer of his employer so long as the employer is responsible for delivery of the propane.

C. LP-4 limited installation, service and repair \$125.00. A licensee under this classification is authorized to install,

service and repair appliances, equipment, and piping for use with LP gas in residences and commercial buildings except mobile homes (as defined by the Manufactured Housing Act) recreational vehicles and similar units. The scope of the work for the LP piping is from (point of delivery) to the final connection of the appliances. In order to qualify for this classification, a licensee must hold mechanical license classification MM2 or MM98.

D. LP-5 installation, service and repair \$125.00. A licensee under this classification is authorized to install or erect liquid transfer facilities; install or repair piping and equipment attached to cargo containers; and to install, service and repair appliances, equipment and piping for use with LP gas in residences and commercial buildings including mobile homes (as defined by the Manufactured Housing Act), recreational vehicles and similar units. The scope of the work for the LP gas appliances in this classification does not include the HVAC ductwork or hydronic piping systems connected to any appliance. Those specialties fall under the mechanical license classifications.

E. LP-6 installation, service and repair of mobile units only \$75.00. A licensee under this classification is authorized to install, service and repair LP gas appliances, equipment and piping in manufactured housing, travel trailers, recreational vehicles, campers and similar units.

F. LP-7 wholesale or manufacture of appliances, equipment or containers \$50.00. A licensee under this classification is authorized to wholesale or manufacture appliances, equipment or containers for use with LP gas.

G. LP-8 installation, service and repair of cylinder exchange cabinets \$35.00. A licensee under this classification is authorized to install, service and repair LP gas cylinder exchange cabinets and to deliver portable containers (maximum water capacity 239#).

H. LP-9 station for dispensing LP gas \$35.00. A licensee under this classification is authorized to dispense LP gas into fuel containers on vehicles or to fill and/or deliver portable containers (maximum water capacity 239#).

I. LP-10 LP gas carburetion sales, service and installation, including repair \$35.00. A licensee under this classification is authorized for LP gas carburetion sale, service and installation, including repair.

J. CNG-1 CNG carburetion sale, service and installation \$35.00. A licensee under this classification is authorized for CNG gas carburetion sale, service and installation, including repair.

K. LNG-1 LNG carburetion sale, service and installation \$35.00.

L. Qualifying party identification card \$15.00.

M. Annual renewal fee per qualifying party identification card \$10.00.

N. Licensing examination fee \$25.00.

O. Licensing re-examination fee \$25.00.

P. The total license fee charged any one licensee for a combination of LP gas activities at any one operating location is set at: \$300.00.

Q. Expedited certification for military service members.

(1) The applicant shall submit a completed division approved application.

(2) In lieu of passing the examination for each classification, the applicant shall provide documentation satisfactory to the division demonstrating that the:

(a) applicant is currently licensed or certified and in good standing in another jurisdiction, including a branch of the United States armed forces;

(b) applicant has met the minimal licensing or certification requirements in that jurisdiction and the minimal

licensing requirements in that jurisdiction are substantially equivalent to the certification requirements for New Mexico; and

(c) submit the following documentation:

(i) for military service member: copy of military orders;

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

(iii) for spouses of deceased military service members: copy of deceased service member's DD214 and copy of marriage license;

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

(v) for veterans (retired or separated): copy of DD214 showing proof of honorable discharge.

(3) The certificate shall be issued by the division as soon as practicable but no later than 30 days after the qualified military service member, spouse, dependent child, or veteran files a completed division approved application and provides a background check, if required, for the certification.

(4) Military service members and veterans shall not be charged a fee for the first three years for a license or certificate, including renewals, issued pursuant to this rule.

(5) A license issued pursuant to this section shall be valid for a one-year period subject to renewal requirements.

(6) Renewal of licenses or certifications issued pursuant to this section require that

the licensee satisfy the requirements of 19.15.40.15 NMAC.

R. Potential denial of application, suspension or revocation of a license or certification based on a disqualifying criminal conviction

(1) Pursuant to Section 28-2-4 NMSA 1978, the construction industries commission may deny an application for license or certificate, revoke or suspend a license or certificate if the licensee or certificate holder has been convicted of a felony and the criminal conviction directly relates to the particular trade, business or profession.

(2) Disqualifying criminal felonies and procedures for denying an application for license or certificate or revocation or suspension of a license or certificate are defined under Subsection C of 14.5.8.8 NMAC. [19.15.40.15 NMAC - Rp, 19.15.40.15 NMAC, 2/1/2006; A, 04/01/2013; A, 01/01/2015; A, 7/1/2018; A, 01/13/2023]

NURSING, BOARD OF

The New Mexico Board of Nursing, reviewed and approved at its 11/3/2022 meeting, after at its 11/3/2022 hearing, to repeal its rule 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 11/12/2021 and replace it with 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions, adopted 11/30/2022 effective 12/13/2022.

The New Mexico Board of Nursing, reviewed and approved at its 11/3/2022 meeting, after at its 11/3/2022 hearing, to repeal its rule 16.12.2 NMAC, Nursing and Health Care Related Providers - Nurse Licensure filed 9/1/2016 and replace it with 16.12.2 NMAC, Nursing and Health Care Related Providers - Nurse Licensure, adopted 11/30/2022 effective 12/13/2022.

The New Mexico Board of Nursing, reviewed and approved at its 11/3/2022 meeting, after at its 11/3/2022 hearing, to repeal its rule 16.12.4 NMAC, Nursing and Health Care Related Providers - Hemodialysis Technicians filed 9/1/2016 and replace it with 16.12.4 NMAC, Nursing and Health Care Related Providers - Hemodialysis Technicians, adopted 11/30/2022 effective 12/13/2022.

The New Mexico Board of Nursing, reviewed and approved at its 11/3/2022 meeting, after at its 11/3/2022 hearing, to repeal its rule 16.12.5 NMAC, Nursing and Health Care Related Providers - Medication Aides filed 9/1/2016 and replace it with 16.12.5 NMAC, Nursing and Health Care Related Providers - Medication Aides, adopted 11/30/2022 effective 12/13/2022.

The New Mexico Board of Nursing, reviewed and approved at its 11/3/2022 meeting, after at its 11/3/2022 hearing, to repeal its rule 16.12.11 NMAC, Nursing and Health Care Related Providers - Lactation Care Providers filed 6/28/2018 and replace it with 16.12.11 NMAC, Nursing and Health Care Related Providers - Lactation Care Providers, adopted 11/30/2022 effective 12/13/2022.

NURSING, BOARD OF

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

16.12.1.1 ISSUING AGENCY: New Mexico Board of Nursing. [16.12.1.1 NMAC - Rp, 16.12.1.1 NMAC, 12/13/2022]

16.12.1.2 SCOPE: These rules apply to the board and all those licensed by or subject to the jurisdiction of the board. [16.12.1.2 NMAC - Rp, 16.12.1.2 NMAC, 12/13/2022]

16.12.1.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978 and the Lactation Care Provider Act, Sections 61-36-1 to -6 NMSA 1978. [16.12.1.3 NMAC - Rp, 16.12.1.3 NMAC, 12/13/2022]

16.12.1.4 DURATION: Permanent. [16.12.1.4 NMAC - Rp, 16.12.1.4 NMAC, 12/13/2022]

16.12.1.5 EFFECTIVE DATE: December 13, 2022 unless a later date is cited at the end of a section. [16.12.1.5 NMAC - Rp, 16.12.1.5 NMAC, 12/13/2022]

16.12.1.6 OBJECTIVE: The objective of Part 1 is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, lactation care providers, certified medication aides, certified hemodialysis technicians, approve schools of nursing and medication aide and hemodialysis technician training programs in the state. [16.12.1.6 NMAC - Rp, 16.12.1.6 NMAC, 12/13/2022]

16.12.1.7 DEFINITIONS:
A. Definitions beginning with the letter A:
(1) “actually engaged in nursing”, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(2) “administration of medications”, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(3) **“advanced practice registered nurse” (APRN)**, a graduate level prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; individuals are authorized to practice in the roles of certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);

(4) **“affidavit”**, a sworn written statement made to affirm a statement of fact;

(5) **“anesthetics”**, means a drug-induced loss of consciousness, otherwise known as general anesthesia, during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory support is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. General anesthesia is used for those procedures when loss of consciousness is required for the safe and effective delivery of surgical services.

(6) **“approval”**, the review and acceptance of a specific activity;

(7) **“approval agency”**, agency, institution or organization with the authorization to award CE credit;

(8) **“approved equivalent”**, a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;

(9) **“assessment”**, the review and interpretation by a licensed individual of specific data necessary to determine the patient/client’s care and treatment needs; (also see data collection);

(10) **“assignment of nursing activity”**, assignment of nursing activity involves appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person);

(11) **“audit”**, an examination and verification of CE and practice documents.

B. Definitions beginning with the letter B:

(1) **“basic nursing education”**, the scholastic route to initial licensure;

(2) **“board”** means the New Mexico board of nursing.

C. Definitions beginning with the letter C:

(1) **“certificate”** means a legal document granting permission to an unlicensed person to perform specific functions considered the practice of nursing;

(2) **“certification re-activation”**, the process of reactivating a lapsed national advanced practice registered nurse certification program in the specialty area;

(3) **“CEU”** is the abbreviation for continuing education unit;

(4) **“CHT”** is the abbreviation for certified hemodialysis technician;

(5) **“CMA”** is the abbreviation for certified medication aide;

(6) **“client”** means any person domiciled, residing, or receiving care, service or treatment from a licensed nurse, licensed lactation care provider, or certified unlicensed assistive person. This includes but is not limited to patients, residents, or consumers;

(7) **“collaboration”**, practice in conjunction with another health professional;

(8) **“competency”**, competency in nursing is the ability to perform skillfully and proficiently the role of

the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

(9) **“consultation”**, to communicate regularly to set goals and objectives and to review and document outcomes;

(10) **“contact hour”** means the unit of measurement describing an approved and organized learning experience equivalent to 60 clock minutes;

(11) **“continuing education”** means planned learning experiences beyond a basic nursing education program. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

(12) **“continuing education unit”** means 10 contact hours of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction;

(13) **“coordinated licensure information system”** means an integrated process for collecting, storing and sharing information on nurse licensure and enforcement activities related to nurse licensure laws that is administered by a nonprofit organization composed of and controlled by licensing boards.

D. Definitions beginning with the letter D:

(1) **“data collection”**, the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

(2) **“delegation”**, the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;

(3) **“department of public safety”**, the

New Mexico department of public safety or other state’s department of public safety;

(4) **“direct supervision for graduate permit holders”**, at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions beginning with the letter E:

(1) **“educational institution”**, refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

(2) **“eligible for graduation”**, individual who has met all the requirements of an educational program;

(3) **“expedited license”** is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by the board.

F. Definitions beginning with the letter F: “final transcript”, an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. Definitions beginning with the letter G:

(1) **“generally recognized organization”**, an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public;

(2) **“good standing”** means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant

under the authority of the license or registration.

H. Definitions beginning with the letter H: “health care work force data collection”, an electronic survey, designed to be completed by applicants for licensure or renewal, which includes questions regarding a core essential data set.

I. Definitions beginning with the letter I:

(1) **“inactive list”**, compilation of those licenses that are in good standing but not current;

(2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3) **“institution of higher education”**, college or university.

J. Definitions beginning with the letter J: “jurisdiction”, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions beginning with the letter K: [RESERVED]

L. Definitions beginning with the letter L:

(1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for

an advanced practice nurse from a compact state;

(4) **“license”** means a legal document granting an individual the privilege and authority to engage in practice of an occupation or profession;

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

M. Definitions beginning with the letter M:

(1) **“medical emergency”**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **“multistate/compact license”** means a license granted through New Mexico’s participation in the nurse licensure compact that grants the licensee the legal authority to practice in all party states of the nurse licensure compact.

(4) **“must”**, a requirement.

N. Definitions beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“National practitioner data bank”** means the database operated by the U.S. department of health and human services that contains medical malpractice payment and adverse action reports on health care professionals;

(3) **“nationwide criminal history record”**, information concerning a person’s arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(4) **“nationwide criminal history screening”**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions beginning with the letter O: [RESERVED]

P. Definitions beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician,

licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced degree;

(6) **“preceptor”**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **“prescriptive authority”**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) **“private practice”**, employment status of an individual nurse who is self-employed.

(9) **“procedural sedation”**, a technique of administering sedatives or dissociative agents with or without analgesics to induce a state that allows the patient to tolerate unpleasant procedures while maintaining cardio respiratory functions.

Q. Definitions beginning with the letter Q: [RESERVED]

R. Definitions beginning with the letter R:

(1) **“reactivation”**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal

requirements; this process does not involve board action at any juncture;

(2) **“recognized national or state institutions/organizations”**, institutions and organizations recognized as providers of CE for nurses;

(3) **“refresher course”**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;

(4) **“reinstatement”**, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(5) **“ relicensure”**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions beginning with the letter S:

(1) **“shall”**, mandatory; a requirement;

(2) **“should”**, a suggestion or recommendation; not a requirement;

(3) **“sponsor/provider”**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(4) **“state approved program”**, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;

(5) **“supervision/direction”**, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;

(6) **“surrogate”**, an individual, other than a patient’s agent or guardian, authorized under the uniform health-

care decisions act to make a health-care decision for the patient.

T. Definitions beginning with the letter T: “temporary license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. Definitions beginning with the letter U: [RESERVED]

V. Definitions beginning with the letter V: “valid practitioner-patient relationship” means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

W. Definitions beginning with the letter W: [RESERVED]

X. Definitions beginning with the letter X: [RESERVED]

Y. Definitions beginning with the letter Y: [RESERVED]

Z. Definitions beginning with the letter Z: [RESERVED]

[16.12.1.7 NMAC - Rp, 16.12.1.7 NMAC, 12/13/2022]

16.12.1.8 GLOSSARY OF ABBREVIATIONS:

- A.** APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA).
- B.** CE: Continuing education.
- C.** CNP: Certified nurse practitioner.
- D.** CNS: Clinical nurse specialist.
- E.** COA: Council

on accreditation of nurse anesthesia educational program.

F. CRNA: Certified registered nurse anesthetist.

G. DNP: Doctor of nursing practice.

H. GCNS: Graduate clinical nurse specialist.

I. GN: Graduate nurse.

J. GNP: Graduate nurse practitioner.

K. GPN: Graduate practical nurse

L. GRNA: Graduate registered nurse anesthetist.

M. LPN: Licensed practical nurse.

N. MN: Master’s in nursing.

O. MSN: Master of science in nursing.

P. NBCRNA: National board on certification & recertification of nurse anesthetists.

Q. NCLEX-RN/PN: National council licensing examination - RN/PN.

R. NCSBN: National council of state boards of nursing.

S. NLNAC: National league for nursing accrediting commission.

T. NMSA: New Mexico statutes annotated.

U. NPA: Nursing Practice Act.

V. RN: Registered nurse.

W. ULA: Uniform Licensing Act.

[16.12.1.8 NMAC - N, 12/13/2022]

16.12.1.9 MISSION OF THE BOARD: The mission of the board is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, schools of nursing, hemodialysis technicians, medication aides, and lactation care providers in New Mexico. The board is not an advocacy organization but is instead a regulatory body responsible at all times and in all situations for acting in the interest of the public.
[16.12.1.9 NMAC - Rp, 16.12.1.8 NMAC, 12/13/2022]

16.12.1.10 BOARD ADMINISTRATION:

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

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

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

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

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

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

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

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

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

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

D. Signatures: A record, order, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the chair, vice-chair, or executive director. [16.12.1.10 NMAC - Rp, 16.12.1.9 NMAC, 12/13/2022]

16.12.1.11 AGENCY:

A. Verification of license or certificate:
 (1) The board staff shall make informal verification of licensure or certification status available immediately on the board website.

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

(3) Formal verification of licensure may only be requested through postal mail or fax through the submission of the board's verification request form and remittance of the required fee pursuant to 16.12.2.8 NMAC.

(4) Formal verification of registered nurse or licensed practical nurse licensure for the purposes of another U.S. nursing regulatory body must be requested through the national council of state boards of nursing (NCSBN) web-based system.

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

[16.12.1.11 NMAC - Rp, 16.12.1.10 NMAC, 12/13/2022]

16.12.1.12 COMMITTEES:

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

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

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

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

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

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

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

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

(5) Termination of membership:

(a) Members of committees serve at the pleasure of the board, and the

board may remove a member from a committee at any board meeting.

(b)

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

E. Any committee shall, if ordered by the executive director or the board, meet virtually rather than in person as a means of achieving greater efficiency and productivity.

F. Specific committees: Nursing practice advisory committee. The board may appoint a minimum of a seven-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.

[16.12.1.12 NMAC - Rp, 16.12.1.11 NMAC, 12/13/2022]

16.12.1.13 ETHICAL RESPONSIBILITIES OF BOARD MEMBERS, STAFF, AND COMMITTEE MEMBERS:

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

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

C. Code of conduct: The board shall annually adopt, at a regularly scheduled board meeting, a code of conduct for all members of the board, employees of the board, and committee members.

[16.12.1.13 NMAC - Rp, 16.12.1.12 NMAC, 12/13/2022]

16.12.1.14 INFORMATIONAL OBLIGATIONS OF LICENSE AND CERTIFICATE HOLDERS:

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

B. Name changes:
(1) A licensee or certificate holder may submit a name change to the board at any time.
(2) A licensee or certificate holder must submit, as part of any name change request, a copy of one of the following legal documents verifying the name change: a recorded marriage certificate, a divorce decree, or a court order.

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

C. Contact information:

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

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

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

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

D. Name and mailing address of employer:

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

(2) A licensee or certificate holder shall notify the

board within 30 days of any change in the name and address of the licensee or certificate holder’s employer.

(3) Failure to disclose a change of the name and mailing address of the licensee or certificate holder’s employer shall constitute grounds for disciplinary action.

[16.12.1.14 NMAC - Rp, 16.12.1.13 NMAC, 12/13/2022]

HISTORY of 16.12.1 NMAC: Pre-NMAC History:

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

History of Repealed Material:

16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions, filed 6/12/2001 - Repealed effective 10/1/2016.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 - Repealed effective 12/30/2021.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 11/12/2021 - Repealed effective 12/13/2022.

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

16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 Replaced 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions effective 12/30/2021.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 11/12/2021 Replaced 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions effective 12/13/2022.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 2 NURSE
LICENSURE**

16.12.2.1 ISSUING

AGENCY: New Mexico Board of Nursing.
[16.12.2.1 NMAC - Rp, 16.12.2.1 NMAC, 12/13/2022]

16.12.2.2 SCOPE: This rule applies to all nurses licensed in New Mexico and all nurses not licensed in this state whose home state is not New Mexico and who wish to practice in New Mexico pursuant to a multi-state license privilege as provided in the nurse licensure compact.
[16.12.2.2 NMAC - Rp, 16.12.2.2 NMAC, 12/13/2022]

16.12.2.3 STATUTORY

AUTHORITY: Section 61-3-1 NMSA 1978 authorized the board of nursing to regulate the practice of nursing in the state.
[16.12.2.3 NMAC - Rp, 16.12.2.3 NMAC, 12/13/2022]

16.12.2.4 DURATION:

Permanent.
[16.12.2.4 NMAC - Rp, 16.12.2.4 NMAC, 12/13/2022]

16.12.2.5 EFFECTIVE

DATE: December 13, 2022, unless

a later date is cited at the end of a section.
[16.12.2.5 NMAC - Rp, 16.12.2.5 NMAC, 12/13/2022]

16.12.2.6 OBJECTIVES:
To promote, preserve and protect the public health, safety and welfare of the citizens of the state of New Mexico.
[16.12.2.6 NMAC - Rp, 16.12.2.6 NMAC, 12/13/2022]

16.12.2.7 DEFINITIONS:
[RESERVED]
[16.12.2.7 NMAC - Repealed 12/13/2022]

16.12.2.8 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

- A. Licensure by examination, expedited, or endorsement:**
- (1) Licensed practical nurse (LPN) \$150
 - (2) Registered nurse (RN) \$150
 - (3) Advanced practice: CNP/CNS/CRNA \$100
 - (4) Licensure for military personnel, spouse, dependent, or veteran \$0
- B. License Renewal:**
- (1) Licensed practical nurse (LPN) \$110
 - (2) Registered nurse (RN) \$110
 - (3) Advanced practice: CNP/CNS/CRNA \$110
 - (4) First renewal of license for military personnel, spouse, dependent, or veteran \$0
- C. Inactive license renewal (late renewal, lapsed status, reactivation, reinstatement after board action) includes renewal fee:**

- (1) Licensed practical nurse (LPN) \$200
 - (2) Registered nurse (RN) \$200
 - (3) Advanced practice: CNP/CNS/CRNA \$200
- D. Other Fees:**
- (1) Re-exam LPN/RN \$60
 - (2) Temporary license LPN/RN \$60
 - (3) Temporary license CNP/CNS/CRNA \$60
 - (4) License verification \$30
- E. Nursing Lists:**
- (1) LPN/CNP/CRNA \$100
 - (2) RN \$200
 - (3) Specialty/customized \$300
- [16.12.2.8 NMAC - Rp, 16.12.2.9 NMAC, 12/13/2022]

16.12.2.9 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES: Licensure with the New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice Act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

- A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.**
- (1) Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States:
 - (a) minimum acceptable level of education for LPN licensure by examination for candidates enrolled in RN programs with LPN programs embedded include:

- (i) minimum of 500 hours, 250 didactic, 250 (clinical and lab) which includes the minimum as follows; OB/Peds - 30 hours didactic/40 hours clinical; medical-surgical - 60 hours didactic/90 hours clinical; pharmacology - 45 hours didactic; and psych - 60 contact hours;
 - (ii) LPN transition course approved by the New Mexico board of nursing.
- (b)** request to New Mexico board of nursing for LPN licensure examination by acceptable level of education from an approved program of nursing that does not offer a PN program should include:
- (i) transcripts with minimum of 500 hours in nursing education and proof of successful completion of board approved LPN transition course;
 - (ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.
- (c)** certification of eligibility for LPN licensure examination by students enrolled in a nursing program with a LPN track will need to include:
- (i) transcripts with minimum of 500 hours in nursing education and board approved LPN transition course passed successfully on completion of board approved LPN transition course;
 - (ii) written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.
- (2)** RN and PN graduates from non-U.S. nursing programs:
- (a) shall have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency;

<p>(i) the credentialing agency must be a member of a national credentialing organization and must be monitored by an external committee of credentialing experts and nursing educators;</p>	<p>or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system international English language testing system (IELTS);</p>	<p>(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.</p>
<p>(ii) the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S. comparability, with course-by-course analysis of nursing academic records;</p>	<p>(ii) completion of a nursing program given in English in another country;</p>	<p>B. Nationwide criminal background check. Applicants for licensure in New Mexico are subject to a state and national criminal background check at their cost.</p>
<p>(iii) the credentialing agency must manage the translation of original documents into English;</p>	<p>(iii) a passing score on a nursing licensure examination which is given in English.</p>	<p>(1) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent.</p>
<p>(iv) the credentialing agency will inform the board of nursing in the event of fraudulent documents;</p>	<p>(3) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.</p>	<p>(2) Applications for exam or endorsement will not be processed without results of a criminal background check.</p>
<p>(v) the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and</p>	<p>(4) Completion of NCLEX application for the testing service according to instructions.</p>	<p>(3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board that will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.</p>
<p>(vi) the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.</p>	<p>(5) Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination, and appropriate fees returned to them.</p>	<p>C. Complete application for licensure by examination, certification of eligibility for graduation completed by nursing education program or official transcript, and an approved criminal background check must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation completed by nursing education program or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded must be received in the board office directly from the registrar's office.</p>
<p>(b) Puerto Rico applicants who are graduates of a program accredited by a US national nursing accreditation organization registered nurse program are eligible to sit national council licensure examination for registered nurses (NCLEX-RN) exam;</p>	<p>(6) The board shall not approve an application for a license until the applicant provides the following information:</p>	<p>D. Results of the examination shall be reported to the individual applicant within four weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program and boards of nursing unless otherwise instructed, in writing, by applicant.</p>
<p>(c) successful completion of any one of the approved English competency examinations with:</p>	<p>(a) demographics, including race, ethnicity and primary and other languages spoken;</p>	
<p>(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL) or test of English as a foreign language - internet based test (TOEFL IBT) minimal passing standard of 84 overall, with a minimum speaking score of 26, a minimum score of 725 on test of English for international communication test of English for international communication (TOEIC)</p>	<p>(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;</p>	
	<p>(c) education, training and primary and secondary specialties;</p>	
	<p>(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;</p>	
	<p>(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;</p>	

E. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void six months after date of the application being received at the board.

H. Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits-to-practice can be emailed, faxed or mailed directly to the New Mexico employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) complete the application process to take the NCLEX within 12 weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the receipt date of application; permits to practice may not be issued by the New Mexico board of nursing for employment at specific institution(s) in compact states; permits-to-practice will not be issued for applicants who declare residency in other compact states;

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit-to-practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.9 NMAC;

(c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(d) have an approved criminal background check results.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a) Applicants who fail the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional registered nurse examination.

(c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing examination.

(5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.

(6) Applicants who hold a graduate permit-to-practice and do not become licensed prior to the expiration date of the permit may not continue to practice as a graduate nurse or graduate practical nurse.

I. Direct supervision for graduate permit holders:

(1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

(2) the RN is responsible for observing, directing and evaluating the performance of the graduate;

(3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. NCLEX attempt limits:

(1) Applicants educated in the United States may take the examination a maximum of five times within three years of graduation from basic nursing education.

(2) Applicants educated outside of the United States may take the examination a maximum of five times within three years of their initial New Mexico application for licensure through examination.

(a) Applicants educated outside of the United States may apply for initial licensure regardless of date of completion of basic nursing education if verification of licensure as a nurse in the within the last four years.

(b) Applicants educated outside of the United States may apply for initial licensure within four years of completion of basic nursing education if there is no verification of licensure within the last four years.

(3) The applicant must wait 45 days to retest after failing the exam.

(4) Applicants for re-examination must meet all NCLEX requirements for retaking the examination.

K. National council licensing examination:

(1) Applicants for licensure as registered nurses shall be required to pass the NCLEX-RN.

(2) Applicants for licensure as licensed practical nurses shall be required to pass the NCLEX-PN.

(3) Applicants observed giving or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Expedited licensure for registered nurses and licensed practical nurses:

(1) An expedited license is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by a board. The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

- (a) a completed and signed application form;
- (b) proof of current licensure in an eligible jurisdiction;
- (c) proof of good standing for the license held by the applicant in an eligible jurisdiction;
- (d) submission of fingerprints and other information necessary for a state and national background check; and
- (e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection L of 16.12.2.9 NMAC including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

- (a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) An expedited license is a single-state license not subject to the multistate compact: prior to renewal of license, the holder of the expedited license may apply to change the expedited license to a multistate license and must fulfill all the requirements of the nurse licensure compact, including completing another background check;

(6) Renewal of licenses:

(a) a licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules;

(b) upon renewal, an expedited license shall become a regular single-state license;

(c) if the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(7) Eligible and ineligible jurisdictions:

- (a) the board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:
 - (i) Michigan, on the grounds that this jurisdiction does not participate in the

coordinated licensure system for the purposes of discipline; and
(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b) the board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

M. Qualifications for licensure as a RN or LPN are pursuant to the Nursing Practice Act:

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements.

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN".

(3) Continuing education (CE) is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal. CE may be prorated to commensurate with the length of the renewal period.

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

O. If the licensure process is not completed within one year after date application received by the board, the application becomes null and void.

P. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed 30 days.

Q. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act Section 61-3-24 NMSA 1978. The CE may be prorated to commensurate with the length of the renewal period.

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two years.

(2) A renewal notice shall be sent electronic notification to the licensee at least six weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than 60 days prior to the expiration date of the license.

(b) The board shall not approve an application for a renewal of license until the applicant provides the following information:

(i) demographics, including race, ethnicity and primary and other languages spoken;

(ii) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(iii) education, training and primary and secondary specialties;

(iv) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(v) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(vi) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(c) Failure to receive notice renewal

shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(d) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(e) A reactivation fee will be charged when license has lapsed.

(f) Exception: if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) 30 hours of approved CE must be accrued within the 24 months immediately preceding expiration of license. CE may be prorated to commensurate with the length of the renewal period.

(a) Certified nurse practitioners must submit a copy of valid APRN national certification.

(b) Certified registered nurse anesthetists must submit a copy of the recertification card issued by NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must submit a copy of valid APRN national certification.

(d) Exception: if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse

licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declared New Mexico as their primary residence.

(5) Penalty: failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified on the board website or www.nursys.com.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and clinical component designed to prepare a nurse who has been out of practice to re-enter into practice.

(a) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check result approved.

(b) A temporary license will be issued not to exceed six months unless the board of nursing approves an extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary license will be issued not to exceed one year unless board of nursing approves an extension.

R. Reactivation/
reinstatement of a lapsed license must meet the requirements for re-licensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid up to two years.

S. Inactive status.
Licensee may request her/his license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

T. The board will collect a standardized core essential data set as required in regulation for examinations and renewals which will be entered into the internal licensing database at the board of nursing. [16.12.2.9 NMAC - Rp, 16.12.2.10 NMAC, 12/13/2022]

16.12.2.10 CONTINUING EDUCATION:

A. Introduction:
(1) Pursuant to the provision of the Nursing Practice Act, the board of nursing prescribes the following regulations establishing requirements for CE to be met by the licensee to protect the health and well-being of the citizens of New Mexico and to promote current nursing knowledge and practice.

(2) Philosophy of CE: The members of the New Mexico board believe that CE is one of the most important responsibilities of the nurse and is a lifelong process. The primary responsibility for CE rests with the individual nurse. A diversity of nursing-related learning activities is recommended to enhance the scope of professional development.

B. Requirements and rules:

(1) Records:
(a) All licensees must indicate compliance with the CE required by these rules on the renewal application. All information must be completed as requested.

(b) Licensees are responsible for maintaining their own CE records

and for keeping the certificates of verification of attendance of CE activities for at least one year after the license is renewed. Photocopies of certificates must be submitted to the board office only if audited and requested.

(2) CE Audit:
(a) Continuing education records are subject to audit by the board.

(b) Licensee may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of audit.

(c) When audited, CE may be prorated to commensurate with the length of the renewal period.

C. Approved continuing education: To be acceptable in New Mexico, the CE activity must have been approved by a recognized approval body and must enhance the licensee’s scope of professional development as related to his/her activities in nursing. The participant must receive a certificate of attendance which validates the number of approved CE hours awarded, name of the participant, sponsoring agency, approval body and date attended. Correspondence courses and home-study programs are acceptable, if approved.

(1) Recognized approval bodies for CE for nurses.

(a) National or state recognized nursing organizations.

(b) Other state boards of nursing.

(c) New Mexico board-approved local monitoring systems.

(2) Other CE which may be accepted as approved CE for nurses:

(a) academic credit, computation: one academic credit equals 15 contact hours;

(b) CE units (CEUs) or contact hours awarded by CE divisions within educational institutions of higher learning;

(c) educational offerings approved through other generally recognized health care or professional organizations as related to licensee’s nursing practice.

D. Monitoring system: CE hours accrued through educational offerings approved by a local monitoring system shall be accepted as meeting the CE requirements for licensure in New Mexico but may not be accepted by other state boards of nursing as approved CE.

(1) Local monitoring systems must be approved initially and annually by the board of nursing. A guideline for the establishment and operation of a local monitoring system is available in the board office.

(2) The approval of educational offerings shall be determined on the approval criteria developed by the board.

E. Certification or recertification in the registered nursing specialty area: Certification or recertification granted by a national professional organization which uses criteria designed to recognize competence in a specialized area of nursing practice may be used as approved CE. Verification of certification or recertification within the current renewal period is accepted in lieu of the 30 hours of CE required for licensure.

[16.12.2.10 NMAC - Rp, 16.12.2.11 NMAC, 12/13/2022]

16.12.2.11 STANDARDS OF NURSING PRACTICE:

A. The nurse shall maintain individual competence in nursing practice, recognizing and accepting responsibility for individual actions and judgments.

(1) Competent nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and properly in accordance with his/her licensure status and to perform specific functions or procedures required in his/her particular area of practice. Competent nursing practice also requires that the nurse have the

knowledge to recognize and respond to any complication(s) which may result from the function or procedure the nurse performs.

(2) To maintain the requisite knowledge and skills, the nurse shall engage in CE specific to his/her particular area of practice.

(3) The nurse shall use individual competence as a criterion in accepting assigned responsibilities.

(4) The nurse contributes to the formulation, interpretation, implementation and evaluation of the objectives and policies to nursing practice within his/her employing setting.

B. The nurse shall assign/delegate to licensed and unlicensed persons only those nursing actions which that person is prepared, qualified or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication administration, including emergency medication, to adults affiliated with school operations.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

(1) The nurse must report incompetent and unprofessional conduct to the appropriate authorities.

(2) The nurse must report violations of the Nursing Practice Act and administrative rules of the board of nursing to the board of nursing.

D. The nurse acts to safeguard the patient/client when his care and safety are affected by incompetent, unethical, or illegal conduct of any person by reporting the conduct to the appropriate authorities.

E. The nurse shall recognize the dignity and rights of others regardless of social or economic status and personal attributes, shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual orientation, national origin, disability or nature of the patient/client's health problems.

F. The nurse safeguards the individual's right to privacy by judiciously protecting information of a confidential nature, sharing only that information relevant to his care.

G. The nurse shall identify herself/himself by name and licensure category and shall permit inspection of their license when requested.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. Subsection J of Section 61-3-3 NMSA 1978.

(1) RNs may assume specific functions and perform specific procedures which are beyond basic nursing preparation for professional registered nursing Subsection J of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from a recognized body of knowledge and practice of nursing, and the function or procedure is not prohibited by any law or statute.

(2) When assuming specific functions and performing specific procedures, which are beyond the nurse's basic educational preparation, the RN

is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

(a) administration of medication for the purposes of procedural sedation and analgesia requires particular attention;

(b) a nurse shall possess specialized nursing knowledge, judgment, skill and current clinical competence to manage the nursing care of the patient receiving procedural sedation including:

(i) being currently trained with demonstrated proficiency in ACLS or PALS;

(ii) knowledge of anatomy, physiology, pharmacology, cardiac arrhythmia recognition, oxygen delivery, respiratory physiology, transport and uptake and the use of an oxygen mask, bag-valve mask, oral airway, nasal airway adjunct, or the maintenance of a supraglottic airway, or endotracheal tube;

(iii) ability to recognize emergency situations and institute emergency procedures as appropriate to the patient condition and circumstance.

(c) To perform procedural sedation a registered nurse:

(i) shall not have other responsibilities during or after the procedure that would compromise the nurse's ability to adequately monitor the patient during procedural sedation/analgesia;

(ii) shall assess the physical setting for safe administration of medications for sedation and proceed only if the resources needed for reasonable anticipated emergencies are available;

(iii) shall ensure that a qualified airway specialist is readily available during and after the procedure for respiratory emergencies. A qualified airway specialist is trained in and maintains a current competency in endotracheal intubation, such as but not limited to

a CRNA, anesthesiologist, emergency physician, paramedic, respiratory therapist or a registered nurse;

(iv)

shall decline to administer medications classified as sedatives or other medication if the registered nurse assesses the administration of sedatives or other medication would be unsafe under the circumstances;

(v)

shall maintain adequate oxygenation and ventilation via an appropriate method.

I. Standards for licensed practical nursing practice. Licensed practical nurses practice in accordance with the definition of licensed practical nursing in the NPA Subsection G of Section 61-3-3 NMSA 1978.

(1) LPNs may assume specific functions and perform specific procedures which are beyond basic preparation for licensed practical nursing Subsection G of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from the recognized body of knowledge and practice of nursing, and the functions or procedure is not prohibited by any law or statute. LPNs who perform procedures which are beyond basic preparation for practical nursing must only perform these procedures under the supervision/direction of a RN.

(2) LPNs may perform intravenous therapy, including initiation of IV therapy, administration of intravenous fluids and medications, and may administer medications via the intraperitoneal route provided the LPN has the knowledge and skills to perform IV therapy safely and properly.

(3) When assuming specific functions and performing specific procedures which are beyond the LPN's basic educational preparation, the LPN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

J. Educational program criteria. Educational programs preparing either RNs or LPNs to perform specific functions and procedures that are beyond basic educational preparations should:

(1) prepare the nurse to safely and properly perform the function and procedures;

(2) prepare the nurse to recognize and respond to any complication(s) which may result from the procedure, and;

(3) verify the nurse's knowledge and the ability to perform the specific functions and procedures.

[16.12.2.11 NMAC - Rp, 16.12.2.12 NMAC 12/13/2022]

16.12.2.12 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for licensure of nurse practitioners:

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a graduate level nursing program designed for the education and preparation of nurse practitioners as providers of primary, or acute, or chronic, or long-term, or end of life health care.

(a) The program must be offered through an accredited institution of higher education or through the armed services.

(b) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's in nursing level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(c) The educational documentation shall verify the date of graduation, credentials conferred and number of

supervised clinical hours as a nurse practitioner in the education program.

(3) Provide evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice

regarding licensure and practice of nurse practitioners.

C. Graduate nurse practitioners (GNP) permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico Certified Nurse Practitioner (NCP) or Certified Nurse Specialist (CNS) in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

D. An initial license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

E. Expedited licensure for CNP's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection E of 16.12.2.12 NMAC including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and ineligible jurisdictions:

(a) The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:

(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b)

The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

F. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act:

(1) Refer to Subsection A of 16.12.2.12 NMAC for licensure requirements.

(2)

Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. An initial nurse practitioner license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from another nurse licensure compact state. Official verification to practice is located on the board website.

H. If the licensure process is not completed, the application becomes null and void six months after the date of application being received at the board.

I. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New Mexico CNP or CNS in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a)

A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b)

A letter of authorization shall be valid for six months for those applicants recertifying.

(c)

A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

J. Maintaining licensure as a nurse practitioner:

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education:

(a)

A CNP with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain, in addition to submitting a valid national certification as an APRN.

(b)

A CNP without DEA must submit a valid national certification as an APRN.

K. Reactivation: To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements.

(1) NPs licensed by the board after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

L. Nurse practitioner practice:

(1) The CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and performing specific

procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNP has met registration

waiver criteria from the New Mexico board of pharmacy as provided under Subsection I of 16.19.20.8 NMAC. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c) Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNPs, who have fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-12 NMSA 1978 and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNPs may label only those drugs which the CNP prescribes

and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f) CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g) CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate nurse practitioner (GNP) practice:

(a) GNPs may not distribute medications.

(b) GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

M. Supervision of psychologists in the prescribing of psychotropic medication by a certified nurse practitioner, pursuant to Section 61-3-23.5 NMSA 1978 and the Professional Psychologist Act (Section 61-9-1 et. seq. NMSA 1978).

(1) A CNP may provide supervision to a psychologists in the prescribing of psychotropic medication provided the CNP:

(a) holds a valid, unencumbered NM license as a CNP;

(b) holds a national certification as a psychiatric-mental health nurse practitioner. An individual who holds a certification as a CNP conferred by a national nursing certification organization that is not an approved certification listed above may petition the board and request approval of the certification. The board shall review the petition and determine whether the certification and the petitioner's clinical practice experience sufficiently substantiate adequate education, didactic and clinical preparedness, and other factors that establish competency. The decision of the board is discretionary and shall not be subject to review or binding on any future petition.

(c) has a minimum of two years of experience prescribing as a psychiatric-mental health nurse practitioner

(d) is not currently participating in any board of nursing's alternative to discipline program, diversion program;

(e) is able to meet all requirements to serve as an independently licensed prescribing clinician as laid out in the Professional Psychologist Act (Section 61-9 NMSA 1978) and 16.22 NMAC; and

(f) performing the supervision is within the scope of practice of the CNP.

(2) Reporting obligations to the New Mexico board of nursing by a CNP providing

supervision to a psychologist in the prescribing of psychotropic medication:

(a) within 15 days of entering into the supervising relationship with each psychologist being supervised. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of entry into the supervising relationship;

(iii) the anticipated end of the supervising relationship.

(b) within 15 days of severing the supervisory relationship with a psychologist. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of the end of the supervising relationship.

(3) A CNP who provides supervision to a psychologist in the prescribing of psychotropic medication must follow the Professional Psychologist Act (Section 61-9 NMSA 1978) and rules promulgated by the New Mexico board of psychologist examiners. [16.12.2.12 NMAC - Rp, 16.12.2.13 NMAC, 12/13/2022]

16.12.2.13 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for licensure as a CRNA:

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The COA *council on accreditation of nurse anesthesia educational programs* must accredit the program.

(3) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide evidence of successful completion of a national certification examination as described by the NBCRNA.

(5) It is the responsibility of the applicant to provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice

committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except NBCRNA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the NBCRNA.

(2) GRNAs must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for

approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within three weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-practice to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of NBCRNA certification. Such proof must be submitted to the board by the certifying agency.

E. Expedited licensure for CRNA's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection E of 16.12.2.13 NMAC, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) The license may not be issued within 30 days of submission of the complete application;

(b) The matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) The board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited

license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and Ineligible Jurisdictions

(a)

The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:

(i)

Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii)

Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b)

The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

F. Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2)

Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. An initial certified registered nurse anesthetist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states.

Official verification of authorization to practice is available through the board website.

H. If the licensure process is not completed, the application becomes null and void six months after the date received at the board of nursing.

I. Maintaining licensure as a certified registered nurse anesthetist.

(1) National certification: CRNAs must maintain NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by NBCRNA is accepted for meeting mandatory CE requirement. CRNAs with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain.

J. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist.

(1) The nurse must provide evidence of current recertification by the NBCRNA.

(2) CRNAs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless board of nursing approves an extension.

K. Certified registered nurse anesthetist practice:

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current American association of nurse anesthetists' guidelines for nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician,

osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current drug enforcement administration (DEA) number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

Formulary: the formulary will include agents related to the administration of anesthesia and Advanced Cardiac Life Support (ACLS) protocol agents.

All CRNAs must adhere to the current formulary approved by the board of nursing.

The initial formulary or a formulary with changes will be submitted to the board of medical examiners for a review.

Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements.

All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-22 NMSA 1978 and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may *not* distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

Graduate registered nurse anesthetist practice.

GRNAs may NOT distribute medications.

GRNAs may practice or prescribe/ administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist.

To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

A list of current CRNAs and their status

with regard to prescription writing shall be distributed upon request to the board of pharmacy.

Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

The board of nursing shall appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

L. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act.

[16.12.2.13 NMAC - Rp, 16.12.2.14 NMAC, 12/13/2022]

16.12.2.14 ADVANCED PRACTICE REGISTERED NURSE (APRN) CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license;

(2) successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria as listed below:

(a) successfully complete a national certifying examination in the applicant's area of specialty;

(b) is certified by a national nursing organization;

(4) it is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure;

(5) any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as a CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a) GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred or renewed.

(g) GCNS permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(2) An initial license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

D. Expedited licensure for CNS's:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in an eligible jurisdiction;

(c) proof of good standing for the license held by the applicant in an eligible jurisdiction;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Paragraph (1) of Subsection D of 16.12.2.14 NMAC, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular single-state license.

(c) If the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX for original licensure, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the license. In such a case, the expedited license shall not be renewed unless the licensee passes the NCLEX.

(6) Eligible and Ineligible Jurisdictions

(a) The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States except the following:

(i) Michigan, on the grounds that this jurisdiction does not participate in the coordinated licensure system for the purposes of discipline; and

(ii) Puerto Rico, on the grounds that this jurisdiction does not participate in the coordinated licensure system.

(b) The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.14 NMAC for licensure requirements.

(2) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. An initial clinical nurse specialist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact license. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from another nurse licensure compact state. Official verification to practice is located on the board website.

G. If the licensure process is not completed, the application becomes null and void one year after the date of application being received at the board.

H. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional formal education have expanded their practice into another area of CNS practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a New Mexico CNS or CNP or physician in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization will be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

I. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education:

(a) A CNS with DEA registration at any time during their most recent renewal period shall obtain five contact hours in the management of non-cancer pain, in addition to submitting a valid national certification as an APRN.

(b) A CNS without DEA must submit a valid national certification as an APRN.

Reactivation:

(a) To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements: evidence of current national certification must also be provided.

(b) CNSs who are reactivating an

advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

J. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing.

(2) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(3) The CNS may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure the CNS can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) Carries out therapeutic regimens in the area of the specialty.

(5) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute

therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications

and application of drug therapy to the treatment of disease or the promotion of health; and

(iii) provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire date, make diagnoses of health status and formulate effective clinical management plans; and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board; or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c) Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information

shall be properly documented in the patient record.

(f) CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate clinical nurse specialist (GCNS) practice.

(a) GCNSs may not distribute medications.

(b) GCNSs may practice or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a) a list of current CNSs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy;

(b) violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c) the board of nursing shall appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

K. Supervision of psychologists in the prescribing of psychotropic medication by a clinical nurse specialist, pursuant to Section 61-3-23.5 NMSA 1978 and the Professional Psychologist Act (Section 61-9-1 et. seq. NMSA 1978).

(1) A CNS may provide supervision to a psychologists in the prescribing of psychotropic medication provided the CNS:

(a) holds a valid, unencumbered NM license as a CNS;

(b) holds a national certification as a psychiatric-mental health clinical nurse specialist. An individual who holds a certification as a CNS conferred by a national nursing certification organization that is not an approved certification listed above may petition the board and request approval of the certification. The board shall review the petition and determine whether the certification and the petitioner's clinical practice experience sufficiently substantiate adequate education, didactic and clinical preparedness, and other factors that establish competency. The decision of the board is discretionary and shall not be subject to review or binding on any future petition.

(c) has a minimum of two years of experience prescribing as a psychiatric-mental health clinical nurse specialist;

(d) is not currently participating in any board of nursing's alternative to discipline program, diversion program;

(e) is able to meet all requirements to serve as an independently licensed prescribing clinician as laid out in the Professional Psychologist Act (Section 61-9 NMSA 1978) and 16.22 NMAC; and

(f) performing the supervision is within the scope of practice of the CNS.

(2) Reporting obligations to the New Mexico board of nursing by a CNS providing supervision to a psychologist in the prescribing of psychotropic medication:

(a) within 15 days of entering into the supervising relationship with each psychologist being supervised. The notification shall consist of:

(i) the name and license number of the psychologist;

(ii) the date of entry into the supervising relationship;

(iii) the anticipated end of the supervising relationship.

(b) within 15 days of severing the supervisory relationship with a psychologist. The notification shall consist of:

(i) the name and license number of the psychologist

(ii) the date of the end of the supervising relationship.

(3) A CNS who provides supervision to a psychologist in the prescribing of psychotropic medication must follow the Professional Psychologist Act (Section 61-9 NMSA 1978) and rules promulgated by the New Mexico board of psychologist examiners.

L. Advanced practice committee.

(1) The board may appoint a minimum of a six member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The committee shall be composed of representatives from each advanced practice area regulated by the board. [16.12.2.14 NMAC - Rp, 16.12.2.15 NMAC, 12/13/2022]

16.12.2.15 EXPEDITED LICENSURE FOR MILITARY SERVICE MEMBERS AND VETERANS:

A. The board will issue an expedited license to an applicant who is a military service member or veteran based on prior licensure in a jurisdiction other than New Mexico upon the applicant's submission of a complete application containing all of the following:

(1) a completed and signed application form;

(2) proof of current licensure in another jurisdiction;

(3) proof of good standing for the applicant's out of state license;

(4) submission of fingerprints and other information necessary for a state and national background check; and

(5) Submission of the following documentation:

(a) for military service member: a copy of military orders;

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

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

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

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

B. An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by subsection A, including documentation from third parties.

C. Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978.

D. If the applicant has a disqualifying criminal conviction or the board may have other cause

to deny the application pursuant to Section 61-3-28 NMSA 1978:

(1) the license may not be issued within 30 days of submission of the complete application;

(2) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(3) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

E. Duration of expedited licenses:

(1) The first licensure period will be for one year from the issuance of the license. Continuing education will be prorated.

(2) The first renewal period will be for two years from the date of the first expiration date of the first licensure period.

(3) A licensee holding an expedited license may apply for license renewal in the manner provided by the board's rules. If the licensee holding an expedited license was not required by the licensee's original jurisdiction outside of New Mexico to pass the NCLEX, the licensee shall be required to take and pass the NCLEX as a prerequisite to the renewal of the expedited license.

(4) Upon renewal, an expedited license shall become a regular single state license.

(5) If the military expedited licensure holder requests a multistate RN or LPN license, all requirements of the nurse licensure compact must be met, including completion of another background check. The fee for a multistate license will not be waived.

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

[16.12.2.15 NMAC - N, 12/13/2022]

HISTORY of 16.12.2 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center and archives under: BON 73-1, rules and regulations of the Nursing Practice Act, filed 3/13/1973; BON 78-1, administrative rules and regulations of the New Mexico board of nursing, filed 11/2/1978; Bon Manual #83-1, administrative rules and regulations of the New Mexico board of nursing, filed 6/13/1983; BON Manual #85-1, administrative rules and regulations of the New Mexico board of nursing, filed 8/13/1985; BON Manual #91-2, administrative rules and regulations of the New Mexico board of nursing, filed 10/9/1991.

History of the Repealed Material:

16.12.2 NMAC, Nurse Licensure, filed 6/12/2001 - Repealed effective 10/1/2016.
 16.12.2 NMAC, Nurse Licensure, filed 9/1/2016 - Repealed effective 12/13/2022.

Other History: 16 NMAC 12.2, Nursing and Health Care Related Providers & Nurse Licensure filed 12/10/1997, renumber, reformatted and amended to 16.12.2 NMAC effective 7/30/2001.
 16.12.2 NMAC, Nurse Licensure, filed 9/1/2016 was replaced by 16.12.2 NMAC, Nurse Licensure, effective 12/13/2022.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
 CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
 PART 4 HEMODIALYSIS TECHNICIANS**

16.12.4.1 ISSUING

AGENCY: New Mexico Board of Nursing.
 [16.12.4.1 NMAC - Rp, 16.12.4.1 NMAC, 12/13/2022]

16.12.4.2 SCOPE: All

New Mexico board of nursing approved hemodialysis programs and hemodialysis technicians certified by the New Mexico board of nursing.
 [16.12.4.2 NMAC - Rp, 16.12.4.2 NMAC, 12/13/2022]

16.12.4.3 STATUTORY

AUTHORITY: Nursing Practice Act, 61-3-10.1 NMSA 1978 Comp.
 [16.12.4.3 NMAC - Rp, 16.12.4.3 NMAC, 12/13/2022]

16.12.4.4 DURATION:

Permanent.
 [16.12.4.4 NMAC - Rp, 16.12.4.4 NMAC, 12/13/2022]

16.12.4.5 EFFECTIVE

DATE: December 13, 2022 unless a later date is cited at the end of a section.
 [16.12.4.5 NMAC - Rp, 16.12.4.5 NMAC, 12/13/2022]

16.12.4.6 OBJECTIVE:

Pursuant to the Nursing Practice Act, this part establishes the requirements for fees, examinations, endorsement, recertification standards and functions, supervision/ director and disciplinary action for hemodialysis technicians. It also establishes requirements for approval of hemodialysis technician programs, minimum standards for hemodialysis training programs, and the hemodialysis technician advisory committee.
 [16.12.4.6 NMAC - Rp, 16.12.4.6 NMAC, 12/13/2022]

16.12.4.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1) **“administrator”**, means an operating officer of an agency with the authority to make notification of change to the New Mexico board of nursing;

(2) **“agency”**, means a business, organization or facility at specified location that is approved by the New Mexico board of nursing to train hemodialysis technician students;

(3)

“approval”, means action taken by the board to accept and grant specific recognition.

(4) **“audit”**,

means a verification of continuing education documents and work hour requirements.

B. Definitions

beginning with the letter B:

“board”, means New Mexico board of nursing (NMBON).

C. Definitions

beginning with the letter C:

(1) **“central**

venous catheter”, means a synthetic tube placed into a high flowing central vein used to provide hemodialysis;

(2)

“certificate”, means a document issued by the board identifying legal privilege and authorization to perform specific certified hemodialysis technician functions and procedures in the state of New Mexico;

(3)

“certification examination”, means a board-approved tool designed to evaluate an applicant’s knowledge of a specific subject;

(4) **“certified**

hemodialysis technician (CHT)”, refers to a person who has received national certification and is certified by the board to assist in the direct care of patients undergoing hemodialysis, under the supervision and at the direction of a registered nurse according to the rules adopted by the board;

(5) **“certified**

hemodialysis technician I (CHT I)”, refers to a person who is certified by the board to assist in the direct care of patient undergoing hemodialysis under the supervision and direction of a registered nursing according to the rules adopted by the board;

(6) **“certified**

hemodialysis technician II (CHT II)”: refers to a person who has met the requirements of a certified hemodialysis technician (CHT) and has successfully completed the training for the expanded scope of practice as defined in the rules from an approved hemodialysis technician training program and receives

certification from the board for the expanded scope of practice;

(7) **“clinical experience”**, refers to the supervised skills component of the hemodialysis training program;

(8) **“clinical preceptor”**, means a registered nurse who supervises and observes hemodialysis technician students providing hemodialysis patient care:

(9) **“competency”**, means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner:

(10) **“continuing education (CE)”**, means a planned learning experience for certified hemodialysis technicians which includes experiences designed to promote the development, knowledge, skills, and attitudes for the enhancement of care to the patient:

(11) **“contact hour”**, means a unit of measurement to describe an approved organized learning experience. One contact hour is equivalent to a continuous 60 minute clock hour:

(12) **“curriculum”**, means a detailed course outline, description or syllabus, which, includes objectives, content, teaching-learning activities and evaluation strategies, and includes the minimum required program hours.

D. Definitions beginning with the letter D:
(1)

“delegation”, means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation;

(2) **“direct supervision”**, refers to the supervision by a licensed nurse who is physically present, and readily accessible to the certified hemodialysis technician and hemodialysis technician student when providing patient care. Direct supervision includes observing, evaluating and directing the care being provided.

E. Definitions beginning with the letter E:
[RESERVED]

F. Definitions beginning with the letter F:
“faculty”, means any professional or paraprofessional person(s) who teaches for the hemodialysis technician program including clinical preceptors.

G. Definitions beginning with the letter G:
[RESERVED]

H. Definitions beginning with the letter H:
“hemodialysis technician training program”, means an educational program approved by the board for persons seeking certification as hemodialysis technicians.

I. Definitions beginning with the letter I:
[RESERVED]

J. Definitions beginning with the letter J:
[RESERVED]

K. Definitions beginning with the letter K:
[RESERVED]

L. Definitions beginning with the letter L:
“license”, means a document identifying the legal privilege and authorization to practice within a **professional category**.

M. Definitions beginning with the letter M:
[RESERVED]

N. Definitions beginning with the letter N:
(1) **“national certification”**, means a certification obtained by completing an examination through a nationally recognized certifying organization which indicates a certified hemodialysis technician has knowledge and competence in providing care to patients undergoing hemodialysis as evidenced by passing an examination and maintaining a minimum number of work hours and continuing education during the renewal period;

(2) **“nurse educator”**, means the registered nurse who is responsible for the development, implementation

and evaluation of a hemodialysis technician training program and retains ultimate responsibility for determining hemodialysis technician student’s competency.

O. Definitions beginning with the letter O:
[RESERVED]

P. Definitions beginning with the letter P:
(1) **“program evaluation”**, means the process whereby the program at the agency is evaluated at the request of the board for approval status;

(2) **“program review”**, means the routine process whereby the program at the agency is reviewed prior to the approval expiration date to assure compliance with the rules and regulations governing hemodialysis technician programs. This may include a site visit with or without official notification to the agency.

Q. Definitions beginning with the letter Q:
[RESERVED]

R. Definitions beginning with the letter R:
(1) **“reactivation”**, the process of making a certificate current which has been in a lapsed status as result of the certificate holder failing to comply with renewal requirements. This does not involve board action;

(2) **“reinstatement”**, means the process whereby a certificate which has been subject to revocation or suspension is returned to its former status by individual board action; this process always involves board action.

S. Definitions beginning with the letter S:
(1) **“site visit”**, means visit made directly to the hemodialysis technician training program by board staff;

(2) **“standards of function”**, means a range of tasks or activities performed by certified hemodialysis technicians for patients who are stable and predictable, supervised by a licensed registered nurse who may need to limit the range of tasks based on the patient’s needs.

T. Definitions beginning with the letter T: [RESERVED]	
U. Definitions beginning with the letter U: [RESERVED]	
V. Definitions beginning with the letter V: [RESERVED]	
W. Definitions beginning with the letter W: [RESERVED]	
X. Definitions beginning with the letter X: [RESERVED]	
Y. Definitions beginning with the letter Y: [RESERVED]	
Z. Definitions beginning with the letter Z: [RESERVED]	
	[16.12.4.7 NMAC - Rp, 16.12.4.7 NMAC, 12/13/2022]
16.12.4.8 FEES:	Payment of fees will be accepted in the form as specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fee may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.
A.	Application for certification examination or national certification \$45.00
B.	Re-examination \$30.00
C.	Renewal of certificates \$45.00
D.	Reactivation from lapsed or inactive status \$60.00
E.	Reinstatement of certificate following board action \$60.00
F.	Initial certificate military personnel, spouse, dependent, or veteran \$0
G.	First renewal of certificate military personnel, spouse, dependent, or veteran \$0
H.	Initial program review for approval \$250.00
I.	Program review per agency \$200.00
J.	Subsequent review due to a change in board policy or rules \$50.00

K.	Periodic program evaluation or program review per agency \$200.00 [16.12.4.8 NMAC - Rp, 16.12.4.8 NMAC, 12/13/2022]
16.12.4.9 CERTIFICATION REQUIREMENTS FOR HEMODIALYSIS TECHNICIANS:	New Mexico certification of hemodialysis technicians is mandatory.
A.	Prerequisites:
(1)	Be a high school graduate or have proof of successfully passing a general education development test.
(2)	The applicant for certified hemodialysis technician will demonstrate completion of adequate training by:
(a)	submitting proof of successful completion of a board approved hemodialysis technician training program; or
(b)	submitting proof of a valid national hemodialysis technician certificate from a recognized organization.
(3)	Submit the required application to the agency with required fees.
B.	Applications and fees:
(1)	Board staff will verify eligibility. Applications received by the board staff are valid for one year.
(2)	Applications containing fraudulent or misrepresented information could be the basis for denial of certification.
(3)	Incomplete applications for certification will not be processed. The applicant will be notified within 30 days of submission of application about incomplete information.
(4)	Written verification of successful completion according to the minimum standards for approval of hemodialysis technician programs indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by

the nurse educator within 30 days of completion.

(5) The applicant will request that the national certifying body for hemodialysis technicians send verification directly to the board.

(6) A re-examination fee will be charged for all re-examinations of the state-based examination.

(7) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

C. Hemodialysis technician initial certification examination for CHT I.

(1) The board shall develop and maintain the board-approved certification examination for hemodialysis technicians. Applicants maybe only take the state board-approved examination for the CHT I certificate issued before 1/1/2024. After 1/1/2024 all initial applications for the certified hemodialysis technician will require a national hemodialysis technician certificate.

(2) Board approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.

(3) Applicants for certification as a hemodialysis technician shall be required to pass the hemodialysis technician certification examination with a minimum score of eighty percent.

(4) Applicants must obtain New Mexico state certification within six months of successfully completing a board approved training program.

(a) Applicants who fail the examination may repeat the examination one time within a two month period without repeating an approved training program.

(b) Applicants must remain under the supervision of a board-approved clinical preceptor until they

successfully pass a hemodialysis technician certification examination.

(5) Applicants observed giving or receiving unauthorized assistance during the writing of the examination shall be dismissed from the examination center and the individual(s) shall be referred to the board by a sworn complaint filed by the proctor.

(6) Results of the examination shall be reported by the online portal to the applicants no later than four weeks following the examination date. If the applicant passes the examination, the applicant cannot work as a CHT I until the certificate has been issued by the board.

(7) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

D. Certification by examination for CHT II.

(1) CHT II shall be required to pass a certification examination with a minimum score of eighty percent that is specific to their expanded scope of practice. Applicants may only take the state board-approved examination for the CHT II certificate issued before 1/1/2024. After 1/1/2024 all initial applications for the certified hemodialysis technician will require a national hemodialysis technician certificate.

(2) CHT II applicants who fail the exam may repeat the examination one time within a two month period without repeating an approved training program. If the CHT II does not pass the second examination they must take a refresher course specific to the expanded scope of function. Applicants must remain under the supervision of a board approved clinical preceptor while practicing their extended scope of practice until they successfully pass the CHT II state exam.

(3) Written verification of successful completion according to the minimum standards for approval of the CHT II programs

indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator in the board office within 30 days of completion of the training program.

(4) Complete the required application form in the specified deadline and remit the required fee.

(5) A re-examination fee will be charged for all re-examinations.

(6) Results of the examination shall be reported, by the online portal to the applicants no later than four weeks following the examination date. If the applicant passes the examination, the applicant cannot work as a CHT I until the certificate has been issued by the board.

(7) The expiration date for the CHT II will align with the expiration date of the CHT I.

E Initial certification for CHT:

(1) Be a high school graduate or have proof of successfully passing a general education development test.

(2) The applicant must submit proof of a valid national hemodialysis technician certificate from a recognized organization. If the applicant passes the examination, the applicant cannot work as a CHT I until the certificate has been issued by the board.

(3) Attestation from the agency nurse educator that the applicant has been oriented to the scope of function of the certified hemodialysis technician.

(4) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

F. Endorsement:

(1) If an applicant holds hemodialysis certification from another jurisdiction in the United States, the application must:

(a) meet all the prerequisites;

(b) submit verification from another jurisdiction directly to the board that certificate is in good standing. If the applicant is unable to provide verification, then the applicant must follow the process for initial certification;

(c) submit the required application and fee.

(2) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

G. Requirements for hemodialysis technicians' renewal:

(1) Certified hemodialysis technicians (CHT Is) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period.

(a) Failure to receive a notification for renewal shall not relieve the CHT I of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the CHT I does not hold a valid certificate and shall not function as a CHT I in New Mexico until the lapsed certificate has been reactivated.

(c) If a CHT I certificate holder has a national certification as a hemodialysis technician, for the first renewal after 12/31/2023, the certificate will be transitioned to a CHT certificate. The CHT I must fulfill continuing education and work requirements to complete the transition.

(d) If the CHT I certificate holder does not have national certification as a hemodialysis technician, the certificate will remain a CHT I. If the CHT I certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT I certificate holder must complete the hemodialysis technician

training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

(2) Certified hemodialysis technicians II (CHT IIs) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period. CHT II certificate holder for the first renewal period after 12/31/2023, will transition to a CHT certificate.

(a) The CHT II must fulfill continuing education and work requirements to complete the transition.

(b) If the CHT II certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT II certificate holder must complete the hemodialysis technician training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

(3) Certified hemodialysis technicians (CHTs) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period.

(a) The CHT must supply a current valid national hemodialysis technician certificate from a recognized organization.

(b) If the CHT certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT certificate holder must attend the hemodialysis training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

(4) Continuing education requirements:

(a) 16 contact hours of continuing education must be accrued within the 24 months immediately preceding renewal. CE may be prorated to commensurate with the length of the renewal period.

(b) Recertification by a national CHT certifying body will meet the mandatory CE requirements for New Mexico certification renewal. Continuing education obtained for national certification is applicable if completed during the renewal period.

(c) Continuing education records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit.

(d) CHT and CHT II shall accrue four additional contact hours of continuing education within the 24 months that preceded the expiration of the certificate. These additional contact hours must be specific to their expanded scope of function and may be prorated to commensurate with the length of the renewal period if less than 24 months.

(5) Work requirement: Applicant must provide evidence of a minimum of 1,000 hours work as a CHT, CHT I, or CHT II during the 24 month period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board. Work hours may be prorated to commensurate with the length of the renewal period if less than 24 months.

(b) Certificate holders may be subject to disciplinary action by the board if noncompliant within 60 days of the first notification of the audit.

(6) Remit the required fee.

(7) Failure to meet the continuing education or employment requirements for recertification shall result in denial of recertification until completion of a refresher course with the appropriate

application and fee have been submitted to the board.

H. Reactivation of certificate for CHT, CHT I, CHT II:

(1) If the certificate has been inactive for less than one year, the applicant may reactivate the license by submitting an application for reactivation, paying the required fee, and submitting proof of required continuing education contact hours for a 24 month certificate period and required work hours.

(a) In substitution of continuing education and work hours, the applicant for reactivation of a CHT I certificate may take a refresher course.

(b) In addition, a CHTs lapsed certificate holder must submit a valid national hemodialysis technician certificate from a recognized organization.

(2) If the CHT, CHT 1, and CHT II certificate is allowed to lapse and remain inactive for more than one year past the expiration date, the CHT certificate holder must attend the hemodialysis training program and meet the requirements for the CHT certificate, including obtaining a valid national hemodialysis technician certificate from a recognized organization.

I. Refresher course requirements:

(1) Completion of a minimum of 80 hours of supervised clinical practice in a board approved hemodialysis technician training program under the supervision of an approved clinical preceptor.

(2) Successful completion of the hemodialysis technician training program's skills list identified in the core curriculum 16.12.4.16 NMAC.

(3) Successful completion of the hemodialysis technician training program final examination.

(4) Written verification, on agency letterhead, of successful completion of supervised clinical practice, skills list, and the final examination results shall

be provided to the board by the program's board-approved nurse educator.

(5)

Completion of a refresher course shall meet both the employment and continuing education requirements for the two year renewal period.

(6) Remit the

required application and fee.

[16.12.4.9 NMAC - Rp, 16.12.4.9 NMAC, 12/13/2022]

16.12.4.10 STANDARDS OF FUNCTION FOR THE CERTIFIED HEMODIALYSIS TECHNICIAN:

A. Purpose:

(1) To

establish standards for supervision and direction of the CHT, CHT I and CHT II.

(2) To identify

basic functions for the CHT, CHT I and CHT II.

(3) To

identify the authorized and prohibited functions for the CHT, CHT I and CHT II.

(4) To identify

the expanded role of the CHT II and CHT.

B. Authorized

functions of the CHT I with supervision of a registered nurse:

(1) perform

arteriovenous punctures for dialysis access;

(2) inject

intradermal lidocaine in preparation for dialysis access;

(3) administer

a heparin bolus;

(4) administer

a fluid bolus of isotonic saline;

(5) connect a

dialysis access to isotonic saline or heparinized isotonic saline;

(6) administer

oxygen via nasal cannula or mask;

(7) collect data

for the nursing assessment;

(8) initiate

and discontinue treatment via arteriovenous access;

(9) re-

infusion of blood upon termination of treatment of central venous catheters.

C. Authorized

functions of the CHT and CHT II with the supervision of a registered nurse:

(1) perform

arteriovenous punctures for dialysis access;

(2) initiate,

monitor, and discontinue dialysis via central venous catheter;

(3) inject

intradermal lidocaine in preparation for dialysis access;

(4) administer

a heparin bolus via intravenous route;

(5) administer

a fluid bolus of isotonic saline;

(6) connect a

dialysis access to isotonic saline or heparinized isotonic saline;

(7) administer

oxygen via nasal cannula or mask;

(8) collect data

for the nursing assessment;

(9) initiate

and discontinue treatment via arteriovenous access;

(10) re-

infusion of blood upon termination of treatment of central venous catheters;

(11) may

remove catheter dressing to evaluate for potential complication, but may not redress site;

(12) shall

not initiate or discontinue a central venous catheter that is not functioning as intended. Under no circumstance should there be any attempt to manipulate a malfunctioning catheter.

E. Prohibited functions of the CHT, CHT I, and CHT II:

(1) shall

not administer medications by oral, intramuscular, intravenous or subcutaneous routes except those agents addressed in authorized functions of these rules;

(2) shall not

take orders for dialysis treatments;

(3) shall not

alter dialysis orders as prescribed by a health care provider;

(4) CHT I

shall not initiate or discontinue via central venous catheters.

(5) shall not

perform hemodialysis treatments without direct supervision of a

registered nurse.

[16.12.4.10 NMAC - Rp, 16.12.4.10 NMAC, 12/13/2022]

16.12.4.11 DISCIPLINARY ACTION: The board shall conduct hearings upon charges relating to discipline of a CHT, CHT I and CHT II, and may deny, place on probation, suspend or revoke a hemodialysis technician certificate in accordance with the Uniform Licensing Act Section 61-1-1 NMSA 1978 and 16.12.12 NMAC.

A. Grounds for

disciplinary action:

(1)

"Incompetence" which is defined to include, but not limited to, the following:

(a)

inability to function with reasonable skill and safety as a CHT, CHT I and CHT II for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of patients receiving dialysis treatments or failure to conform to the essential and prevailing standards of CHTs, CHT Is and CHT IIs;

(c)

omitting to record information regarding procedures performed and care provided which could be relevant to the patient's care;

(d)

failure to report information regarding the consumer's treatment or health status to appropriate person which could be relevant to the patient's care and status;

(e)

demonstrating a lack of competence in providing care to patient's receiving a dialysis treatment.

(2)

"Unprofessional conduct", which is defined to include, but not limited to, the following:

(a)

falsifying or altering patient records or personnel record for the purpose of reflecting incorrect or incomplete information;

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

(c) obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation or deceit;

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

(e) obtaining or attempting to obtain a certificate to function as a CHT, CHT I or CHT II for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the certification or recertification process;

(f) functioning as a CHT, CHT I and CHT II in NM without a valid, current New Mexico certificate, or aiding, abetting or assisting another to function as a CHT, CHT I and CHT II without a valid, current New Mexico certificate;

(g) failure to report a CHT, CHT I and CHT II who is suspected of violating the NPA or rules for certification of hemodialysis technicians;

(h) exceeding the scope of function of a CHT, CHT I and CHT II;

(i) intentionally abusing, neglecting or exploiting a patient;

(j) intentionally engaging in sexual contact toward or with a patient;

(k) felony conviction;

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

(m) failure to maintain appropriate

professional boundaries which may cause harm to the patient.

B. Disciplinary proceedings are conducted in accordance with 16.12.2 NMAC Nurse Licensure.
[16.12.4.11 NMAC - Rp, 16.12.4.11 NMAC, 12/13/2022]

16.12.4.12 APPROVAL FOR HEMODIALYSIS PROGRAMS:

A. Initial program approval. A proposed hemodialysis technician training program shall submit an application for approval to the board's hemodialysis technician advisory committee (HTAC). The hemodialysis technician advisory committee (HTAC) shall evaluate the application, evaluate any program review if completed and make a recommendation to the board regarding the approval of the program. The board shall consider the recommendation of the hemodialysis technician advisory committee at a regularly scheduled board meeting.

(1) The initial application shall be consistent with the minimum standards for approval of hemodialysis technician programs 16.12.4.14 NMAC, and shall contain the following:

(a) hemodialysis training program objectives;

(b) agency organizational chart;

(c) names and contact information of the medical director, administrator, and nursing director;

(d) names, license verification and resumes of the nurse educator(s) and other faculty to include clinical preceptor(s);

(e) verification of New Mexico department of health state licensure; and

(f) hemodialysis training program curriculum; and

(g) completion of initial training program application and remit the required fee.

(2) Representatives of the program may be scheduled to meet with the HTAC to present the proposed program.

(a) following the HTAC review of the application, a recommendation for approval shall be made to the board of nursing;

(b) programs not recommended for approval must provide evidence that the identified deficiencies have been corrected.

(3) After receipt of the HTAC recommendation(s), the board may:

(a) grant approval of the program;

(b) defer a decision regarding approval;

(c) deny approval; or

(d) direct staff to make a pre-approval visit.

B. Program renewal of approval:

(1) To ensure continued compliance with the minimum standards for approval, the program shall be reviewed prior to the approval expiration date and at least every two years with a program review. The review may include a site visit.

(2) A report of the program evaluation shall be made to the HTAC.

(a) the HTAC will review the program evaluation and make a recommendation to the board;

(b) the board is the final authority regarding continued approval or probation;

(c) the board may authorize unannounced site visits for the approved hemodialysis technician programs.

D. Criteria for full approval, probationary approval, and denial or withdrawal of approval.

(1) Criteria for full approval. Full approval shall be granted for no more than two years to a program when, in the

opinion of the board, the program demonstrates compliance with the minimum standards for approval of hemodialysis technician programs.

(2) Criteria for full approval with warning:

(a) a program may be given full approval with warning when there is evidence of deficiencies;

(b) the program must correct all the deficiencies of the minimum standards not met;

(c) the program must submit a corrective action plan (CAP) to the board;

(d) the program shall maintain the minimum standards for certified hemodialysis technician program as previously approved by the board;

(e) full approval with warning shall not exceed two years;

(f) any other discretion or conditions deemed necessary by the board may be imposed.

(2) Criteria for probationary approval:

(a) a program may be given probationary approval when there is evidence of:

(i) substantial non-compliance with the minimum standards for approval of hemodialysis technician programs;

(ii) continuous disruptions in retaining qualified faculty resulting in disorganization of the program and a breakdown of supervision and teaching of the program;

(iii) non-compliance with the program's stated philosophy, objectives, policies and curriculum resulting in unsatisfactory student achievement;

(iv) failure to provide clinical experiences or supervision necessary to meet the objectives of the program;

(v) failure of seventy five percent of first time writers of the examination to correctly answer at least eighty percent of the items over a one year period.

(b) the program shall be advised, in writing, of the reason(s) for the probationary approval.

(c) the board shall designate a reasonable time period, not to exceed one year, in which the program must correct deficiencies and meet the minimum standards for approval.

(d) at least 60 days prior to the end of the probationary approval a site visit shall be made by representatives of the board.

(e) the HTAC shall review the program review and make a recommendation to the board.

(f) the board may grant approval to the program or it may withdraw approval of the program. All decisions of the board and recommendations of the HTAC shall be advised in writing of the reasons for probationary approval.

(g) probationary approval is not renewable. Failure to correct deficiencies will result in withdrawal of approval.

(3) Criteria for denial or withdrawal of approval:

(a) the board may deny approval of a program when a program fails to provide evidence of compliance or fails to correct deficiencies resulting in non-compliance with the minimum standards for approval of hemodialysis technician programs;

(b) a written notice detailing the reasons for denial or withdrawal of approval shall be provided to the agency;

(c) the program shall be removed from the list of board approved hemodialysis technician programs. The certified hemodialysis technician program shall wait 12 months before the program can re-apply for initial approval.

[16.12.4.12 NMAC - Rp, 16.12.4.12 NMAC, 12/13/2022]

16.12.4.13 CHANGES REQUIRING NOTIFICATION:

A. Changes requiring notification of the board or the advisory committee:

(1) curriculum changes;

(2) changes in the program's objectives or goals;

(3) changes in required didactic or clinical practice hours;

(4) changes in the nurse educator;

(5) changes in the hemodialysis technician job description.

B. Procedure for requesting board approval for program changes.

(1) The advisory committee shall be notified in writing of changes in the program requiring board approval. The notification shall include:

(a) the proposed change(s);

(b) rationale for the proposed change(s);

(c) anticipated effect on the current program; and

(d) timetable for implementation of the proposed change(s);

(e) presentation of the differences between the current system and proposed change(s);

(f) method of evaluation which will be used to determine the effect of the change;

(g) a description of the study or method used to determine need for a change;

(h) plans for continuing to meet the minimum standards for approval of the hemodialysis technician program.

(2) Major changes and recommendations will be presented to the board of nursing at a regularly scheduled board meeting.

C. Changes requiring notification to the advisory committee or board of nursing.

(1) Changes in the internal administration or organizational plan of the

hemodialysis clinic or unit which affects the program.

(2) Changes of New Mexico, department of health licensure status.

[16.12.4.13 NMAC - Rp, 16.12.4.13 NMAC, 12/13/2022]

16.12.4.14 MINIMUM STANDARDS FOR APPROVAL OF HEMODIALYSIS TECHNICIAN PROGRAMS:

A. Objectives: There shall be written objectives for the program which serve as the basis for planning, implementing and evaluating the program.

(1) The objectives shall be developed by the nurse educator.

(2) The program objectives shall describe the knowledge and skills expected of the CHT, CHT I and CHT II, and shall be consistent with the authorized functions of the CHT, CHT I and CHT II and the board approved core curriculum. After 12/31/2023, all programs must include curriculum consistent with CHT and CHT II scope of function.

(3) The program objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum:

(1) The curriculum shall be developed, implemented and evaluated by the nurse educator within the framework of the rules and the core knowledge statements.

(2) The curriculum shall extend over a period of time sufficient to provide essential, learning experiences which enable a hemodialysis technician student to develop competence in hemodialysis practice.

(3) There shall be a minimum of 80 hours of theory, and a minimum of 160 hours of supervised clinical experience for CHT I.

(4) Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of

stated objectives in a health care setting and shall include clinical learning experiences to develop the skills required by technicians to provide safe care. The nurse educator or clinical preceptor must be physically present and accessible to the hemodialysis technician student when the hemodialysis technician student is caring for the patient undergoing hemodialysis.

(5) The nurse educator shall develop a written plan for curriculum and program evaluation.

(6) The CHT and CHT II curriculum shall include a minimum of 16 additional hours of theory related to the expanded scope of practice and a minimum of 80 additional hours of supervised clinical experience. The clinical experience will include the initiation, monitoring and disconnection of a central venous catheter for a minimum of 20 times. The nurse educator must verify the successful completion of training with a written letter to the board with the application to test.

C. Administration and organization:

(1) The hemodialysis technician training program shall provide hemodialysis technician students opportunities to acquire clinical experiences caring for patients receiving hemodialysis at a licensed and accredited facility. These experiences should enhance the hemodialysis technician students' clinical skills and knowledge base and be under the direct supervision of a registered nurse.

(2) Each program shall have a board approved nurse educator to administer the program who shall be responsible for the development, implementation, teaching and evaluation of the program, arrangements for and supervision of student's clinical experiences and communication with the board and the hemodialysis technician advisory committee.

D. Qualifications and competencies of faculty:

(1) The nurse educator shall be a registered nurse

and shall hold a current New Mexico or multistate license to practice nursing in New Mexico or hold a current compact state license.

(2) The nurse educator shall have at least two years of recent nursing practice experience including at least one year of nursing experience in hemodialysis. Previous nursing experience in nursing education is desirable.

(3) The nurse educator shall have a minimum of nine contact hours of continuing education annually in nephrology, or have current national certification in nephrology or dialysis.

(4) All new approved nurse educators shall participate in an orientation that is presented by the board staff.

(5) Clinical preceptor(s) shall be a registered nurse and shall hold a current New Mexico nursing license or hold a current compact state license.

(a) Clinical preceptors shall have a least one year of nursing practice experience including at least six months of nursing experience in dialysis.

(b) Clinical preceptors shall demonstrate knowledge and skills in dialysis nursing.

(6) A certified hemodialysis technician under supervision of the nurse educator or approved clinical preceptor may be assigned to assist with the clinical experience/orientation of hemodialysis technician trainees.

(7) The nurse educator or the clinical preceptor must be physically present in the agency while students are engaged in the clinical experience.

(8) A nurse educator may delegate classroom instruction to other agency affiliated approved program nurse educators. [16.12.4.14 NMAC - Rp, 16.12.4.14 NMAC, 12/13/2022]

16.12.4.15 HEMODIALYSIS TECHNICIAN ADVISORY COMMITTEE:

A. Composition and appointment of committee members: The board of nursing shall appoint a minimum of a five member, three of which should be registered nurses, voluntary advisory committee which shall be composed of licensed nurses with expertise in dialysis nursing and certified hemodialysis technicians in New Mexico.

(1) There shall be no more than one licensed nurse and one certified hemodialysis technician representative employed by one hemodialysis agency serving on the advisory committee at any one time.

(2) Members of the committee shall serve for staggered terms of two years; and may be reappointed to the advisory committee.

B. Responsibility of advisory committee:

(1) The advisory committee shall review applications for initial approval, program review, program evaluations, and changes in approved hemodialysis technician training programs, and shall provide recommendations to the board.

(2) The advisory committee shall provide consultation to programs as requested or as directed by the board.

(3) Members of the advisory committee shall serve as site visitors to hemodialysis technician training programs for approval, consultation and evaluation visits.

[16.12.4.15 NMAC - Rp, 16.12.4.15 NMAC, 12/13/2022]

16.12.4.16 HEMODIALYSIS TECHNICIAN CURRICULUM SUBJECT AREAS:

A. Required subject areas After 12/31/2023, all hemodialysis technician curriculum must include subject areas for CHT, CHT I and CHT II.

(1) Objectives of the hemodialysis technician programs to include:

(a) federal, state and local regulations;

(b) nurse's role and hemodialysis technician role including the meaning of delegation;

(c) standards of function for hemodialysis technician;

(d) certification expectations and requirements; and

(e) hemodialysis technician students must have a current basic life support credential prior to and while the student has contact with patients.

(2) Orientation to the hemodialysis technician position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the hemodialysis technician:

(i) roles and contributions of other health team members;

(ii) observation and reporting;

(iii) occupational safety and health administration (OSHA).

B. Legal roles and responsibilities of hemodialysis technicians including:

(1) patient's rights;

(2) negligence and malpractice;

(3) ethical issues relating to patients including but not limited to confidentiality;

(4) documentation;

(5) identification of errors and required reporting of errors to the nurse.

C. Orientation to the patient population:

(1) Identifies major anatomical components of the renal system and the role of the normal kidney in maintaining homeostasis;

(2) Recognizes the physiological changes that occur

in the body as a result of end stage renal disease;

(3) Verbalizes the principles of hemodialysis;

(4) Recognizes the psychosocial considerations that affect the hemodialysis patient/family and lifestyle;

(5) Identifies changes in the patient's diet.

D. Introduction to dialysis therapy:

(1) Demonstrates efficient, accurate and safe preparation of the dialysis machine including but not limited to the discontinuation of dialysis;

(2) Demonstrates accurate and safe technique when performing arteriovenous punctures for dialysis access;

(3) Identifies patient complications and communicates with a registered nurse;

(4) Identifies and responds appropriately to machine alarms and other potential emergency situations to include but are not limited to:

(a) air leaks;

(b) power failures;

(c) temperature changes;

(d) unconscious patient;

(e) needle dislodgement; or

(f) air embolism;

(5) Identifies infection control principles and practices. Including but not limited to the use of personal protective equipment;

(6) Demonstrates the method of medication administration and identifies potential adverse reactions for medications used in hemodialysis therapy.

E. Hemodialysis technician procedures/skills check list for certification in New Mexico.

(1) identification of machine parts and functions;

(2) preparation of machine and extracorporeal circuit equipment monitoring and testing prior to initiation of treatment and disinfection of machine post dialysis;

(3) data collection for registered nurse assessment;

(4) vascular access and specimen collection;

(5) initiation, monitoring and termination of treatment;

(6) appropriate response to real and potential emergency care situations that can impact the patient, staff and the physical building;

(7) administration of medications required for dialysis therapy within the scope of practice as stated in Subsection B and C of 16.12.4.10 NMAC;

(8) correct practice of infection control principles;

(9) identification and comprehension of principles of water treatment system.

F. Certification for hemodialysis technician (CHT and CHT II) including their role and responsibilities.

(1) Philosophy and objectives of the advanced hemodialysis technician programs to include:

(a) federal, state and local regulations;

(b) nurse's role and advanced hemodialysis technician role;

(c) standards of function for advanced hemodialysis technician;

(d) certification expectations and requirements.

(2) Orientation to the (CHT and CHT II) position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the hemodialysis technician;

roles and contributions of other health team members;

(ii) observation and reporting;

(3) Expanded roles and responsibilities of the advanced hemodialysis technicians (CHT and CHT II) including:

(a) patient's rights;

(b) negligence and malpractice;

(c) ethical issues relating to patient including but not limited to confidentially and OSHA;

(d) documentation;

(e) identification of errors and required reporting or errors to the nurse.

(4) Review the concepts and practices of infection control.

(5) Understand the principles and rationale for the clamping and care of central venous line catheters:

(a) positive thoracic pressure;

(b) risk of complications with clamping/unclamping catheters;

(c) antiseptic solutions and catheter material.

(6) Understanding and administering heparin to central venous catheters:

(a) pre-dialysis blood work;

(b) identification of arterial and venous catheter ports;

(c) connection to dialysis blood lines.

(7) Preparation, initiation, monitoring and termination of dialysis with the central venous catheters:

(a) arterial pressure monitoring;

(b) documentation;

(c) verification with registered nurse of

correct placement of a new central venous catheter.

(8) Maintaining central venous catheter patency including injection of heparin or saline into catheter ports.

(9) Identification of complications including, but not limited to:

(a) emergency life threatening care;

(b) access recirculation;

(c) inadequate flow;

(d) clotting; or

(e) catheter dislodgement.

G. CHT and CHT II candidate procedures/skills check list for certification in New Mexico shall also include the following:

(1) Identify difference between permanent and temporary central venous catheters;

(2) Demonstrate ability to maintain an aseptic field;

(3) Demonstrate correct infection control practices throughout all procedures including the proper selection of approved antiseptic solutions;

(4) Demonstrate aspiration of heparin or saline with the correct sized syringe;

(5) Demonstrate ability to maintain positive pressure in the catheter lumen;

(6) Identify and respond appropriately to complications with the central venous catheter;

(7) Determine correct lumen volume and instill heparin or saline aseptically post treatment;

(8) Correctly demonstrates catheter ports are capped, clamped and secured after termination of hemodialysis treatment.

[16.12.4.16 NMAC - Rp, 16.12.4.16 NMAC, 12/13/2022]

HISTORY OF 16.12.4 NMAC:

Pre-NMAC History: The material in this part was derived from the previously filed with the state records center and archives under: BON Manual #90-1, New Mexico Board of Nursing Rules and Regulations for Hemodialysis Technicians, filed 1/29/1990; BON Manual 93-2, New Mexico Board of Nursing Rules and Regulations for Hemodialysis Technicians, filed 08/25/1993.

History of Repealed Material:
 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs repealed, 2/17/2006.
 16.12.4 NMAC, Hemodialysis Technicians, filed 12/21/2005 - Repealed effective 10/1/2016.
 16.12.4 NMAC, Hemodialysis Technicians, filed 9/1/2016 - Repealed effective 12/13/2022.

Other History:
 BON Manual 93-2, New Mexico Board of Nursing Rules and Regulations for Hemodialysis Technicians (filed 8/25/1993) was renumbered, reformatted to 16 NMAC 12.4, Certification of Hemodialysis Technicians and Training Programs, effective 1/1/1998.
 16 NMAC 12.4 amended Certification of Hemodialysis Technicians and Training Programs (filed 12/10/1997), renumbered, reformatted, amended and replaced by 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs, effective 7/30/2001.
 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs (filed 6/12/2001) replaced by 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs, effective, 2/17/2006.
 16.12.4 NMAC Certification of Hemodialysis Technicians, effective, 10/1/2016.
 16.12.4 NMAC, Hemodialysis Technicians, filed 9/1/2016 Replaced by 16.12.4 NMAC, Hemodialysis Technicians, effective 12/13/2022.

NURSING, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS

PART 5 MEDICATION AIDES

16.12.5.1 ISSUING

AGENCY: New Mexico Board of Nursing.

[16.12.5.1 NMAC - Rp, 16.12.5.1 NMAC, 12/13/2022]

16.12.5.2 SCOPE: The rule applies to medication aides and medication aide training programs which serve consumers in various health care and community settings except acute care facilities.

[16.12.5.2 NMAC - Rp, 16.12.5.2 NMAC, 12/13/2022]

16.12.5.3 STATUTORY AUTHORITY:

Section 61-3-10-2 NMSA, permits the operation of a program for certification of medication aides and training programs. Section 61-3-10-2 NMSA directs the board of nursing to provide for the operation of a statewide program for certification of medication aides and training programs. Section 61-2-6 NMSA (1995) Pamphlet and the Uniform Licensing Act Section 61-1-1 NMSA, *et seq.*, sets forth conditions for hearing and discipline.

[16.12.5.3 NMAC - Rp, 16.12.5.3 NMAC, 12/13/2022]

16.12.5.4 DURATION:

Permanent.

[16.12.5.4 NMAC - Rp, 16.12.5.4 NMAC, 12/13/2022]

16.12.5.5 EFFECTIVE DATE:

December 13, 2022 unless a later date is cited at the end of a section.

[16.12.5.5 NMAC - Rp, 16.12.5.5 NMAC, 12/13/2022]

16.12.5.6 OBJECTIVE:

Pursuant to the Nursing Practice Act

this part establishes the requirements for fees, examination, recertification, standards and functions, supervision/direction, and disciplinary action for medication aides who serve in multiple health care settings except acute care facilities. It also establishes requirements for approval of medication aide programs, minimum standards for medication aide programs, and the medication aide advisory committee for medication aides.

[16.12.5.6 NMAC - Rp, 16.12.5.6 NMAC, 12/13/2022]

16.12.5.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1)
“administrator” means the operating officer of an agency. This includes but is not limited to a licensed nursing facility.

(2) “agency”
 means a board approved educational or facility-based entity that conducts medication aide student training. Facility-based programs may utilize certified medication aides that serve consumers in various healthcare and community settings.

(3)
“approval” means the review and acceptance of specific activity.

(4) “audit”
 means a verification of continuing education documents and work requirements.

B. Definitions beginning with the letter B:

“board” means the board of nursing.

C. Definitions beginning with the letter C:

(1)
“certificate” means a document issued by the board identifying the legal privilege and authorization to perform specific certified medication aide functions and procedures in the state of New Mexico.

(2)
“certification examination” means a board-approved tool designed to evaluate an applicant’s knowledge of a specific subject.

(3) “certified medication aide I (CMA I)” means

a person who has received specialized training preparing for a role of medication administration under the supervision/direction of a registered nurse, is permitted to administer medications as outlined in these rules upon successful completion of a board approved examination.

(4) **“certified medication aide II (CMA II)”** means a person who meets the requirements of a CMA as defined in these rules. The CMA II candidate is selected by the nurse educator and receives additional training with the expanded scope of function of subcutaneous insulin delivery and is permitted to administer insulin via insulin pen upon successful completion of a board approved examination; additional certification is mandatory.

(5) **“clinical experience”** means the supervised clinical proficiency and quality assurance skills component of the certified medication aide program that provides for the application of theory and for the achievement of the stated objective which takes place in a board approved agency.

(6) **“clinical preceptor”** means a licensed nurse at each participating nursing agency that is physically present and providing one clinical preceptor to a maximum of two students with direct supervision.

(7) **“collaborative program”** means an education only based agency that collaborates with another approved agency to train medication aide students for certification and does not employ medication aides. The collaborative program retains all the responsibility of maintaining a medication aide program as it pertains to the medication aide student. A board approved nurse educator is required for the supervision of the collaborative program.

(8) **“competency”** means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

(9)

“consumer” means any person domiciled, residing or receiving care or treatment from a certified medication aide in an agency. This includes but is not limited to residents, clients or students.

(10) **“contact hour”** means a 60 minute clock hour.

(11) **“continuing education (CE)”** means a planned learning experience for medication aides which include medication information and medication administration. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of care to the consumer.

(12) **“corrective action plan”** means a step- by- step plan submitted by an approved medication aide program that results in outcomes to achieve resolution of areas of noncompliance identified during a program evaluation.

(13) **“curriculum”** means a detailed course outline, description, or syllabus, which includes objectives, content, teaching-learning activities and evaluation strategies.

D. Definitions beginning with the letter D:

“delegation” means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation.

E. Definitions beginning with the letter E: [RESERVED]

F. Definitions beginning with the letter F: [RESERVED]

G. Definitions beginning with the letter G: [RESERVED]

H. Definitions beginning with the letter H: [RESERVED]

I. Definitions beginning with the letter I: [RESERVED]

J. Definitions beginning with the letter J: [RESERVED]

K. Definitions beginning with the letter K: [RESERVED]

L. Definitions beginning with the letter L: [RESERVED]

M. Definitions beginning with the letter M: (1)

“medication aide advisory committee (MAAC)” means a board appointed advisory committee.

(2) **“medications”** means substances intended for use in diagnosis, care, mitigation, treatment or prevention of a disease.

(3) **“medication aide program”** means the formal program of study, certification, continuing education, standards of functions, disciplinary action, and minimum standards. A board approved nurse is required for the supervision and observation of the medication aide.

N. Definitions beginning with the letter N:

(1) **“NPA”** means the Nursing Practice Act.

(2) **“nurse educator”** means a board approved_ registered nurse who is the program administrator for a specific agency that develops, coordinates and teaches a medication aide program and retains the ultimate responsibility for the supervision, direction, and competency of the medication aide student. Facility-based program nurse educators are also responsible for supervision, direction, and continuing competency assessment of CMA Is and CMA IIs.

O. Definitions beginning with the letter O: “OTC medications” means medications can be purchased over-the-counter without a prescription. OTC medications must be stored in original manufacturer’s packaging and affixed with the original manufacturer’s labeling. Provider’s orders with adequate instructions must be obtained prior to the administration of OTC medications by the certified medication aide.

P. Definitions beginning with the letter P:

(1) **“population specific care”** means the standards of care regarding medication administration requirements for specific consumer care groups.

(2) **“Prn”** means administering medication on an as needed basis. Instruction to administer by a certified medication aide requires licensed nurse judgment and prior approval.

(3) **“program evaluation”**: means the process whereby the program at the agency is evaluated at the request of the board for approval status.

(4) **“program review”** means the process whereby the program at the agency is reviewed to assure compliance with the rules and regulations governing the CMA program. This may include a site visit with or without official notification to an agency.

(5) **“properly labeled container”** means a medication container which includes the name, address and telephone number of the pharmacy, the name of the prescriber, the full name of the consumer, the date the order was filled, the brand and generic name of the drug, the dosage of the drug, strength of the drug, lot number, expiration date, adequate instructions for use and cautionary label as necessary.

Q. Definitions beginning with the letter Q:

(1) **“quarterly reports”** means a report submitted by an agency that provides an update on areas of noncompliance that were identified during a program evaluation or corrective action plan outcomes.

(2) **“quality assurance progress report”** means a report submitted by a facility-based approved medication aide program that provides a summary of medication aide medication administration findings, observations, problems, irregularities, safety violations, and medication errors.

R. Definitions beginning with the letter R:

(1) **“reactivation”** means the process of making a certificate current which has been in lapsed status as a result of failure to comply with the necessary renewal requirements; this action does not involve board action.

(2) **“reinstatement”** means the process whereby a certificate, which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action.

(3) **“routine medication”** means a medication for which the frequency of administration, amount, strength, and method of administration are specifically fixed as determined by the health care provider authorized by the state to prescribe medications. Routine does not include medications for which the time of administration, the amount, the strength of dosage, the method of administration or the reason for administration is left to judgment or discretion.

S. Definitions beginning with the letter S:

(1) **“standards of function”** means a range of tasks/activities performed by certified medication aides Is and certified medication aide IIs for consumers who are stable and predictable, supervised by a licensed nurse who may need to adjust the range of tasks based on the consumer’s need.

(2) **“supervision/direction”** means initial and ongoing verification of a person’s knowledge and skills in the performance of a specific function or activity as demonstrated by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific function or activity.

T. Definitions beginning with the letter T:
[RESERVED]

U. Definitions beginning with the letter U: **“ULA”** means the Uniform Licensing Act.

V. Definitions beginning with the letter V:
[RESERVED]

W. Definitions beginning with the letter W:
[RESERVED]

X. Definitions beginning with the letter X:
[RESERVED]

Y. Definitions beginning with the letter Y:
[RESERVED]

Z. Definitions beginning with the letter Z:
[RESERVED]
[16.12.5.7 NMAC - Rp, 16.12.5.7 NMAC, 12/13/2022]

16.12.5.8 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant’s birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

A. Initial certification by examination \$45.00

B. Certification by exam for CMA II \$60.00

C. Re-examination \$30.00

D. Renewal of medication aide certificate \$45.00

E. Reactivation of a lapsed certificate \$50.00

F. Reactivation of a lapsed certificate following board action \$60.00

G. Initial certificate Military personnel, spouse, dependent, or veteran \$0

H. First renewal of certificate Military personnel, spouse, dependent or veteran \$0

I. Initial program review and approval \$250.00

J. Program renewal \$200.00

K. Board ordered program review or program

evaluation for approval

\$200.00

[16.12.5.8 NMAC - Rp, 16.12.5.8 NMAC, 12/13/2022]

16.12.5.9 CERTIFICATION BY EXAMINATION REQUIREMENTS FOR MEDICATION AIDES:

A. Prerequisites:

(1) Be a minimum of 18 years of age.
 (2) Be a high school graduate or complete the general education development (GED) course. Applicants who graduated from non-U.S. education programs shall have an evaluation of their education credentials sent to the board directly from a board recognized educational credentialing agency to verify that the education is comparable to a US high school diploma.

(3) Provide documentation of a minimum of three months health care experience working at a board approved agency within the last year or hold a current New Mexico nurse aide certificate in good standing.

(4) Successfully complete a board-approved program for the preparation of medication aides within the last 12 months.

(5) Complete the required application form within the specified deadline and according to all policies.

(6) Provide proof of current CPR certification.

(7) Remit the required fee.

B. Application and fee for the medication aide examination:

(1) Any application containing fraudulent or misrepresented information could be the basis for denial of certification.

(2) Incomplete applications for certification will not be processed. The applicant will be notified of the incomplete application within 30 days of submission.

(3) Verification of successful completion of the medication aide program

including date of completion must be received in the board office directly from the agency nurse educator which provided the clinical experience of the program on agency letterhead.

(4) Upon board approval of the application, the board will issue a notification to the applicant. Thereafter the applicant must follow testing service instructions for scheduling the examination.

(5) Applicants who fail the examination must submit a re-examination application and pay a re-examination fee.

(6) Results of the examination shall be reported by the online portal to the applicant. Successful candidates are not certified until they receive notification from the board. Successful candidates shall be issued an initial certificate.

(7) Certification can be verified through the board's website.

(8) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

C. Medication aide certification examination:

(1) The board shall develop and maintain the board-approved examination for medication aides.

(2) Board-approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.

(3) Applicants for certification as a medication aide shall be required to pass the medication aide examination with a minimum of eighty percent of the items answered correctly.

(4) Failed examinations must be repeated in their entirety on all subsequent attempts.

(5) Unsuccessful candidates may repeat the examination one time.

(6) The examination may be taken a

maximum of two times. After the second failure, the applicant must provide verification of repeating and successfully completing the theory and clinical portion of a board-approved medication aide program to be eligible to sit for the exam.

(7) Applicants observed giving or receiving unauthorized assistance during the writing of the examination shall be physically removed from the examination center and the individual(s) shall be referred to the board by a sworn complaint(s) filed by the examiner.

D. Certification by examination for CMA II:

(1) CMA II applicants shall be required to pass a certification examination with a minimum score of eighty percent that is specific to their expanded scope of function as defined in the core curriculum (16.12.5.16 NMAC).

(2) CMA II applicants who fail the exam may repeat the examination one time without repeating an approved training program. If the CMA II applicant does not pass the second examination they must provide verification of repeating and successfully completing the theory and clinical portion of a board approved CMA II program to be eligible to retake the examination.

(3) Results of the examination shall be reported by the online portal to the applicant. Successful candidates are not certified until they receive notification from the board. Successful candidates shall be issued an initial certificate.

(4) The initial certificate for CMA II will align with the expiration date of CMA I.

E. Requirements for medication aide recertification:

(1) Applicants for recertification as a medication aide must meet the continuing education and work requirements as stated in these rules.

(2) In order to meet the CE requirement for recertification as a medication aide, the applicant must provide evidence

of having accrued 16 clock hours of CE within the two years renewal period immediately preceding recertification. CE may be prorated to commensurate with the length of the renewal period.

(a) The agency shall grant opportunities for CE.

(b) Acceptable courses shall be those with topics related to medications and medication administration.

(c) CE requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit.

(d) Failure to meet the CE requirements for recertification shall result in denial of recertification. Individuals who do not meet the continuing education requirement may not function as a medication aide until such time as the CE requirement has been met.

(e) CMA II shall accrue four additional contact hours of continuing education within the 24 months preceding recertification. These additional contact hours must be specific to their expanded scope of function. CE may be prorated to commensurate with the length of the renewal period.

(3) In order to meet the work requirement for recertification as a medication aide, the applicant must administer medications a minimum of 100 hours during the two year period immediately preceding certification renewal in a board approved facility.

(a) Work requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit. Work hours may be prorated to commensurate with the length of the renewal period if less than 24 months.

(b) Failure to meet the employment requirement shall result in denial of recertification.

(c) Individuals who have not met the employment requirement may not function as a medication aide, until a 24 hour refresher course has been completed and a recertification application and fee have been submitted, processed, and accepted by the board.

(4) Reactivation or reinstatement of certificate:

(a) If the certificate has lapsed or been inactive for less than six months, the applicant may submit an application for reactivation, submit the required fee, and submit the required continuing education and work hours.

(b) If the certificate has lapsed or has been inactive six months to one year, the applicant must complete a refresher course. Completion of a refresher course shall meet both the employment and CE requirements for the renewal period.

(c) If the certificate has lapsed or has been inactive for more than one year, the applicant must repeat the training program and pass the medication aide examination.

(5) Refresher course:

(a) CMA I - completion of a minimum of 12 hours of classroom studies and 12 hours of supervised clinical practice in a board-approved medication aide program under the direction of the nurse educator to include authorized and prohibited functions of a medication aide. CMA II - completion the CMA I refresher course and completion of eight hours of theory to include the expanded scope of function and 20 hours of supervised insulin injections.

(b) A passing score of eighty percent on the agency's final examination.

(c) Refresher course requirements are found in 16.12.5.20 NMAC.

(d) The nurse educator shall provide verification on agency letterhead

directly to the board of nursing about the medication aide's completion of the refresher course before a new certificate is issued.

(e) Failure to meet any of the requirements for the refresher course shall require the individual to complete a board-approved training program curriculum in its entirety.

(5) Renewal notifications may be sent electronically to the certified medication aide at least six weeks prior to the end of the renewal month. Renewal applications are available on the board's website.

(a) Failure to receive the notification for renewal shall not relieve the medication aide of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the medication aide does not hold a valid certificate and shall not function as a medication aide in NM until the lapsed certificate has been reactivated.

(c) Renewal application and fee must be submitted, processed, and accepted by the board.

(6) Medication aides shall be required to complete the renewal process by the end of the certificate expiration.

(7) Initial certificates are issued by mail only. Certificates can be verified on the board website.

(8) Remit the required fee.

F. Individuals who have practiced as medication aides in other states or who have been certified in another state may apply for certification in the state of New Mexico if they meet the following criteria:

- (1) are a minimum of 18 years of age;
- (2) are a high school graduate or have completed the general education development course;

(3) Current CPR certification;

(4) provide a current CMA certificate or equivalent from another state;

(5) submit written verification of 100 hours as a medication aide during the 24 month period immediately preceding request to become certified in New Mexico submitted directly to the board by their employer;

(6) provide written verification by the board approved agency, on agency letterhead, of successful completion of the appropriate refresher course, 20 hours of supervised clinical practice, skills list, and the final examination results;

(7) successfully complete the board's medication aide certification examination with a score of eighty percent or better;

(a) the medication aide candidate must apply within six months to take the approved medication aide certification examination; an initial certification by examination application with fee must be submitted, processed and accepted by the board according to examination required deadline;

(b) upon successful completion of the examination with a score of eighty percent or higher a certificate will be mailed to the medication aide;

(c) failure to successfully pass the medication aide certification examination shall require the medication aide to complete a board approved training program curriculum in its entirety.

G. Graduate nurses or nursing students currently enrolled in a school of nursing may be certified as medication aides if they meet the following criteria.

(1) Graduate nurses or student nurses who have successfully completed a nursing pharmacology course and two of the following may apply for medication aide certification:

(a) nursing courses to include: pathophysiology (I), anatomy (II) and physiology (III);

(b) completed a nursing fundamentals course; or

(c) certified nursing assistant course.

(2) Complete the required application form and remit the required fee.

(3) Written verification of successful completion of courses with a "C" or higher must be submitted by the nursing school on letterhead. In lieu of verification, official transcripts will be accepted.

(4) Complete the refresher course requirement CMA I or CMA I and CMA II. The attestation of completion of the refresher course must be submitted directly to the board of nursing by the nurse educator.

(5) If completed certified nursing assistant course, must provide verification of a current certificate in good standing with the state department of health.

(6) Provide proof of a current CPR card.

(7) Successfully complete the board's medication aide certification examination with a score of eighty percent or better.

(8) Upon successful completion of the examination with a score of eighty percent or higher a certificate will be mailed to the medication aide.

(9) Failure to successfully pass the medication aide certification examination shall require the candidate to complete a board approved training program curriculum in its entirety.

[16.12.5.9 NMAC - Rp, 16.12.5.9 NMAC, 12/13/2022]

16.12.5.10 STANDARDS OF FUNCTIONS FOR THE MEDICATION AIDE:

A. The purpose of this section is to establish standards for the supervision/direction of medication aides; to identify basic authorized

functions for the medication aide and; to identify prohibited functions for the medication aide.

B. Authorized functions of the medication aide - medication aides who have been certified by the New Mexico board of nursing may under the supervision/ direction of a registered nurse administer routine medications.

(1) The medications must have been ordered by a person authorized in the state to prescribe medications.

(2) The medication must be prepared by the person who will administer it.

(3) Medication administration errors must immediately be reported to the licensed nurse by the medication aide.

(4) Adverse reactions must immediately be reported to the licensed nurse by the medication aide.

(5) Administer PRN medications only after contacting and receiving authorization from licensed nurse to administer the PRN medication. Authorization is required for each individual instance of PRN administration of a medication.

C. Prohibited functions of the medication aide:

(1) shall not administer medication by intramuscular, intravenous, subcutaneous or nasogastric routes; exception: certified medication aides may administer insulin with a prefilled insulin pen if they have successfully completed a current CMA II board approved certification program;

(2) shall not take medication orders;

(3) shall not alter medication dosage as ordered by the prescriber;

(4) shall not perform any function or service for consumers for which a nursing license is required under the Nurse Practice Act;

(5) shall not administer medication without the supervision/direction of a licensed nurse;

(6) shall not administer medications in any agency other than a board approved agency.

(7) shall not administer medications when medication administration requires an assessment of the patient's need for medication, a calculation of the dosage of the medication;

(8) shall not administer medication when the patient requires continued nursing assessment;

(9) shall not administer medication dispensed from an automated medication dispensing system without a properly labeled container and without the direct supervision of a licensed nurse.

D. Supervision/ direction:

(1) A nurse educator shall periodically provide supervision/direction to the certified medication aide administering medication(s):

(a) a licensed nurse shall be available 24 hours a day (on call) to supervise medication aides as determined by the agency work hours;

(b) develop and institute an annual performance evaluation of each CMA; the performance evaluation shall be based upon the standards listed in these rules; the performance evaluation shall also include a review of the number of medication errors committed by the CMA.

(2) A nurse educator shall monitor an agency's medication aides as directed by the board to include the following:

(a) review all medication administration errors and incident reports filed since the nurse educator's last review;

(b) meet with each medication aide to review and discuss problems, difficulties, or irregularities in administering medications and to provide appropriate instruction;

(c) ensure biannual medication pass observation are conducted which may be delegated to a licensed nurse;

(d) prepare and submit to the board a written, signed report medication administration of findings, observations, problems, irregularities, medication errors, safety violations and recommendations in medication administration.

(3) The registered nurse may delegate to the licensed practical nurse the supervision/direction of the medication aide.

E. Certified medication aide II - expanded scope of function:

(1) The expanded role is a privilege and not a requirement for all CMA's to meet.

(2) The nurse educator shall approve the CMA assuring the CMA meets specific criteria.

(3) CMA must be employed full-time for one year in a board approved facility.

(4) Must have been a CMA for one year and have fulfilled all CMA requirements and have a current NM certificate.

(5) Authorized functions shall include subcutaneous injection of insulin by prefilled insulin pens only.

(6) Must complete board approved curriculum and pass the board examination with eighty percent or better.

[16.12.5.10 NMAC - Rp, 16.12.5.10 NMAC, 12/13/2022]

16.12.5.11 DISCIPLINARY ACTION:

A. The board shall conduct hearings upon charges relating to discipline of a CMA/ CMA II or the denial, suspension or revocation of a medication aide certificate in accordance with the ULA (Section 61-3-10 NMSA 1978) and 16.12.12 NMAC_for the purpose of protecting the public.

B. Grounds for action:

(1) Incapable of functioning as a medication aide which is defined to include, but not limited to, the following:

(a) inability to function with reasonable

skill and safety as a medication aide for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of consumers in the administration of medications or failure to conform to the essential standards and prevailing standards of medication aides, in which actual injury need not be established;

(c) omitting deliberately and failing to record information regarding medications and medication administration which could be relevant to the consumer's care;

(d) demonstrating a lack of competence through repeated medication errors.

(2) Incapable of functioning as a responsible member of the health care team which is defined to include, but not limited to, the following:

(a) falsifying or altering consumer records or personnel records for the purpose that reflect incorrect or incomplete information;

(b) misappropriation of money, medications or property;

(c) obtaining or attempting to obtain any fee for consumer services for one's self or for another through fraud, misrepresentation or deceit;

(d) obtaining, possessing, administering or furnishing prescription medications to any person, including, but not limited to one's self, except as directed by a person authorized by law to prescribe;

(e) failure to follow established procedures and documentation regarding controlled substances;

(f) obtaining or attempting to obtain a certificate to function as a medication aide for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the

certification by examination or recertification process;

(g)

failure to report a medication aide, who is suspected of violating the NPA, administrative rules or 16.12.5 NMAC;

(h)

exceeding the scope of functions of a medication aide;

(i)

intentionally abusing, neglecting or exploiting a consumer;

(j)

intentionally engaging in sexual contact toward or with a consumer;

(k)

administering medications without the supervision/direction of a licensed nurse;

(l)

conviction of a felony;

(m)

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

C. Disciplinary

proceedings - disciplinary proceedings are conducted in accordance with the administrative rules of the New Mexico board of nursing and pursuant to the Uniform Licensing Act.

[16.12.5.11 NMAC - Rp, 16.12.5.11 NMAC, 12/13/2022]

16.12.5.12 APPROVAL OF MEDICATION AIDE PROGRAMS:

A. The purpose of the rules is to set reasonable requirements that protect the health and well-being of the consumers that receive services from medication aides in board approved programs. NPA (Section 61-3-10.2 NMSA 1978). The objectives include promoting safe and effective care of consumers receiving medications from CMAs; establishing minimum standards for the evaluation and approval of medication aide programs; facilitating continued approval and improvement

of the medication aide programs; granting recognition and approval that a medication aide program is meeting the required minimum standards; and establishing eligibility of graduates of the training portion of a medication aide program to apply for certification by examination.

B. Board approved nurse educators of all new medication aide participant program's shall participate in an orientation that is presented by board staff. [16.12.5.12 NMAC - Rp, 16.12.5.12 NMAC, 12/13/2022]

16.12.5.13 TYPES OF APPROVAL:

A. Initial program approval - any agency wishing to obtain approval of a medication aide program shall submit, in writing, a medication aide I, medication aide I and II, or a medication aide II application for approval to the board. Applications must be complete for consideration of approval. Incomplete applications will not be reviewed and will expire in six months. The MAAC shall evaluate the application and make a recommendation to the board regarding the approval of the medication aide program. The program must have initial board approval prior to recruiting and enrolling students or employing certified medication aides. The board shall approve medication aide programs at regularly scheduled board meetings.

(1) The

initial application for approval shall be consistent with the minimum standards for medication aide programs and shall contain the following:

(a)

program description and implementation plan, including timelines;

(b)

objectives of the medication aide program, Paragraph (1) to (3) of Subsection A of 16.12.5.17 NMAC;

(c)

organizational chart showing the position of medication aide program within the overall structure of the

agency, indicating the lines of authority and responsibility;

(d)

name of the administrator;

(e)

name, license verification and resume of the nurse educator(s), faculty, and clinical preceptors;

(f)

program curriculum, consistent with 16.12.5.19 NMAC;

(g)

training material and textbooks to be utilized;

(h)

number of hours to be spent on each topic;

(i)

program teaching methods and supporting technology;

(j)

program policies and procedures that outline the standard of function of the medication aide in the board approved agency;

(k)

medication aide student eligibility requirements and policies related to the instruction and evaluation of the student progression, grading, and achievement;

(l)

evaluation tools that demonstrate written and clinical proficiency to include a quality assurance program;

(m)

policies and procedures that outline the scope of function of medication aide in the board approved agency;

(n)

job description of medication aide; and

(o)

required fee.

(2) Training

programs which also employee certified medication aides must also include the following information:

(a)

name of the director of nursing;

(b)

evaluation tools that demonstrate the competency of the certified medication aide including the biannual medication pass and the annual performance evaluation;

(c)

policies for reporting medication errors of the certified medication aide;

(d) plan for the agency to provide continuing education opportunities for the certified medication aide.

(3) Representatives of the medication aide program may be scheduled to meet with the MAAC to present the proposed program:

(a) upon the MAAC's approval of the application, a recommendation for approval shall be made to the board;

(b) applications not approved may be resubmitted to the MAAC for approval when complete and deficiencies have been corrected.

(4) After receipt of the MAAC's report and recommendation(s), the board may:

(a) grant initial approval of a program for a period not to exceed two years;

(b) defer a decision regarding approval;

(c) deny approval;

(d) direct staff to make a pre-approval evaluation visit.

B. Full approval, for a renewal period not to exceed two years, shall be granted to medication aide programs if, in the opinion of the board, the program demonstrates compliance with 16.12.5.17 NMAC minimum standards for medication aide programs.

(1) To ensure continued compliance with 16.12.5.17 NMAC minimum standards for medication aide programs, medication aide programs shall be evaluated through a written report or as determined by the board or the advisory committee.

(a) during the period of full approval, the board may determine if annual medication aide program site visits are necessary to evaluate compliance with these rules;

(b) a representative of the medication aide program may request or be requested to meet with the MAAC to clarify and respond to questions regarding the evaluation;

(e) after the MAAC's review of the evaluation, a report shall be made to the board regarding continuation of the medication aide program's approval;

(d) the board is the final authority regarding continued approval or probation.

(2) Prior to the expiration of full approval, a program review shall be conducted by a representative from the board of nursing to evaluate programmatic compliance. The report of the review shall be submitted to the MAAC for review and recommendation to the board regarding approval.

C. Full approval with warning:

(1) the program must correct all deficiencies of the minimum standards not met;

(2) any condition deemed necessary by the board may be imposed including but not limited to corrective action plans and quarterly reports;

(3) approval shall not exceed two years;

(4) the board may determine if annual medication aide program evaluations or program reviews are necessary to evaluate compliance with these rules.

D. Probationary approval:

(1) a medication aide program may be given probationary approval when there is evidence of:

(a) non-compliance with the minimum standards for medication aide programs;

(b) continuous disruptions in retaining qualified nurse educators;

(c) noncompliance with the medication aide program's stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory student achievement;

(d) failure to provide clinical experience or supervision;

(e) non-compliance with any portion of these rules.

(2) the board may order any condition related to the minimum standards including but not limited to a corrective action plan, quarter reports, and program evaluation.

(3) the medication aide program shall be advised, in writing, of the reason(s) for probationary approval.

(4) the board shall designate a reasonable time period, not to exceed one year, in which the medication aide program must correct deficiencies and meet the minimum standards for approval.

(a) prior to the end of the period of probationary approval, a program evaluation shall be conducted;

(b) the committee shall review the program evaluation and make a recommendation to the board.

(5) probationary approval is not renewable. Failure to correct deficiencies or adhere to conditions of approval will result in withdrawal of approval.

[16.12.5.13 NMAC - Rp, 16.12.5.13 NMAC, 12/31/2022]

16.12.5.14 DENIAL OR WITHDRAWAL OF PROGRAM APPROVAL:

A. The board may deny approval of a medication aide program when a program fails to provide evidence of compliance with the minimum standards for medication aide programs or any other portion of these rules.

B. The board may withdraw approval of a medication aide program if the program fails to correct deficiencies resulting in non-compliance with the minimum standards for medication aide programs or any other portion of these rules.

C. When the board denies or withdraws approval, a written notice detailing the reasons shall be provided to the officials of the medication aide program.

D. The medication aide program shall be removed from the list of board approved medication aide programs.

E. Medication aide programs which do not submit the program renewal application and fee in sufficient time to be receive a recommendation from the MAAC and approval by the board will be removed from the list of board approved medication aide programs at the expiration date. Program approvals and renewals will be considered at regularly schedule committee and board meetings. A special meeting will not be held for program approvals or renewals;

F. The agency may re-apply for a medication aid program by submitting an initial program application and required fee one year from the date of denial or expiration date of the program approval. [16.12.5.14 NMAC - Rp, 16.12.5.14 NMAC, 12/13/2022]

16.12.5.15 PROGRAM REVIEWS:

A. Types:
(1) approval assessment: made to a medication aide program by representatives of the board for the purpose of determining board approval;
(2) program evaluation: made to medication aide program by board representatives at the request of the board for the purpose of evaluating a program’s progress and approval status;
(3) consultation assessment: made to the medication aide program by the board representatives at the request of the program officials;
(4) course visit: visit which may be done at any time to a participating medication aide program;
(5) program review: routine review conducted prior to the program expiration date to assess compliance with programmatic requirements and to assess the status of the program at the agency.

B. The board reserves the right to make unannounced visits.

C. A report of the program review or program evaluation made by representative(s) of the board shall be provided to the medication aide program, MAAC for recommendation to the board, and the board for final disposition regarding approval status.

D. Program reviews or program evaluations shall be conducted by a minimum of one professional board staff member.

E. The board makes the final decision regarding approval status of a medication aide program. [16.12.5.15 NMAC - Rp, 16.12.5.15 NMAC, 12/13/2022]

16.12.5.16 CHANGES REQUIRING NOTIFICATION:

A. Program changes requiring notification to the board:
(1) changes in agency ownership;
(2) changes in agency administrator.

B. Program changes requiring notification to the board for approval:
(1) major curriculum changes or reorganization of the curriculum;
(2) major changes in the program’s objectives or goals;
(3) changes in the required didactic or clinical hours;
(4) changes in the internal, administrative or organizational plan of the agency that impact the medication aide program;
(5) changes in the licensure status of the agency;
(6) changes in the medication aide program nurse educator.

C. Procedure for requesting board approval for program changes:
(1) the MAAC shall be notified, in writing, of changes in the program requiring board approval. The MAAC shall present the changes and recommendations to the board of nursing at a regularly scheduled meeting;

(2) the notification shall include:
(a) a proposed change(s);
(b) rationale for the proposed change(s);
(c) anticipated effect to the current program;
(d) timetable for implementation of the proposed change(s);
(e) presentation of the differences between the current system and proposed change(s);
(f) method of evaluation which will be used to determine the effect of the changes; and
(g) any required fee.

[16.12.5.16 NMAC - Rp, 16.12.5.16 NMAC, 12/13/2022]

16.12.5.17 MINIMUM STANDARDS FOR MEDICATION AIDE PROGRAMS:

A. Objectives - there shall be written objectives for the medication aide program which serve as the basis for the planning, implementation, and evaluation of the program.

(1) The objectives shall be developed by the medication aide program nurse educator and shall describe the competencies of the medication aide and shall include:
(a) principles of safety in the administration of medication;
(b) rights in preparing and administering medications;
(c) methods commonly used to safeguard medications;
(d) process of infection control;
(e) terms related to administration of medications;
(f) abbreviations commonly used when prescribing and administering medications;

(g) uses, dosages, and necessary precautions in administering medications;

(h) ability to correctly calculate dosages;

(i) appropriately reporting changes in a consumer's condition;

(j) importance of remaining with consumer while administering medication;

(k) accurate documentation of medication administration;

(l) legal parameters of the medication aide role;

(m) authorized and prohibited functions;

(n) responsibility for own actions;

(o) maintenance of confidential information;

(p) appropriate skills in medication administration;

(q) understanding of the consumer population; and

(r) confidentiality issues.

(2) The objectives shall be written clearly and shall identify expected competencies of the beginning medication aide.

(3) The objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum:

(1) The curriculum shall be developed, implemented, evaluated by the medication aide program nurse educator within the framework of the objectives.

(2) The curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop competence consistent with principles of learning and sound educational practice.

(a) There shall be a minimum of 60 hours of classroom study of which 40 hours is the medication administration curriculum and 20 hours of population specific care curriculum.

(b) There shall be a minimum of 20 hours of supervised clinical experience. The nurse educator retains accountability and determines the need for additional clinical experience hours.

(c) Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a population specific care setting and shall include clinical learning experiences to develop the proficiency/quality assurance required by the individual to function safely as a medication aide. A nurse educator or clinical preceptor must be physically present and accessible to the student in the population specific care area.

(d) The CMA II curriculum shall include a minimum of 16 additional hours of classroom study and a minimum of 20 supervised insulin injections. The CMA II student shall successfully administer insulin to one or more consumers a minimum of 20 times. The nurse educator must verify the successful completion of training by submitting a written letter to the board with the application to test as a CMA II.

(3) The curriculum shall provide, at a minimum, instruction in the subject areas listed in 16.12.5.19 NMAC.

(4) The nurse educator shall develop a written plan for curriculum and program evaluation.

C. Administration and organization:

(1) There shall be a current organizational chart showing the position of the medication aide program within the overall structure of the agency, clearly indicating the lines of authority and responsibility and channels of communication.

(2) The agency administration shall provide support for the medication aide program to obtain the resources needed for the program to achieve its purpose.

(3) There shall be a nurse educator to administer the program that shall be responsible for:

(a) the development, implementation and evaluation of the medication aide program;

(b) creation and maintenance of an environment conducive to teaching and learning;

(c) liaison with other personnel;

(d) arrangement for direct supervision of the student's clinical experience by a licensed nurse;

(e) provision for a system of permanent records and reports essential to the operation of the medication aide program; and

(f) communication with the board of nursing.

(4) Should the nurse educator leave their position, the administrator shall notify the board. Failure to notify the board may result in a monetary penalty imposed by the board.

D. Faculty:

(1) Each program shall have a nurse educator that is a registered nurse and holds a current license to practice nursing in NM or a current compact state license.

(2) The nurse educator shall have at least two years of recent, within the last five years, nursing practice experience.

(3) The nurse educator shall select the clinical experience for students.

(4) The nurse educator or clinical preceptor must be physically present in the agency while students are engaged in clinical experience.

(5) The ratio of faculty to students, during supervised clinical experience shall

not be more than one faculty to two students.

(6) The nurse educator shall be responsible for instruction and evaluation of student performance, termination, grading and progression.

(7) Other health care providers, in addition to the nurse educator, may be appropriate faculty for classroom instruction such as physicians, nurse practitioners and pharmacists.

(8) The nurse educator will have accountability/ responsibility in the final selection/ determination of any CMA candidate chosen for advancement to CMA II.

E. Records:

(1) The nurse educator's record shall include:

- (a) verification of current licensure as a registered nurse in New Mexico or compact state;
- (b) resume;
- (c) verification of board of nursing orientation for nurse educators;
- (d) board of nursing appointment letter to position of nurse educator.

(2) The student's record shall include:

- (a) admission date;
- (b) testing and evaluation records;
- (c) documentation of classroom and supervised clinical attendance;
- (d) final course grade;
- (e) certificate that documents proof of attendance and successful program completion;
- (f) current CPR certification.

(3) The clinical preceptor's record shall include:

- (a) verification of current licensure as a registered or licensed practical nurse in New Mexico or compact state;

- (b) resume;
- (c) verification of orientation for clinical preceptors conducted by nurse educator.

(4) The CMA's records shall include but not be limited to:

- (a) current NM CMA certifications;
- (b) biannual med pass observations;
- (c) annual performance evaluation;
- (d) continuing education records;
- (e) current CPR certification.

[16.12.5.17 NMAC - Rp, 16.12.5.17 NMAC, 12/13/2022]

16.12.5.18 MEDICATION AIDE PROGRAM ADVISORY COMMITTEE:

A. Composition and appointment of committee members. The board shall appoint a minimum of a five member voluntary advisory committee which shall be composed of at least three registered nurses and other representatives. The committee shall include one member not employed by a participating agency.

(1) There shall be no more than one representative from any one agency serving on the advisory committee at any one time.

(2) Members of the committee shall serve for staggered terms of two years and may be reappointed to the advisory committee.

B. Responsibility of advisory committee.

(1) The advisory committee shall review applications for initial approval, program evaluations, and changes in medication aide programs, and shall make recommendations to the board.

(2) The advisory committee shall provide consultation to medication aide programs as requested or directed by the board.

(3) Members of the advisory committee may serve

as survey visitors to medication aide programs for approval, consultation and evaluation visits.

[16.12.5.18 NMAC - Rp, 16.12.5.18 NMAC, 12/13/2022]

16.12.5.19 MEDICATION ADMINISTRATION CURRICULUM SUBJECT AREAS:

A. Overview of the medication aide role and responsibilities:

(1) Objectives of the medication aide training programs to include:

- (a) federal, state and local regulations;
- (b) nurse's role and medication aide role including the meaning of delegation;
- (c) standards of function for medication aides;

(d) certification expectations and requirements.

(2) Orientation to the medication aide position including:

- (a) review of job specifications;
- (b) expectation and responsibilities;
- (c) role of the health care team and the CMA:

(i) roles and contributions of other health team members;

(ii) observation and reporting;

(iii) health team meetings.

B. Legal roles and responsibilities of medication administration including:

(1) consumer's rights;

(2) negligence and malpractice;

(3) ethical issues relating to consumers including, but not limited to:

(a) confidentiality;

(b) OSHA;

<p>(4) documentation;</p> <p>(5) identification of medication errors and required reporting of errors to the nurse.</p> <p>C. Fundamentals of medication administration.</p> <p>(1) terminology;</p> <p>(2) definitions/abbreviations;</p> <p>(3) rights of medication administration;</p> <p>(4) observations while administering medications;</p> <p>(5) follow-up after administering medications;</p> <p>(6) consumer refusal of medication;</p> <p>(7) OTC and prn medications;</p> <p>(8) controlled substances;</p> <p>(9) medication classifications/identification;</p> <p>(10) medication effects;</p> <p>(11) medication side effects and contraindications including, but not limited to allergic reaction/adverse reactions.</p> <p>(12) medication interactions shall include but not limited to:</p> <p>(a) food and herb;</p> <p>(b) synergistic;</p> <p>(c) antagonistic;</p> <p>(d) additive.</p> <p>(13) Utilization of available resources of medication information shall include but not limited to:</p> <p>(a) supervising nurse;</p> <p>(b) written materials;</p> <p>(c) internet;</p> <p>(d) pharmacist;</p> <p>(e) poison control.</p>	<p>(14) Medication nomenclature including:</p> <p>(a) trade;</p> <p>(b) generic;</p> <p>(c) over-the-counter.</p> <p>(15) Methods of distribution and storage shall include but not limited to:</p> <p>(a) unit dose;</p> <p>(b) medication carts;</p> <p>(c) bubble packs;</p> <p>(d) prescription bottles;</p> <p>(e) others.</p> <p>D. Basic introduction to anatomy and physiology including:</p> <p>(1) structure;</p> <p>(2) function;</p> <p>(3) common health care problems/concerns;</p> <p>(4) disease processes.</p> <p>E. First aid and emergency procedures including review of:</p> <p>(1) cardiac and respiratory emergencies;</p> <p>(2) choking victims;</p> <p>(3) first aid.</p> <p>F. Medication administration procedures/skills check list:</p> <p>(1) Review the rights for each skill.</p> <p>(2) Hand washing and proper uses of personal protective equipment.</p> <p>(3) Administering:</p> <p>(a) oral tablets/capsules;</p> <p>(b) liquids;</p> <p>(c) powdered medications;</p> <p>(d) ophthalmic ointments;</p> <p>(e) ear medications;</p>	<p>(f) instilling liquid eye medications;</p> <p>(g) nasal medications/dropper and atomizer;</p> <p>(h) vaginal and rectal creams and suppositories;</p> <p>(i) topical agents;</p> <p>(j) metered dose inhalers;</p> <p>(k) gastrostomy and jejunostomy medications;</p> <p>(l) nebulizer medications.</p> <p>(4) Crushing tablets:</p> <p>(5) Applying:</p> <p>(a) lotion;</p> <p>(b) liniment;</p> <p>(c) ointment/cream;</p> <p>(d) transdermal patches.</p> <p>(6) Taking and recording vital signs as needed.</p> <p>(7) Documentation.</p> <p>(8) Medication administration situations requiring notification of the nurse:</p> <p>(a) consumer medical/mental health condition change;</p> <p>(b) discontinued medication;</p> <p>(c) medications appear to be contaminated;</p> <p>(d) PRN medication is requested.</p> <p>G. Orientation to population specific care including, but not limited to:</p> <p>(1) specific health care concerns for the population being served;</p> <p>(2) life developmental stages;</p> <p>(3) types of consumers specific to the agency.</p> <p>H. Population specific medication classifications and relationship to body systems:</p>
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(1) Content shall include, but is not limited to:

(a) basic review of anatomy and physiology;

(b) common medical disorders as related to the specific population;

(c) common medications given to the specific population including:

(i) generic and trade names;

(ii) dosage range;

(iii) action;

(iv) side effects;

(v) contraindications.

(2) Body systems.

(3) Nutrition/hydration/herbal supplements.

I. Certification for certified medication aide (CMA II) including their role and responsibilities:

(1) Objectives of the certified medication aide training program to include:

(a) federal, state, and local regulations;

(b) nurse's role and certified medication aide II role;

(c) standards of function for certified medication aide II;

(d) certification expectations and requirements.

(2) Orientation to the certified medication aide (CMA-II) position including:

(a) review of job specifications;

(b) expectations and responsibilities;

(c) role of the health care team and the certified medication aide II;

(i) roles and contributions of other health team member;

(ii) observation and reporting.

(3) Expanded roles and responsibilities of the certified medication aide (CMA II) including:

(a) consumer's rights;

(b) negligence and malpractice;

(c) ethical issues relating to consumers including but not limited to confidentiality and OSHA;

(d) documentation;

(e) identification and required reporting of errors to the nurse.

(4) Review the concepts and practices of infection control.

(5) Understand the principles and rationale for administration of insulin.

(6) Identification of complications.

J. Certified medication aide II procedures/skills check list for certification in New Mexico.

(1) Administration of insulin by pen.

(2) Demonstrate ability to maintain a clean/sterile field of care.

(3) Demonstrate correct infection control practices throughout all procedures including the selection of correct antiseptic solutions.

(4) Demonstrate appropriate site selection for administration of insulin.

(5) Demonstrate correct administration of insulin.

(6) Identify and respond appropriately to complications of insulin administration.

[16.12.5.19 NMAC - Rp, 16.12.5.19 NMAC, 12/13/2022]

16.12.5.20 REFRESHER COURSE REQUIREMENTS:

A. Authorized functions of the certified medication aide (see Subsection B of 16.12.5.10 NMAC).

B. Prohibited functions of the certified medication aide (see Subsection C of 16.12.5.10 NMAC).

C. Medication administration procedures (see Subsection F of 16.12.5.19 NMAC) including location of agency resource materials and documentation. Any additional training and procedures to safely administer medications as determined by the agency nurse educator.

D. Medication review as determined by agency nurse educator.

[16.12.5.20 NMAC - Rp, 16.12.5.20 NMAC, 12/13/2022]

16.12.5.21 [RESERVED]

[16.12.5.21 NMAC - Rp, 16.12.5.21 NMAC, 12/13/2022]

HISTORY OF 16.12.5 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center & archives under: BON MANUAL 91-1, New Mexico Board of Nursing Rules and Regulations for Medications Aides in Intermediate Care Facilities for the Mentally Retarded (filed 10/3/1991).

History of the Repealed Material:

16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs (filed 6/12/01), repealed 8/16/2005.

16.12.5 NMAC, Nurse Licensure, filed 6/29/2005 - Repealed effective 10/1/2016.

16.12.5 NMAC, Medication Aides (filed 9/1/2016), Repealed 12/13/2022.

Other History:

16 NMAC 12.5, Developmentally Disabled Medicaid Waiver Medication Aides, effective 2/15/1996.

16 NMAC 12.5, Developmentally Disabled Medicaid Waiver Medication Aides (filed 1/26/1996) and that applicable portion of BON MANUAL 91-1, New Mexico Board of Nursing Rules and Regulations for Medications Aides in Intermediate

Care Facilities for the Mentally Retarded (filed 10/3/1991) were merged into part number 16 NMAC 12.5 and renamed as Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs, effective 1/1/1998.

16 NMAC 12.5, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs (filed 12/10/1997) was renumbered, reformatted, and amended as 16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs, effective 7/30/2001.

16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs (filed 6/12/2001) was replaced by 16.12.5 NMAC, Medication Aides, effective 8/16/2005.

16.12.5 NMAC, Medication Aides (filed 9/1/2016), was replaced by 16.12.5 NMAC, Medication Aides effective 12/13/2022.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 11 LACTATION CARE PROVIDERS**

16.12.11.1 ISSUING
AGENCY: New Mexico Board of Nursing.
[16.12.11.1 NMAC - Rp, 16.12.11.1 NMAC, 12/13/2022]

16.12.11.2 SCOPE: All lactation care providers licensed by the New Mexico board of nursing as licensed lactation care providers.
[16.12.11.2 NMAC - Rp, 16.12.11.2 NMAC, 12/13/2022]

16.12.11.3 STATUTORY AUTHORITY: These rules are

promulgated pursuant to the Lactation Care Provider Act, Sections 61-3B-1 to -7 NMSA 1978.
[16.12.11.3 NMAC - Rp, 16.12.11.3 NMAC, 12/13/2022]

16.12.11.4 DURATION: Permanent.
[16.12.11.4 NMAC - Rp, 16.12.11.4 NMAC, 12/13/2022]

16.12.11.5 EFFECTIVE DATE: December 13, 2022 unless a later date is cited at the end of a section.
[16.12.11.5 NMAC - Rp, 16.12.11.5 NMAC, 12/13/2022]

16.12.11.6 OBJECTIVE: To promote, preserve and protect the public health, safety and welfare of the citizens of the state by establishing standards for licensure and regulation of licensed lactation care providers in New Mexico.
[16.12.11.6 NMAC - Rp, 16.12.11.6 NMAC, 12/13/2022]

16.12.11.7 DEFINITIONS: This rule incorporates the definitions provided in the Lactation Care Provider Act, Section 61-3B-2 NMSA 1978.

A. Definitions beginning with the letter A: “act” means the Lactation Care Provider Act, Sections 61-3B-1 to 7 NMSA 1978.

B. Definitions beginning with the letter B: [RESERVED]

C. Definitions beginning with the letter C:
(1) “CE” means continuing education.
(2) “CLC” means certified lactation counselor.
(3)

“Committee” means the lactation care provider committee appointed by the New Mexico board of nursing pursuant to the act.

D. Definitions beginning with the letter D: [RESERVED]

E. Definitions beginning with the letter E:
(1) “Eligible

jurisdiction” means:

(a) any state or territory of the United States except those included in the list of disapproved licensing jurisdictions in 16.16.4.8 NMAC; and

(b) any foreign country included in 16.16.4.9 NMAC.
(2)

“Expedited license” is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by a board.

F. Definitions beginning with the letter F: [RESERVED]

G. Definitions beginning with the letter G: “good standing” means a license or registration is active and not expired, suspended, revoked, surrendered, conditioned, or otherwise in a status that in any manner restricts the activity of a licensee or registrant under the authority of the license or registration.

H. Definitions beginning with the letter H: [RESERVED]

I. Definitions beginning with the letter I:
(1) “IACET” means international association for continuing education and training.

(2) “IBCLC” means International board certified lactation consultant.

J. Definitions beginning with the letter J: “jurisdiction” has the same meaning as defined in Subsection F of Section 61-1-2 NMSA 1978.

K. Definitions beginning with the letter K: [RESERVED]

L. Definitions beginning with the letter L: [RESERVED]
(1)

“LEARRC” means lactation education accreditation and approval review committee.

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

(3) “LLCP” means licensed lactation care provider.

M. Definitions beginning with the letter M: “military service member” has the same meaning as defined in Paragraph (2) of Subsection E of Section 61-1-34 NMSA 1978..

N. Definitions beginning with the letter N: “NCCA” means national commission for certifying agencies.

O. Definitions beginning with the letter O: [RESERVED]

P. Definitions beginning with the letter P: [RESERVED]

Q. Definitions beginning with the letter Q: [RESERVED]

R. Definitions beginning with the letter R: [RESERVED]

S. Definitions beginning with the letter S: [RESERVED]

T. Definitions beginning with the letter T: [RESERVED]

U. Definitions beginning with the letter U: [RESERVED]

V. Definitions beginning with the letter V: “veteran” has the same meaning as defined in Paragraph (3) of Subsection E of Section 61-1-34 NMSA 1978..

W. Definitions beginning with the letter W: [RESERVED]

X. Definitions beginning with the letter X: [RESERVED]

Y. Definitions beginning with the letter Y: [RESERVED]

Z. Definitions beginning with the letter Z: [RESERVED]
[16.12.11.7 NMAC - Rp, 16.12.11.7 NMAC, 12/13/2022]

16.12.11.8 NON-LICENSED PRACTICE; EXCEPTIONS:

A. Licensure with the board is not required to provide

lactation care and services in the state of New Mexico; provided, however, that any individual not licensed by the board as a licensed lactation care provider may not use the title “licensed lactation care provider” (LLCP) or otherwise imply to the public that they are licensed in New Mexico by the board as a licensed lactation care provider under the act.

B. Nothing in the act or these rules shall be construed to prevent the practice of lactation care and services by health care professionals, volunteers, students, interns, or other persons.
[16.12.11.8 NMAC - Rp, 16.12.11.8 NMAC, 12/13/2022]

16.12.11.9 APPROVED CERTIFICATIONS; PETITION TO APPROVE:

A. The following certifications conferred by a program accredited by a nationally or internationally recognized accrediting agency are recognized by the board and approved for licensure requirements:

(1) Certified lactation counselor (CLC) accredited by the academy of lactation policy and practice.

(2) International board certified lactation consultant (IBCLC) accredited by the international board of lactation consultant examiners.

B. Petition to approve certification.

(1) An individual who holds a certification as a lactation care provider conferred by a certification program accredited by a nationally or internationally recognized accrediting agency that is not an approved certification listed above may petition the board and request approval of the certification.

(2) The board shall review the petition and determine whether the certification sufficiently substantiates adequate education, didactic and clinical preparedness, continuing education requirements, and other factors that establish competency.

(3) The decision of the board is discretionary and shall not be subject to review or binding on any future petition.
[16.12.11.9 NMAC - Rp, 16.12.11.9 NMAC, 12/13/2022]

16.12.11.10 FEES: Payment of fees will be accepted in the form specified by the board. Fees are not refundable.

A. Initial licensure or expedited licensure \$60.00.

B. Renewal \$40.00.

C. Reinstatement and renewal of lapsed license \$60.00.

D. Lactation care provider list \$100.00

E. Initial certificate military personnel, spouse, dependent, or veteran \$0

F. First renewal of certificate military personnel, spouse, dependent, or veteran \$0

[16.12.11.10 NMAC - Rp, 16.12.11.10 NMAC, 12/13/2022]

16.12.11.11 LICENSURE REQUIREMENTS:

A. Requirements for licensure:

(1) Be at least 18 years of age.

(2) Hold an approved certification as a lactation care provider.

(3) Complete the required board application form in the specified deadline and remit the required fee. The board may require additional information in the application, including demographics, information on practice status, and education; which will be for data collection purposes only and shall not affect approval of the application.

(4) Submission of applicant’s fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the New Mexico department of public safety to conduct a state criminal history check. If a criminal background check reveals a

conviction or other history that may be cause for denial of the license, the board may request additional documents or other information be submitted to determine whether a license should be granted.

(5) Only complete applications should be submitted to the board. An incomplete application may be denied.

B. Expedited licensure:

(1) The board will issue an expedited license to a qualified applicant based on prior licensure in an eligible jurisdiction other than New Mexico upon an applicant's submission of a complete application containing all of the following:

- (a) a completed and signed application form;
- (b) proof of current licensure in an eligible jurisdiction;
- (c) proof of good standing for the license held by the applicant in an eligible jurisdiction;
- (d) submission of fingerprints and other information necessary for a state and national background check; and
- (e) payment of the required application fee.

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Subsection B of Section 61-3B-4 NMSA 1978, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3B-6 NMSA 1978.

(4) If the applicant has a disqualifying criminal

conviction or the board may have other cause to deny the application pursuant to Section 61-3B-6 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Renewal of expedited licenses:

(a) A licensee holding an expedited license may apply for license renewal beginning 60 days prior to expiration of the expedited license, as provided by the board's rules.

(b) Upon renewal, an expedited license shall become a regular license.

(6) Eligible and ineligible jurisdictions:

(a) The board will accept expedited license applications on the basis of prior licensure in any jurisdiction within the United States without exception.

(b) The board will accept expedited license applications on the basis of prior licensure in the following jurisdictions outside the United States: Canada.

C. Expedited licensure for military service members and veterans:

(1) The board will issue an expedited license to an applicant who is a military service member or veteran based on prior licensure in a jurisdiction other than New Mexico upon the applicant's submission of a complete application containing all of the following:

(a) a completed and signed application form;

(b) proof of current licensure in another jurisdiction;

(c) proof of good standing for the applicant's out of state license;

(d) submission of fingerprints and other information necessary for a state and national background check; and

(e) Submission of the following documentation:

(i) for military service member: a copy of military orders;

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

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

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

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

(2) An expedited license application shall not be deemed complete until the applicant has submitted, and the board's staff is in receipt of, all of the materials required by Subsection B of Section 61-3B-4 NMSA 1978, including documentation from third parties.

(3) Upon submission of a complete application, the board's staff shall process the application and issue the expedited license to the applicant within 30 days unless the applicant has a disqualifying criminal conviction or the board may have other cause

to deny the application pursuant to Section 61-3-28 NMSA 1978.

(4) If the applicant has a disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-3-28 NMSA 1978:

(a) the license may not be issued within 30 days of submission of the complete application;

(b) the matter of the applicant's application shall be submitted to the board for consideration and action at its next available regular meeting; and

(c) the board may vote to grant the application or refer the matter to its administrative prosecutor contemplating the ultimate denial of the application as provided by the board's rules.

(5) Duration of military expedited licenses:

(a) The first licensure period will be for one year from the issuance of the license. Continuing education will be prorated.

(b) The first renewal period will be for two years from the date of the first expiration date of the first licensure period. Military service members and veterans shall submit all required applications and continuing education for renewal.

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

D. Requirements for renewal of license:

(1) Complete the required renewal application form in the specified deadline and remit the required fee to the board. The board may require additional information in the application, including demographics, information on practice status, and education; which will be for data collection purposes only and shall not affect the application approval. Renewal

applications should be submitted at least 30, but no more than 60 days prior to the expiration of the license.

(2) Maintain a current approved certification recognized by the board.

(3) Complete all required continuing education hours and indicate compliance on the renewal application.

(4) Licensees mobilized for active duty, other than training, are not required to renew their license while deployed on active duty and will not be subject to a reinstatement fee. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license or within 30 days upon return from active duty.

(5) A renewal notice shall be sent to the licensee at least six weeks prior to the end of the renewal month. Failure to receive notice renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

E. Requirements for reinstatement of license:

(1) Complete any required reinstatement form and remit the required fee to the board.

(2) Maintain a current approved certification recognized by the board.

(3) A reinstated license shall be valid for two years.

F. Requirement to maintain current name and address:

(1) A licensee shall report to the board in writing or other method accepted by the board, of any change of name, or change in mailing address. Failure to update the board of any name or address change within thirty days shall be a violation of the board rules and may result in disciplinary action.

(2) A licensee must use their name as it appears on the current license until a name change is processed by the board. Name change can be submitted with license renewal or at any time by submitting a copy of the legal document required for name change

(only recorded marriage certificate, divorce decree or court order accepted).

[16.12.11.11 NMAC - Rp, 16.12.11.11 NMAC, 12/13/2022]

16.12.11.12 CONTINUING EDUCATION:

A. Introduction: Pursuant to the provision of the Lactation Care Provider Act, the board prescribes the following minimum requirements for continuing education (CE) to be met by each licensee to protect the health and well-being of the public and to promote current lactation care and services knowledge and practice. Continuing education is one of the most important responsibilities of the licensed lactation care provider and is a lifelong process. The primary responsibility for continuing education rests with the individual licensee. A diversity of lactation care-related learning activities are recommended to enhance the scope of professional development.

B. Requirements:

(1) 24 contact hours of approved continuing education must be successfully completed within the 24 months immediately preceding expiration of the license.

(2) Continuing education obtained for a national or international approved certification recognized by the board may be accepted toward the contact hour requirement if completed during the renewal period.

C. A contact hour means 50 to 60 minutes of an organized learning experience relevant to lactation care and services, approved by one of the following:

(1) international board of lactation consultant examiners;

(2) academy of lactation policy and practice;

(3) lactation education accreditation and approval review committee (LEARRC);

(4) international association for

continuing education and training (IACET);

(5) national commission for certifying agencies (NCCA).

D. Failure to meet the CE requirements may result in the license not being renewed, reactivated and reinstated, or other disciplinary action.

E. Licensees who hold another license with the board may apply continuing education credit hours completed for the other license to the lactation care provider license CE requirements so long as the continuing education would otherwise be approved by these rules. No more than 12 continuing education hours may count toward both licenses.

F. Records: Licensees are responsible for maintaining their continuing education records and for keeping the certificates of verification of attendance of CE activities for at least two years after the license is renewed. Copies of certificates must be submitted to the board office upon request. Failure to maintain or provide such records to the board may be grounds for discipline.

[16.12.11.12 NMAC - Rp, 16.12.11.12 NMAC, 12/13/2022]

16.12.11.13 STANDARD OF PRACTICE:

A. Licensees shall identify themselves by name and certification, and shall provide their license number if requested.

B. The licensee shall practice in accordance with the Lactation Care Provider Act and respective scope of practice within the approved certification recognized by the board.

C. The licensee may assume specific functions and perform specific procedures which are beyond basic lactation care provider preparation with demonstration of appropriate education and level of competence, provided the knowledge and skills required to perform the function and procedure emanates from a recognized body of knowledge and practice, which may result in a certification, and so long

as the function or procedure is not prohibited by law.

D. The licensee shall maintain individual competency in lactation care practice, recognizing and accepting responsibility for individual actions and judgments.

E. The licensee shall have knowledge of, and function within, the laws and rules governing the practice.

F. The licensee acts to safeguard the patient or client when her care and safety are affected by incompetent, unethical, or illegal conduct of any person, and shall timely report the conduct to the board and, where appropriate, the recognized national and international certifying organizations and law enforcement.

G. The licensee shall recognize the dignity and rights of others regardless of social or economic status and personal attributes; and shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual orientation, gender identity, national origin, disability or nature of the patient or client health.

H. The licensee safeguards the individual right to privacy by judiciously protecting information of a confidential nature.

I. The licensee shall not advertise their professional services in a manner that misrepresents facts or creates unjustified or unreasonable expectations about lactation care and services or the results of the licensed lactation care provider.

[16.12.11.13 NMAC - Rp, 16.12.11.13 NMAC, 12/13/2022]

16.12.11.14 DICIPLINARY PROCEEDINGS:

A. Authority: The board may deny, revoke, or suspend a license held or applied for under the Lactation Care Provider Act; or reprimand or place a license on probation with conditions on the grounds stated in Section 61-3B-6 NMSA 1978.

B. For the purpose of Section 61-3B-6 NMSA 1978, “incompetence” is defined as follows: In performing lactation care and service functions, whether direct patient care or the administration or management of that care, a licensee is under a legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other licensees of the same certification status and required by the generally accepted standards, of the profession including those standards set forth in these rules. The failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings. Charges of incompetence may be based on a single act of incompetence or on a course of conduct or series of acts or omissions, which extend over a period of time and which, taken as a whole, demonstrates incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient or client or to the public from the act or omission or series of acts or omissions.

C. For the purpose of Section 61-3B-6 NMSA 1978, “unprofessional conduct” includes, but is not limited to, the following:

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

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

(3) misappropriation of money, drugs or property;

(4) obtaining or attempting to obtain any fee for patient or client services for one’s

self or for another through fraud, misrepresentation, or deceit;

(5) aiding, abetting, assisting or hiring an individual to violate the lactation care provider act or duly promulgated rules of the board;

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

(7) obtaining or attempting to obtain a license to practice lactation care and services for one’s self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the licensure process;

(8) failure to report a licensee who is suspected of violating the New Mexico Lactation Care Provider Act or rules;

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

(10) abandonment, which occurs when the licensee has accepted an assignment to provide care, service, or treatment to a patient or client, thus establishing a professional relationship, and then abruptly severed the relationship without reasonable notice provided to the patient or client; and distinguished from contractual disagreements, termination, or other employment issues;

(11) engaging in the practice of lactation care and services when judgment or physical ability is impaired by alcohol or drugs or controlled substances;

(12) committing acts which constitute grounds for disciplinary action pursuant to Paragraph (1) and (2) of Subsection A of Section 61-3B-6 NMSA 1978 where the conviction arises from employment as a lactation care provider, Paragraph (3) and (4) of Subsection A of Section 61-3B-6 NMSA 1978 where the intemperance, addiction, incompetence or unfitness has manifested itself during the

course of employment as a lactation care provider in a fashion which is contrary to the provision of good health care, and Paragraph (6) of Subsection A of Section 61-3B-6 NMSA 1978;

(13) practice which is beyond the scope of licensure;

(14) verbally or physically abusing a patient, client or colleague;

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

(16) failure to comply with any other requirement provided by these rules.

[16.12.11.14 NMAC - Rp, 16.12.11.14 NMAC, 12/13/2022]

16.12.11.15 ADVISORY COMMITTEE:

A. Pursuant to Section 61-3B-3 NMSA 1978, the board may appoint a lactation care provider advisory committee to assist the board in regulating the practice of lactation care. The committee shall assist and advise the board in the review of issues related to the practice of lactation care.

B. The committee shall include a minimum of five, and no more than ten, members. The committee is intended to represent the diversity of the state and the profession, and shall include, at minimum:

(1) a member of the board;

(2) a certified lactation counselor;

(3) a international board certified lactation consultant; and

(4) a public member that is not a licensed or certified lactation care provider.

C. The committee shall review applications for initial licensure, make recommendations to the board, and perform any other duties as requested or directed by the board.

[16.12.11.15 NMAC - Rp, 16.12.11.15 NMAC, 12/13/2022]

HISTORY OF 16.12.11 NMAC: [RESERVED]

History of Repealed Material: 16.12.11 NMAC, Lactation Care Providers, filed 6/28/2018 - Repealed effective 12/13/2022.

Other History: 16.12.11 NMAC, Lactation Care Providers, filed 6/28/2018 was replaced 16.12.11 NMAC, Lactation Care Providers, effective 12/13/2022.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 13 DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES**

16.12.13.1 ISSUING AGENCY: New Mexico Board of Nursing. [16.12.13.1 NMAC - N, 12/13/2022]

16.12.13.2 SCOPE: These rules apply to the board and all those licensed by or subject to the jurisdiction of the board. [16.12.13.2 NMAC - N, 12/13/2022]

16.12.13.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978 and the Lactation Care Provider Act, Sections 61-36-1 to 61-36-6 NMSA 1978. [16.12.13.3 NMAC - N, 12/13/2022]

16.12.13.4 DURATION: Permanent. [16.12.13.4 NMAC - N, 12/13/2022]

16.12.13.5 EFFECTIVE DATE: December 13, 2022, unless a later date is cited at the end of a section. [16.12.13.5 NMAC - N, 12/13/2022]

16.12.13.6 OBJECTIVE: The objective of 16.12.13 NMAC is

to promote, preserve and protect the public health, safety, and welfare. [16.12.13.6 NMAC - N, 12/13/2022]

16.12.13.7 DEFINITIONS: [RESERVED]
[16.12.13.7 NMAC - N, 12/13/2022]

16.12.13.8 PURPOSE OF DIVERSION PROGRAM:
The diversion program is a voluntary alternative to traditional disciplinary action for a nurse whose competencies may be impaired because of the habitual use of drugs or alcohol. Individuals may request admission into the program following the filing of a complaint against their nursing license or by self-referral. [16.12.13.8 NMAC - N, 12/13/2022]

16.12.13.9 ADMISSION INTO THE DIVERSION PROGRAM:

- A. Nurses licensed in New Mexico who have had a complaint filed against their nursing license alleging the use or abuse of drugs or alcohol, or who voluntarily submit a written request, shall be given an opportunity to be admitted into the diversion program.
 - (1) Following a complaint, individuals who do not accept the opportunity for admission into the program shall be processed as a disciplinary case.
 - (2) Individuals who voluntarily requested admission and do not complete the admission process within 30 days of request may be subject to disciplinary action by the board.
 - (3) It may be recommended that individuals obtain a professional evaluation for chemical dependency or mental health diagnosis and submit a copy of the evaluation to the diversion program.
 - (4) The initial contract is a “no use” contract to include prescription medications unless written notification is given by the physician prescribing the medication.
 - (5) Signatures on the initial contract and amendments constitute a release of

information for the diversion program to contact all supporting individuals.

B. Request for admission shall be made, in writing, to the diversion program coordinator or executive director of the board of nursing.

C. Each nurse requesting admission shall be scheduled for an admission interview and preparation of an initial contract.

(1) The initial contract shall include conditions which must be met by a participant.

(2) The contract may be individualized but the form may not be substantially changed without the approval of the board.

(3) The initial preparation of the contract will be done by the diversion program coordinator, executive director, or experienced regional advisory committee member.

(4) Participants may be prohibited from access to narcotics, overtime, night shift work and agency/home health care work.

(5) Beginning on December 1, 2022, any diversion program contract shall include the following conditions to which any participant entering into a new diversion program contract shall knowingly and voluntarily consent in writing as a prerequisite to program participation:

(a) the participant in the program agrees that the board may summarily suspend the participant’s nursing license (or multiple licenses, if applicable) upon receiving information deemed to be credible by the board suggesting that the participant has violated the terms of the diversion program contract;

(b) any summary suspension may last no longer than ninety days; and

(c) the board may order a summary suspension without a hearing, provided that beforehand the board shall provide the participant notice of the possible suspension and an opportunity to submit any evidence,

argument, or other information in writing as to why the board should not summarily suspend the participant’s license.

[16.12.13.9 NMAC - N, 12/13/2022]

16.12.13.10 MONITORING PARTICIPANTS IN THE DIVERSION PROGRAM:

A. Participants must assure that required written reports and drug screens are submitted in accordance with the provisions of the diversion program contract and contract amendments. Written reports and drug screens *must* be received regularly by the program.

(1) Written reports of the same type and several drug screens received together are not acceptable and may result in the participant being noncompliant.

(2) Drug screens shall be scheduled randomly and shall be observed in accordance with the guidelines and protocols approved by the board.

(3) Drug screens must include participant’s drugs of choice.

B. Participants are required to meet with representatives of the program periodically for an evaluation of their progress in recovery and participation in the program.

(1) After one year of acceptable compliance, amendments may be made in the participant’s contract based on the participant’s progress in recovery and participation in the program.

(2) Contracts and contract amendments must be submitted with all required signatures within two weeks of the meeting date.

(3) Failure to meet regularly as scheduled may result in being reported to the board for noncompliance.

C. Participant shall notify the diversion program coordinator and the executive director of the board, immediately, of a pending relocation out-of-the state of New Mexico. The participant shall complete and submit the out of state relocation form. The

executive director shall notify the board of nursing in the state in which participant intends to practice that the licensee is a participant in the New Mexico board of nursing's diversion program for chemically dependent nurses. Participants who relocate out-of-state must comply with the NM diversion program requirements until participants have been discharged from the program.
[16.12.13.10 NMAC - N, 12/13/2022]

16.12.13.11 RELAPSES AND NONCOMPLIANCE WITH THE DIVERSION PROGRAM CONTRACT:

A. Participants who are noncompliant with their contract and who do not cooperate with the program shall be reported to the board of nursing.

(1) Reports shall be made to the board using the participant's confidential file number.

(2) The participant's name shall not be disclosed to the board until formal disciplinary proceedings occur.

B. The diversion program coordinator or the executive director shall file a sworn complaint after a verbal or written report of a relapse, positive drug screen or no verbal or written communication with the diversion program for three months.

(1) A relapse is defined as the unauthorized use of any mind-altering drug or alcohol.

(2) The relapse shall be reported to the board of nursing at its next regularly scheduled meeting.

C. The board may move for a notice of contemplated action and may summarily suspend the license of the participant for a period not to exceed 90 days pending the completion of a formal disciplinary proceeding as provided by the diversion program contract, on the basis of a participant's relapse or positive drug screen.

D. An individual whose license is reinstated following a summary suspension shall remit the required reinstatement fee.

E. Participants who appear before the board for a disciplinary hearing may be required to enter into a new diversion program contract.
[16.12.13.11 NMAC - N, 12/13/2022]

16.12.13.12 DISCHARGE FROM THE DIVERSION PROGRAM:

A. Successful discharge:

(1) A participant who remains drug and alcohol free for three full years and complies with all conditions of the participant's diversion program contract for at least 24 months may request a successful discharge from the diversion program.

(2) Prior to the board's grant of any successful discharge, the participant must be evaluated for discharge by a quorum of advisory committee members or the diversion program coordinator. In addition, the participant must submit letters of recommendation from a supervisor, a sponsor, and (if applicable) a counselor, as well as an additional letter written by the participant personally.

(3) Upon the participant submitting all required documentation and the participant's completion of the required evaluation, the diversion program coordinator shall make a recommendation to the board at its next regularly scheduled meeting regarding the approval or disapproval of discharge for the participant.

B. Unsuccessful discharge:

(1) The board may unsatisfactorily discharge a participant from the diversion program based on the participant's failure to comply with the terms and conditions of the diversion program contract.

(2) An unsuccessful discharge does not constitute disciplinary action.
[16.12.13.12 NMAC - N, 12/13/2022]

16.12.13.13 DIVERSION PROGRAM PARTICIPANT RECORDS:

A. All diversion program participant records are strictly confidential and shall be maintained by the board in accordance with Section 61-3-29.1 NMSA 1978.

B. Subject to any additional confidentiality as otherwise provided by law, the board may disclose the records of a participant in the following circumstances:

(1) disclosure is required pursuant to the Nurse Licensure Compact;

(2) disclosure is for the purposes of reporting to the board concerning a nurse who is not cooperating and complying with the diversion program contract;

(3) the participant leaves the state prior to successful discharge; or

(4) the participant is no longer in the program and the board has taken disciplinary action against the participant based on noncompliance with the diversion program contract.
[16.12.13.13 NMAC - N, 12/13/2022]

16.12.13.14 REGIONAL ADVISORY COMMITTEES:

A. The board shall establish regional advisory committees throughout the state in accordance with Section 61-3-29.1 NMSA 1978 for the purpose of assisting the program coordinator to conduct admission interviews, prepare initial contract and to periodically evaluate participant's progress in recovery and participation in the program.

B. Members of advisory committees shall be appointed by the board and shall function under the direction of the board.

C. No current member of the board shall be appointed to an advisory committee.

D. As permitted and authorized by the executive director, the program coordinator shall be the liaison between each regional

advisory committee and the board.
[16.12.13.14 NMAC - N, 12/13/2022]

HISTORY of 16.12.13 NMAC:
[RESERVED]

NURSING, BOARD OF

This is an amendment to 16.12.3 NMAC, Sections 7, and 8 effective 12/13/2022.

16.12.3.7 DEFINITIONS:

A. Definitions
beginning with “A”:
(1)
“**application**”, form provided by the board of nursing (BON) to any potential nursing program to be used as the first process in opening a new program;

(2)
“**approval**”, official or formal consent, confirmation or sanction:

(3) “**associate degree program**”, a formalized program of study, usually organized for completion within a two-year academic period, which prepares graduates for an associate degree in nursing and eligibility to take the national examination for registered nurses. The program is conducted as an integral department or division within a college or university.

B. Definitions
beginning with “B”:
(1)
“**baccalaureate degree program**”, a formalized program of study, usually organized for completion within a four-year academic period, which prepares graduates for a degree in nursing and eligibility to take the national licensing examination for registered nursing. The program is conducted as an integral department or division within a university or college;

(2) “**board**”,
New Mexico board of nursing.

C. Definitions
beginning with “C”:
(1) “**clinical facilities**”, institutions which are established for the delivery of nursing care services (hospital, extended care facilities, nursing homes, medical

clinics, public health facilities, physician’s offices, out-patient clinics, etc.);

(2) “**clinical preceptors**”, nurses who have been a nurse for at least two years and have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student;

(3) “**clock/contact hour**”, unit of measurement used by educational institutions to determine work load;

(4)
“**curriculum**”, a course of study which is offered within a particular program.

D. Definitions
beginning with “D”: “**director**”, the nurse educator (regardless of the official title assigned by any specific institution who is delegated the administrative responsibility and authority for the direction of the basic educational program in nursing. An “**administrator**” shall be considered synonymous with “**director**” unless the institution has divided up authority between a program “**director**” and an administrator.

E. Definitions
beginning with “E”: “**educational institution**”, an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution).

F. Definitions
beginning with “F”: [RESERVED]

G. Definitions
beginning with “G”: [RESERVED]

H. Definitions
beginning with “H”: “**High-fidelity**”, provides the highest levels of realism. Scenarios may incorporate the above low- and medium-fidelity plus the use of computer-based equipment with automatic cues and responses.

I. Definitions
beginning with “I”: “**Involuntary closure**”, mandatory closure by the board for failure of a program to meet the minimum requirements as established by the board.

J. Definitions
beginning with “J”: [RESERVED]

K. Definitions
beginning with “K”: [RESERVED]

L. Definitions
beginning with “L”: “**Low-fidelity**”, the least realistic of available options. Scenarios may include but not limited to the use of static manikins, written case studies, simulated medication administration and other nursing tasks.

M. Definitions
beginning with “M”:
(1) “**medium-fidelity**”, scenarios may include use of low-fidelity resources noted above plus standardized (live) patients incorporation with increased realism. Automatic cues and responses (aside from simulation faculty & staff) remain absent;

(2) “**must**”, a requirement.

N. Definitions
beginning with “N”:
(1) “**national licensing examination**”, examination for licensure as provided by the national council of state boards of nursing;

(2) “**national nursing accreditation**”, recognition of an institution of learning by a board recognized national nursing organization as maintaining prescribed standards requisite for its graduates to gain admission to other reputable institutions of higher learning or achieve credentials for professional practice.

O. Definitions
beginning with “O”: [RESERVED]

P. Definitions
beginning with “P”:
(1) “**parent institution**”, an institution within the educational system which is organized and accredited for teaching and study (university, college, high school);

(2) “**practical nurse program**”, a formalized program, which prepares a graduate for a diploma or certificate and eligibility to take the national licensing examination for practical nursing. The program is conducted as an integral part of an educational institution;

(3) “pre-licensure program”, nursing education program that prepares an individual for the national licensing examination for registered nursing or practical nursing;

(4) “program”, the curriculum and all of the activities/functions that take place which are necessary to fulfill the purpose of nursing education;

(5) “public health emergency”, an executive order pursuant to the Public Health Emergency Response Act or an executive order invoked by gubernatorial powers under the All Hazards Emergency Management Act.

Q. Definitions beginning with “Q”: [RESERVED]

R. Definitions beginning with “R”: [RESERVED]

(1) “recommendations”, statements which should guide programs of nursing in the development and direction of the program but which are not mandatory;

(2) “regulation and policies”, statements governing practice of the board of nursing in the approval of a program of nursing;

(3) “requirements”, conditions which any program of nursing shall meet to obtain approval.

S. Definitions beginning with “S”:

(1) “shall”, mandatory; a requirement;

(2) “should”, a suggestion or recommendation; not a requirement;

(3) “simulation”, an experience that imitates the real environment, requiring individuals to demonstrate the procedural techniques, decision-making, and critical thinking needed to provide safe and competent patient care;

(4) “supervision of part-time faculty without [msn] a graduate degree in nursing”, initial verification of instructor’s knowledge and skills in

supervision of students in clinical settings, followed by periodic observation, direction and evaluation of instructor’s knowledge and skills related to supervision of students in clinical settings.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: [RESERVED]

V. Definitions beginning with “V”: [RESERVED]

W. Definitions beginning with “W”: [RESERVED]

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”: [RESERVED]

Z. Definitions beginning with “Z”: [RESERVED]
[16.12.3.7 NMAC - Rp, 16.12.3.7 NMAC, 10/1/2016; A, 4/8/2021; A, 12/13/2022]

16.12.3.8 TYPES OF APPROVAL:

A. Initial approval:
(1) Initial approval shall be granted as outlined in numbers 16.12.3.11 NMAC “requirements for the establishment of new programs and 16.12.3.12 NMAC “minimum standards for nursing programs” of these rules. Initial approval is valid from the time granted through the graduation of the first nursing class.

(2) The program shall have initial approval prior to recruiting and enrolling students into the nursing program.

(3) Immediately preceding graduation of the first nursing class, an approval site visit shall be made by representatives of the board to determine compliance with “minimum standards for nursing programs” and for consideration of continued approval.

B. Initial approval with warning:

(1) When a program fails to meet the minimum standard requirements with the initial graduating class then initial approval with warning will be granted.

(2) The program must correct all the identified

deficiencies of the minimum standards not met.

(3) Initial approval with warning shall not exceed two years.

(4) When a program fails to meet the minimum standards for nursing programs within two years, the program will be placed in conditional approval.

C. Full approval:

(1) Full approval status shall be granted after the board verifies that the “minimum standards for nursing programs” have been met.

(2) Full approval for a continuing period not to exceed ten years, shall be granted to nursing education programs if, in the opinion of the board, the program continues to demonstrate compliance with minimum standards for nursing programs.

(3) National nursing accreditation.

(a) All currently board approved nursing programs shall achieve national nursing accreditation by January 1, 2018.

(b) New programs shall be required to achieve national nursing accreditation by two years after the graduation of the first cohort.

(c) Programs which have received accreditation from a board-recognized national nursing accreditation agency shall file evidence of initial accreditation with the board, and thereafter shall file notice of any change in program accreditation status and report from accrediting agency’s board of review; the board shall grant approval based upon evidence of such accreditation.

(d) Programs holding approval based upon national accreditation are also responsible for complying with “minimum standards for nursing programs”.

(e) Full approval for a continuing period not to exceed 10 years, shall be

granted to nursing programs with full national nursing accreditation.

(f)

Programs that do not meet or maintain this requirement will be placed on full approval with warning.

(4) Ongoing

approval status is assessed annually by the board and is based on information reported or provided in the program’s annual report, NCLEX exam pass rates, and information related to the minimum standards.

(a)

An annual report which includes information regarding compliance with 16.12.3.12 NMAC minimum standards for nursing programs shall be submitted to the board by the nursing education program.

(b)

The annual NCLEX pass rate for each nursing education program is determined by the percentage of first-time test takers takers who have graduated within three years and who pass the examination during the exam year, from January 1st through December 31st of the calendar year.

(i)

Eighty percent of the first-time NCLEX candidates are required to achieve a passing score on the NCLEX examination during the exam year.

(ii)

A program must submit corrections to any errors on the candidates reports within 90 days of the receipt of a report from the agency.

[(ii)] (iii)

When a program fails to maintain a passing rate of eight percent of first-time candidates for one year, the program will receive notification from the board of nursing.

[(iii)] (iv)

The program is required to submit a self-study report with corrective action to the board of nursing by June 1st of the calendar year.

[(iv)] (v)

When a program fails to maintain a passing rate of eighty percent of first-time candidates for two consecutive calendar years the nursing education program will be granted full approval with warning.

D. Full approval with warning:

(1) the

program must correct all the identified deficiencies of the minimum standards not met;

(2) nursing

programs shall provide a corrective action plan (CAP);

(3) full

approval with warning shall not exceed two years;

(4) any other

discretion or conditions deemed necessary by the board may be imposed.

E. Conditional approval:

(1) The

nursing education program shall be placed on conditional approval not to exceed two years when there is evidence of substantial non-compliance with the “minimum standards for nursing programs” as specified in these rules.

(2) When

on conditional approval status, the nursing program shall cease admissions.

(3) The

following situations are cause for review or a site visit by the board to determine if the minimum standards for nursing programs are being met:

(a)

complaints relating to violations of the “minimum standards for nursing programs”;

(b)

denial, withdrawal or change of program accreditation status by a board-recognized national nursing accreditation agency or general academic accreditation agency;

(c)

failure to obtain board approval of changes that require approval of the board under “program changes”;

(d)

providing false or misleading information to students or the public concerning the nursing program;

(e)

violation of the rules 16.12.3 NMAC;

(f)

continuous disruptions in retaining a qualified director or faculty, resulting

in disorganization and breakdown of supervision and teaching of students;

(g)

non-compliance with the program’s stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory faculty/student achievement;

(h)

failure to provide clinical experiences necessary to meet the objectives of the nursing program;

(i)

less than a passing rate of eighty percent of first time writers of the national licensing examination for more than three consecutive calendar years or is on full approval with warning for two years and has not met the “minimum standards of a nursing programs” including maintaining an adequate pass rate;

(4)

Conditional approval is not renewable. Failure to correct deficiencies within the designated time period will result in withdrawal of approval and involuntary closure of the program by the board. Full approval status shall be granted after the board verifies through a site visit that correction of deficiencies have occurred within the designated time period.

(5) The board

may deny approval or withdraw approval of a nursing education program that does not meet the “minimum standards for nursing programs.”

[16.12.3.8 NMAC - Rp, 16.12.3.8 NMAC, 10/1/2016; A, 4/8/2021; A, 12/13/2022]

End of Adopted Rules

2022 New Mexico Register

Submittal Deadlines and Publication Dates

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Issue 1	January 4	January 11
Issue 2	January 13	January 25
Issue 3	January 27	February 8
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Issue 5	February 24	March 8
Issue 6	March 10	March 22
Issue 7	March 24	April 5
Issue 8	April 7	April 19
Issue 9	April 21	May 3
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Issue 12	June 9	June 21
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Issue 19	September 29	October 11
Issue 20	October 13	October 25
Issue 21	October 27	November 8
Issue 22	November 17	November 29
Issue 23	December 1	December 13
Issue 24	December 15	December 27

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Issue 9	May 4	May 16
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Issue 15	August 3	August 15
Issue 16	August 17	August 29
Issue 17	August 31	September 12
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