

NEW MEXICO 
Commission of Public Records
at the State Records Center and Archives
Your Access to Public Information

New Mexico Register

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

Volume XXXIV - Issue 15 - August 15, 2023

COPYRIGHT © 2023
BY
THE STATE OF NEW MEXICO

ALL RIGHTS RESERVED

The New Mexico Register

Published by the Commission of Public Records,
Administrative Law Division

1205 Camino Carlos Rey, Santa Fe, NM 87507

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

Telephone: (505) 476-7941; Fax: (505) 476-7910; E-mail: staterules@state.nm.us.

The *New Mexico Register* is available free at <http://www.srca.nm.gov/new-mexico-register/>

New Mexico Register

Volume XXXIV, Issue 15

August 15, 2023

Table of Contents

Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT

INCOME SUPPORT DIVISION

Notice of Public Hearing.....	796
-------------------------------	-----

PUBLIC EDUCATION DEPARTMENT

Notice of Emergency Rulemaking.....	800
-------------------------------------	-----

Notice of Proposed Rulemaking.....	797
------------------------------------	-----

REGULATION AND LICENSING DEPARTMENT

CONSTRUCTION INDUSTRIES DIVISION

Notice of Proposed Rulemaking.....	797
------------------------------------	-----

PHARMACY, BOARD OF

Notice of Interim Regular Board Meeting and Rule Hearing.....	798
---	-----

Adopted Rules

A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

GAME AND FISH DEPARTMENT

19.31.6 NMAC	N	Migratory Game Bird.....	802
--------------	---	--------------------------	-----

HEALTH, DEPARTMENT OF

7.30.13 NMAC	A/E	Crisis Triage Centers.....	808
--------------	-----	----------------------------	-----

HIGHER EDUCATION DEPARTMENT

5.7.3 NMAC	A	New Mexico Health Professional Loan Repayment Program (HPLRP)....	816
------------	---	---	-----

5.7.34 NMAC	A	Teacher Preparation Affordability Scholarship Program.....	818
-------------	---	--	-----

PUBLIC EDUCATION DEPARTMENT

6.10.7 NMAC	A	Standardized Testing Procedures and Requirements.....	819
-------------	---	---	-----

PUBLIC REGULATION COMMISSION

17.9.551 NMAC	A/E	Prior Approval of Purchased Power Agreements.....	822
---------------	-----	---	-----

REGULATION AND LICENSING DEPARTMENT

FINANCIAL INSTITUTIONS DIVISION

12.15.16 NMAC	R	Certification of Qualified Entities as Solar Energy Improvement	
---------------	---	---	--

		Financing Institutions.....	825
--	--	-----------------------------	-----

SOCIAL WORK EXAMINERS BOARD

16.63.18 NMAC	R	Licensure for Military Service Members, Spouses, Dependent	
---------------	---	--	--

		Children and Veterans.....	825
--	--	----------------------------	-----

16.63.18 NMAC	N	Expedited Licensure.....	825
---------------	---	--------------------------	-----

TRANSPORTATION, DEPARTMENT OF

18.11.3 NMAC	R	Air Service Assistance Program.....	828
--------------	---	-------------------------------------	-----

18.11.3 NMAC	N	Air Service Marketing Assistance Program.....	828
--------------	---	---	-----

Other Material Related to Administrative Law

PUBLIC EDUCATION DEPARTMENT

Notice of Minor, Nonsubstantive Correction.....	830
---	-----

Notices of Rulemaking and Proposed Rules

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

NOTICE OF PUBLIC HEARING

The Human Services Department (HSD) through Income Support Division (ISD) is proposing to amend/update rule 8.139.410.14 New Mexico Administrative Code (NMAC) Requirements For Able Bodied Adults. Changes in the rule are to update language, incorporate standardized rule language, correcting citation format.

Specifically, the changes include:

8.139.410.14 NMAC:

- Added the following language:
 - A. The age limit standards for individuals who are subject to the ABAWD work requirement.

<u>Age Limit</u>	<u>Date ends</u>
<u>18-49</u>	<u>September 5, 2023</u>
<u>18-50</u>	<u>September 30, 2023</u>
<u>18-52</u>	<u>September 30, 2024</u>
<u>18-54</u>	<u>September 30, 2025</u>

- Reformatted B through G
- Added the following language to F:
 - (3) Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.
 - (4) Individuals who are Veterans.
 - (5) Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.

Regulations issued pursuant to the act are contained in 7 CFR 270-282. State Authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the Human Services Department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

A hybrid hearing to receive testimony on this proposed rule will be held pursuant to Section 14-4-5.6 NMSA 1978, which will be held on September 15, 2023, 11:00 a.m-12:00 p.m.

You may join in person: HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505

Or

Virtually from your computer, tablet or smartphone at <https://meet.goto.com/487111949>. You can also dial in using your phone. United States: +1 (224) 501-3412. Access Code: 487-111-949 Get the app now and be ready when your first meeting starts: <https://meet.goto.com/install>.

All Written comment may be dropped off during the scheduled hearing time at the HSD Administrative Services Division (ASD) conference room, 1474 Rodeo Road, Santa Fe, NM 87505.

Individuals wishing to testify may contact the Income Support Division (ISD), P.O. Box 2348, Santa Fe, NM 87504- 2348, or by calling 505-629-8725. This register and the proposed changes are available on the HSD website at Income Support Division Registers | New Mexico Human Services Department state.nm.us. If you do not have internet access, a copy of the proposed rules may be requested by contacting the Income Support Department P.O. Box 2348, Santa Fe, New Mexico 87504-2348 or by calling 505-629-8725.

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 Office-505-709-5468, Fax-505-827-6286 or through the New Mexico Relay system, toll free at #711. 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, September 15, 2023. Please send comments to: Human Services Department P.O. Box 2348 Santa Fe, NM 87504-2348.

Recorded comments may be left at (505) 629-8725. You may send comments electronically to: HSD-isdrules@hsd.nm.gov. Written and recorded comments will be posted to the agency's website within 3 days of receipt. All comments will be given the same consideration as oral testimony made at the public hearing.

**PUBLIC EDUCATION
DEPARTMENT**

**NOTICE OF PROPOSED
RULEMAKING**

Public Hearing

The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing for the following proposed rulemaking on Tuesday, September 19, 2023, from 1:30 p.m. to 2:30 p.m. (MDT) in Mabry Hall, located in the Jerry Apodaca Education Building, 300 Don Gaspar Ave., Santa Fe, New Mexico 87501:

**Repeal and Replace of 6.19.8 NMAC, School Differentiation and Support
Amendment to 6.12.11 NMAC, Student Diabetes Management**

The PED will give a verbal summary statement, on record, at the hearing.

The purpose of the public hearing is to receive public input on the proposed rulemaking. Attendees who wish to provide public comment on record will be given three minutes to make a statement concerning the proposed rulemaking. To submit written comment, please see the Public Comment section of this notice.

Explanation of Purpose of Rulemaking, Summary of Text, and Statutory Authority, by Proposed Rule

6.19.8 NMAC, School Differentiation and Support

Explanation: The purpose of the proposed rulemaking is to describe the system of annual differentiation of public schools based on the department's accountability model and to outline the system of school support based on a multi-year identification cycle.

Summary: The proposed new rule provides for the recognition of high-performing schools and schools that have exited categories of improvement or intervention, and for

the designation of schools as needing improvement or intervention. This rule complies with requirements for statewide accountability systems based on challenging academic standards for language arts and mathematics, and for school improvement designations and actions of the department as detailed by the state's system of annual meaningful differentiation and by the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA).

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, 22-2C-1 through 22-2C-13, and 22-2F-1 through 22-2F-3 NMSA 1978; 20 USC 6303.

6.12.11 NMAC, Student Diabetes Management

Explanation: The purpose of the proposed rulemaking is to update the requirements for the annual diabetes report submitted to the department by school districts and state-chartered charter schools.

Summary: The proposed amendment simplifies reporting requirements for school districts and state-chartered charter schools, includes scanning of continuous glucose monitors in the required training for diabetes care personnel, adds the statutory definition of schools nurse, and includes clean-up language.

Statutory Authority: Sections 9-24-8, 22-2-1, 22-2-2, and 22-34-1 through 22-34-9 NMSA 1978

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

Public Comment

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

Mailing Address

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

E-Mail Address

Rule.Feedback@ped.nm.gov

Written comments must be received no later than 5 p.m. (MDT) on Tuesday, September 19, 2023. The PED encourages the early submission of written comments.

Public Comment Period

The public comment period is from Tuesday, August 15, 2023, to Tuesday, September 19, 2023, at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision of the proposed rulemaking at a later date.

Copies of the proposed rule may be obtained from Denise Terrazas at (505) 470-5303 during regular business hours or may be accessed through the PED Policy and Legislative Affairs webpage titled, "Proposed Rules," at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>.

Individuals with disabilities who require the above information in an alternative format or need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Denise Terrazas at (505) 470-5303 as soon as possible before the date set for the public hearing. The PED requires at least 10 calendar days advance notice to provide any special accommodations requested.

**REGULATION
AND LICENSING
DEPARTMENT
CONSTRUCTION INDUSTRIES
DIVISION**

**NOTICE OF PROPOSED
RULEMAKING**

NOTICE IS HERBY GIVEN that the Regulation and Licensing Department, Construction Industries Division (CID), pursuant to the New

Mexico Sale of Recycled Metals Act, Subsection B of Section 57-30-2.4 NMSA 1978 and Section 57-30-10 NMSA 1978, proposes to amend Rule 12.2.15 NMAC, Sale of Recycled Metals; Rule 12.2.16 NMAC, Application for Registration; Rule 12.2.17 NMAC, Reporting Requirements; and Rule 12.2.18 NMAC, Duties and Responsibilities, in order to receive public commentary regarding the proposals to rules related to the documentation by secondhand metal dealers of restricted transactions.

PURPOSE OF THE PROPOSED AMENDMENTS ARE: To amend 12.2.15 NMAC, 12.2.16 NMAC, 12.2.17 NMAC, and 12.2.18 NMAC to more specifically describe the type of documentation required before a secondhand metal dealer may engage in a restricted transaction.

STATUTORY AUTHORITY: Subsection B of Section 57-30-2.4 NMSA 1978 and Section 57-30-10 NMSA 1978.

Copies of the Notice of Proposed Rulemaking and proposed rules are available by electronic download from the Construction Industries Division, Recycled Metals website (www.rld.nm.gov) or the New Mexico Sunshine Portal at <http://ssp.nm.gov>. Additional copies are posted at each office of the Regulation and Licensing Department: 2550 Cerrillos Road, Santa Fe, NM 87505; 5500 San Antonio Drive, NE, Albuquerque, NM 87109; 505 South Main Street, Las Cruces, NM 88001.

The hearing is scheduled as follows:

Construction Industries Division, Recycled Metals will hold a public video/in-person hearing on each proposed rule on September 19, 2023, at 9:30 a.m., at its Albuquerque office, 5500 San Antonio Drive, NE, Albuquerque, NM 87109.

Join on your computer, mobile app or room device:
<https://teams.microsoft.com/l/meetup->

[join/19%3ameeting_ZDNhMTgyYWltZjdkNS00NjEwLWE0NTItMDk4NDYzZDhiYmQ4%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22ce602437-5e5f-435f-bc55-bb09cf53094c%22%7d](https://teams.microsoft.com/join/19%3ameeting_ZDNhMTgyYWltZjdkNS00NjEwLWE0NTItMDk4NDYzZDhiYmQ4%40thread.v2/0?context=%7b%22Tid%22%3a%2204aa6bf4-d436-426f-bfa4-04b7a70e60ff%22%2c%22Oid%22%3a%22ce602437-5e5f-435f-bc55-bb09cf53094c%22%7d)

Meeting ID: 292 579 484 061
Passcode: Dbax5Z

Or call in (audio only)
[+1 505-312-4308.978593367#](tel:+15053124308978593367#)
United States, Albuquerque
Phone Conference ID: 978 593 367#

Construction Industries Division designates Max Shepherd to act as the hearing officer for this rulemaking. Oral comments, data, and views on the proposed changes will be accepted at the video/in-person hearing from members of the public and any interested parties.

Written comments and proposals will be accepted through 4:00 p.m. on September 18, 2023. Responses to written comments or oral comments will be accepted through 5:00 p.m. on September 18, 2023. Comments may be submitted via email to: Quindi Otero-Robertson at her email address: Quindi.Otero@rld.nm.gov or may be filed by sending an original comment to the Construction Industries Division, Recycled Metals, 5500 San Antonio Drive, NE, Albuquerque, NM 87109.

Written comments received during the public comment period (August 15, 2023-September 18, 2023) will be posted on the website page linked above. Public comment will also be accepted during the rule hearing and may be submitted in writing or presented orally by those attending in-person. The Superintendent will consider any public comment during the adoption period immediately following the conclusion of the public rule hearing.

SPECIAL NEEDS: Any person with a disability who is in need of a reader, amplifier, qualified sign language

interpreter, or other auxiliary aid or service to attend or participate in the hearing should contact Quindi Otero-Robertson at 505-546-2195 no later than ten (10) business days prior to the hearing.

The Construction Industries Division will review and consider all timely submitted written and oral comments and responses.

ISSUED this 28th day of July 2023.

REGULATION AND LICENSING DEPARTMENT PHARMACY, BOARD OF

NOTICE OF INTERIM REGULAR BOARD MEETING AND RULE HEARING

The New Mexico Board of Pharmacy will convene on September 15th at 1:00 p.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 an interim regular board meeting and rule hearing.

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, Davilyn Valencia at the general e-mail pharmacy.board@rld.nm.gov 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 Board Administrator, Davilyn Valencia, at 505-222-9830 or e-mail pharmacy.board@rld.nm.gov if a summary or other type of accessible format is needed.

The Board will address:

All Board Matters:

Rule Hearings: September 15, 2023 at 1:10 p.m.

16.19.6 NMAC – PHARMACIES_ – Subsections A and C of Section 17 are updated with the removal of terms apothecary and apothecary shop, which terms are no longer restricted in use. Paragraph 5 of Subsection D of Section 23 is updated to allow transfer or forwarding of controlled substance prescriptions as allowed by federal law. Subsection C of Section 24 is updated by striking or renewal of licensure from initial application requirements, and a separate paragraph is added stating that a nonresident pharmacy may apply for license renewal by submitting a renewal application on a form provided by the board. This will help to streamline required renewal application information by

eliminating unnecessary information requirements, such as policies and procedures which were approved with the initial application for licensure. Required change of information reporting is updated from 10 to 30 days, aligning with the statute.

STATUTORY AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 requires that the board of Pharmacy provide for the licensing of retail pharmacies and nonresident pharmacies and for the inspection of their facilities and activities.

16.19.8 NMAC - WHOLESAL E DISTRIBUTORS; THIRD-PARTY LOGISTICS PROVIDERS; REPACKAGERS; DRUG SUPPLY CHAIN SECURITY – Subsection A of Sections 9, 11, 15, 17 and 20 are updated by removal of “but not limited to” (leaving just including), and addition of a separate paragraph in Sections 9 and 15 which states that renewal applications shall be on a form furnished by the board. Subsection A of Section 20 is updated with removal of Paragraph 5 (evidence of criminal background checks and fingerprinting for repackager applicant and designated representative). Section 21 is updated with removal of Paragraph C (background check and fingerprint results for repackager personnel), and Section 22 is updated to remove certification requirement for designated representative of a repackager. These changes align requirements for repackager licensure with that of manufacturers, as both are required to be registered with the Food and Drug Administration as a drug establishment under the Federal Food, Drug, and Cosmetic Act.

STATUTORY AUTHORITY: Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978 directs the board of pharmacy to provide for the licensing of drug manufacturers, repackagers and wholesale drug distributors and for the inspection of their facilities and activities. Paragraph (7) of Subsection A

of Section 61-11-6 NMSA 1978 authorizes the board 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, Chapter 26, Article I NMSA 1978. Pursuant to Section 26-1-18 of the Drug, Device and Cosmetic Act, the board is authorized to promulgate regulations for the efficient enforcement of the act.

16.19.20 NMAC – CONTROLLED SUBSTANCES – Section 9 is updated by deletion of Subsection D (renewal applications will be mailed...). The board now has an electronic license system, and applications are not mailed out.

STATUTORY AUTHORITY: Section 30-31-11 of the Controlled Substances Act, 30-31-1 through 30-31-42 NMSA 1978, authorizes the board of pharmacy to promulgate regulations and charge reasonable fees for the registration and control of the manufacture, distribution and dispensing of controlled substances. Paragraph (2) of Subsection B of Section 61-11-6 authorizes the board to provide by regulation for the electronic transmission of prescriptions.

16.19.29 – CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM Section 7, Subsection F is updated to exclude required dispenser reporting of gabapentin prescriptions, when issued by a veterinarian. Section 8, Subsection B is an administrative update (website domain name).

STATUTORY AUTHORITY: Sections 30-31-1 through 30-31-41 of the Controlled Substance Act NMSA 1978, authorizes the board of pharmacy to promulgate rules and charge reasonable fees regarding controlled substances. Section 30-31-16 of the Controlled Substance Act NMSA 1978 authorizes the board to collect information regarding

controlled substances. 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): no disciplinary hearings are currently scheduled. If scheduling occurs, the 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.

Executive Director's Report:

Published in NM Register: August 15, 2023

Published in Albuquerque Journal: August 15, 2023

PUBLIC EDUCATION DEPARTMENT

NOTICE OF EMERGENCY RULEMAKING

This is an emergency rulemaking to 6.41.4 NMAC, effective August 4, 2023.

Public Notice. The New Mexico Public Education Department (PED) gives notice it is amending 6.41.4 NMAC, Standard for Providing Transportation for Eligible Students, filed December 31, 1998, by emergency rule, adopted and effective August 4, 2023. The amendment adds language that allows school buses to remain on while a heat advisory, issued by the National Weather Services, is in effect.

The rule is promulgated as an emergency rule. Pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule, PED finds

that following the non-emergency rulemaking procedures in enacting updated school improvement designations and requirements would cause an imminent peril to the public health, safety or welfare of public school students. This emergency process is temporary as it does not permanently amend or repeal the existing rule. The emergency rule will only remain in effect until a permanent rule takes effect under a normal rule making process.

Rule Information. The purpose of this rule is to add language that allows school buses to remain on while a heat advisory, issued by the National Weather Services, is in effect.

Statutory Authority. Sections 1111g(1)(E) and 1112c(5)(B) of ESEA, Section 722g(J)(iii) of the McKinney-Vento Act, and Sections 22-2-1, 22-2-2, 22-8-26, 22-10A-5, 22-16-2, 22-16-4, and Subsection D of Section 9-24-8 NMSA 1978.

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

A public comment period and a public hearing, pursuant to Section 14-4-5.3 NMSA 1978, State Rules Act, Public Participation, Comments, and Rule Hearings, will be held to adopt a permanent rule within 180 days of the effective date of August 4, 2023, for 6.41.4 NMAC, pursuant to Section 14-4-5.6 NMSA 1978, State Rules Act, Emergency rule.

Copies of the rule may be accessed through the New Mexico Public Education Department's website under the "Proposed Rules" link at <https://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/> or may be obtained from Denise Terrazas by contacting her at (505) 470-5303 during regular business hours.

Individuals with disabilities who require the above information in an alternative format are asked to contact Denise Terrazas at (505) 470-5303.

End of Notices of Rulemaking and Proposed Rules

This Page Intentionally Left Blank

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.

GAME AND FISH DEPARTMENT

**TITLE 19 NATURAL
RESOURCES AND WILDLIFE
CHAPTER 31 HUNTING AND
FISHING
PART 6 MIGRATORY
GAME BIRD**

19.31.6.1 ISSUING
AGENCY: New Mexico department of game and fish.
[19.31.6.1 NMAC - Rp, 19.31.6.1 NMAC, 9/1/2023]

19.31.6.2 SCOPE:
Sportspersons interested in migratory game bird management and hunting. Additional requirements may be found in Chapter 17 NMSA 1978 and Title 19 NMAC.
[19.31.6.2 NMAC - Rp, 19.31.6.2 NMAC, 9/1/2023]

19.31.6.3 STATUTORY AUTHORITY: Section 17-1-14 and 17-1-26 NMSA 1978 provide that the New Mexico state game commission has the authority to establish rules and regulations that it may deem necessary to carry out the purpose of Chapter 17 NMSA 1978 and all other acts pertaining to protected mammals, birds and fish.
[19.31.6.3 NMAC - Rp, 19.31.6.3 NMAC, 9/1/2023]

19.31.6.4 DURATION:
September 1, 2023 - March 31, 2024.
[19.31.6.4 NMAC - Rp, 19.31.6.4 NMAC, 9/1/2023]

19.31.6.5 EFFECTIVE DATE: September 1, 2023, unless a later date is cited at the end of a section.
[19.31.6.5 NMAC - Rp, 19.31.6.5 NMAC, 9/1/2023]

19.31.6.6 OBJECTIVE:
Establishing open hunting seasons, regulations, rules and procedures governing the issuance of migratory game bird licenses and permits by the department.
[19.31.6.6 NMAC - Rp, 19.31.6.6 NMAC, 9/1/2023]

19.31.6.7 DEFINITIONS:
A. “Bernardo pond unit” shall mean that portion of Bernardo wildlife management area 600 feet south of U.S. 60 and west of the unit 7 drain.

B. “Bernardo youth unit” shall mean that portion of Bernardo wildlife management area immediately south of the Quagmire and east of the unit 7 drain.

C. “Central flyway” shall mean that portion of New Mexico east of the continental divide.

D. “Dark goose” shall mean Canada goose or white-fronted goose.

E. “Department” shall mean the New Mexico department of game and fish.

F. “Director” shall mean the director of the New Mexico department of game and fish.

G. “Dove north zone” or “north zone” shall mean that portion of New Mexico north of Interstate 40 from the Arizona-New Mexico border to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

H. “Dove south zone” or “south zone” shall mean that portion of New Mexico south of Interstate 40 from the Arizona-New Mexico border to Tucumcari and U.S. 54 at its junction with Interstate 40 at Tucumcari to the New Mexico-Texas border.

I. “Eastern New Mexico sandhill crane hunt area” or

“eastern” shall mean the following counties: Chaves, Curry, De Baca, Eddy, Lea, Quay and Roosevelt.

J. “Estancia valley sandhill crane hunt area” or “EV” shall mean that area beginning at Mountainair bounded on the west by N.M. 55 north to N.M. 337, north to N.M. 14, and north to Interstate 25; on the north by Interstate 25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to N.M. 55 in Mountainair.

K. “Falconry” shall mean hunting migratory game birds using raptors.

L. “Federal youth waterfowl hunting days” shall mean the special seasons where only those 17 years of age and younger may hunt ducks, coots and gallinules in the Pacific flyway or ducks and coots in the central flyway. A supervising adult at least 18 years of age must accompany the youth hunter. The adult may not hunt ducks, coots or gallinules, but may participate in other seasons that are open on the special youth days.

M. “Light geese” shall mean snow geese, blue phase snow geese and Ross’s geese.

N. “Light goose conservation order” shall mean those methods, bag and possession limits and dates approved by the U.S. fish and wildlife service towards reducing over-abundant light goose populations.

O. “Middle Rio Grande valley (MRGV) dark goose hunt area” shall mean Sierra, Socorro and Valencia counties.

P. “Middle Rio Grande valley (MRGV) sandhill crane hunt area” shall mean Valencia and Socorro counties.

Q. “Migratory game bird” shall mean band-tailed pigeon,

mourning dove, white-winged dove, sandhill crane, American coot, gallinule, snipe, ducks, geese, sora and Virginia rail.

R. “North zone”

shall mean that portion of the Pacific flyway north of Interstate 40, and that portion of the central flyway north of Interstate 40 from the continental divide to Tukumcari and U.S. 54 at its junction with Interstate 40 at Tukumcari to the New Mexico-Texas border.

S. “Pacific flyway”

shall mean that portion of New Mexico west of the continental divide.

T. “Possession limit”

shall mean the number of birds in a person’s possession regardless of the location stored.

U. “Quagmire”

shall mean that portion of Bernardo wildlife management area 600 feet south of U.S. 60 and east of the unit 7 drain.

V. “South zone”

shall mean that portion of the Pacific flyway south of Interstate 40, and that portion of the central flyway south of Interstate 40 from the continental divide to Tukumcari and U.S. 54 at its junction with Interstate 40 at Tukumcari to the New Mexico-Texas border.

W. “Southwest band-tailed pigeon hunting area” or “southwest BPHA”

shall mean that portion of New Mexico both south of U.S. 60 and west of Interstate 25.

X. “Southwest New Mexico sandhill crane hunt area” or “SW” shall mean that area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to N.M. 26, east to N.M. 27, north to N.M. 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna county line, and south to the New Mexico-Mexico border.

Y. “Wildlife management areas” or “WMAs” shall mean those areas as described in 19.34.5 NMAC Wildlife Management Areas.

[19.31.6.7 NMAC - Rp, 19.31.6.7 NMAC, 9/1/2023]

19.31.6.8 ADJUSTMENT OF SANDHILL CRANE

PERMITS: The director, with verbal concurrence of the chairperson or their designee, may adjust the number of permits to address significant changes in harvest levels. This adjustment may be applied to any or all of the entry hunt codes.

[19.31.6.8 NMAC - Rp, 19.31.6.8 NMAC, 9/1/2023]

19.31.6.9 LICENSE AND APPLICATION REQUIREMENTS:

A. License: A Harvest Information Program (HIP) number shall be required. Waterfowl hunters 16 years of age and older are required to have in their possession a federal migratory bird hunting and conservation stamp (duck stamp). It shall be unlawful to take or attempt to take migratory birds without a HIP number, or duck stamp if required.

(1) Any person taking or attempting to take sandhill cranes in the eastern hunt area must have a valid license and a free sandhill crane hunting permit obtained from department offices or website.

(2) For EV sandhill crane, MRGV sandhill crane, MRGV youth-only sandhill crane and SW sandhill crane: in addition to a valid license, a special permit obtained by drawing shall be required.

(3) For the light goose conservation order: in addition to a valid license, a free light goose conservation order permit obtained from department offices or website shall be required.

(4) For band-tailed pigeon hunting: in addition to a valid license, a free band-tailed pigeon permit obtained from department offices or website shall be required.

B. Valid dates of license or permit: All permits and licenses shall be valid only for the dates, legal sporting arms, bag limit and area printed on the permit or license.

[19.31.6.9 NMAC - Rp, 19.31.6.9 NMAC, 9/1/2023]

19.31.6.10 MANNER AND METHODS FOR MIGRATORY GAME BIRDS:

A. Hours: Migratory game birds may be hunted or taken only during the period from one-half hour before sunrise to sunset, unless otherwise specifically allowed or restricted by rule.

(1) On the Bottomless lakes overflow, and Bernardo, Casa Colorada, Jackson lake, La Joya and W.S. Huey WMAs, hunting hours shall mean from one-half hour before sunrise to 1:00 p.m. unless otherwise stated in rule. For hunting September teal on Bernardo and La Joya WMAs, hunting hours are from one-half hour before sunrise to sunset.

(2) During the light goose conservation order hunt dates, hunting hours shall mean from one-half hour before sunrise to one-half hour after sunset, excluding the WMAs listed in Paragraph (1) above.

B. Lands and waters owned, administered, controlled or managed by the state game commission:

(1) State wildlife management areas open, species that can be hunted and days open for hunting:

(a) Bernardo WMA: That portion of the Bernardo WMA south of U.S. 60 is open to teal hunting each day of the September teal season and the federal youth waterfowl hunting days. That portion of the Bernardo WMA north of U.S. 60 is closed except during the light goose conservation order.

(ii) The Quagmire shall be open only on Tuesday, Thursday and Sunday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule.

(iii) The Bernardo pond unit shall be open for general waterfowl hunting on

Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule.

(iv) The Bernardo youth unit shall be open for youth waterfowl hunting on Monday, Wednesday and Saturday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule.

(b) The Edward Sargent, W. A. Humphries, Rio Chama, Urraca, Colin Neblett, Water canyon, Marquez/LBar and Elliot S. Barker WMAs shall be open for hunting dove and band-tailed pigeon during established seasons.

(c) The portion of Jackson lake WMA west of N.M. 170 shall be open on Mondays, Wednesdays and Saturdays to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe. The portion of Jackson lake WMA east of N.M. 170 shall be open to falconry-only migratory game bird hunting during established seasons.

(d) The lesser prairie-chicken management areas, Double E and River Ranch WMAs shall be open to hunt dove during established seasons.

(e) La Joya WMA:

(i) the entire La Joya WMA shall be open to teal hunting each day of the September teal season and each day of the federal youth waterfowl hunting days;

(ii) that portion of La Joya WMA north of the main east/west entrance road and west of the railroad tracks shall be open on Saturdays, Mondays and Wednesdays to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule;

(iii) that portion of La Joya WMA south of the main east/west entrance road and west of the railroad tracks shall be open on Sunday, Tuesday and Thursday to hunt ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons, unless otherwise specifically allowed by rule;

(iv) that portion of La Joya WMA east of the railroad tracks shall be open to hunt dove, ducks, geese, Virginia rail, sora, gallinule, American coot and snipe during established seasons.

(f) The Charette lake, McAllister lake, Wagon Mound, Tucumcari, Socorro-Escondida, Hammond tract and Retherford tract WMAs shall be open for all migratory game bird hunting during established seasons.

(g) The W.S. Huey WMA shall be open for dove hunting on Monday, Wednesday and Saturday during established seasons.

(2) All WMAs shall be open to falconry waterfowl hunting each day of the established falconry season, unless otherwise restricted by rule.

[19.31.6.10 NMAC - Rp, 19.31.6.10 NMAC, 9/1/2023]

19.31.6.11 SPECIES, OPEN AREAS, SEASON DATES AND DAILY BAG LIMITS: 2023-2024 season, all dates are 2023 unless otherwise specified. Possession limits are three times the daily bag limit unless otherwise specified.

species	open areas	season dates	daily bag limit
mourning and white-winged dove	north zone	Sept. 1 - Nov. 29	15 (singly or in aggregate)
	south zone	Sept. 1 - Oct. 28 and Dec. 1 - Jan. 1, 2024	
band-tailed pigeon	southwest BPHA	Oct. 1 - 14	2
	statewide except southwest BPHA	Sept. 1 - 14	
regular season sandhill crane (free permit required)	eastern	Oct. 28 - Jan. 28, 2024	3 (6 in possession)
CENTRAL FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.			
species	season dates		daily bag limit
September teal: blue-winged teal, green-winged teal and cinnamon teal	Sept. 9 - 17		6 (singly or in the aggregate)

ducks	north zone: Oct. 7 - Jan. 10, 2024	6 (singly or in the aggregate) that consists of no more than 5 mallard of which only 2 may be female mallard, (Mexican ducks are included towards the mallard bag limit), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 1 pintail and 2 canvasback
	south zone: Oct. 28 - Jan. 31, 2024	
youth waterfowl days	north zone: Sept. 23 - 24	Ducks: 6 (singly or in the aggregate) that consists of no more than 5 mallard of which only 2 may be female mallard, (Mexican ducks are included towards the mallard bag limit), 3 wood duck, 3 scaup, 2 redhead, 2 hooded merganser, 1 pintail and 2 canvasback Coots: 15
	south zone: Sept. 30 – Oct. 1	
American coot	north zone: Oct. 7 - Jan. 10, 2024	15
	south zone: Oct. 28 - Jan. 31, 2024	
gallinule	Sept. 9 - Nov. 17	1
snipe	Oct. 7 - Jan. 21, 2024	8
Virginia rail & sora	Sept. 9 - Nov. 17	10 (singly or in the aggregate; 20 in possession)
dark goose: regular season closed in Sierra, Socorro and Valencia counties	Oct. 17 - Jan. 31, 2024	5
dark goose: special MRGV season	Dec. 19 - Jan. 31, 2024	2 (2 per season)
light goose	Oct. 17 - Jan. 31, 2024	50 (no possession limit)
light goose conservation order	Feb. 1 - Mar. 10, 2024	no bag or possession limit
PACIFIC FLYWAY: possession limits are three times the daily bag limit unless otherwise specified.		
Species	season dates	daily bag limit
youth waterfowl days	Oct. 7 - 8	Ducks: 7 (singly or in the aggregate) that consists of no more than 2 female mallard, 2 redhead, 1 pintail and 2 canvasback; Coots and gallinules: 25 (singly or in the aggregate)
Ducks	Oct. 19 - Jan. 31, 2024	7 (singly or in the aggregate); that consists of no more than 2 female mallard, 2 redhead, 1 pintail and 2 canvasback
Scaup	Oct. 19 - Jan. 12, 2024	2 (as part of the aggregate duck bag)
American coot and gallinule	Oct. 19 - Jan. 31, 2024	25 (singly or in the aggregate)
Snipe	Oct. 17 - Jan. 31, 2024	8
Virginia rail & sora	Sept. 9 - Nov. 17	25 (singly or in the aggregate)
Goose	north zone: Sept. 23 - Oct. 8 and Nov. 2 - Jan. 31, 2024	5 Canada geese, 10 white-fronted geese and 20 light geese
	south zone: Oct. 17 - Jan. 31, 2024	

[19.31.6.11 NMAC - Rp, 19.31.6.11 NMAC, 9/1/2023]

19.31.6.12 FALCONRY SEASONS: 2023-2024 season, all dates are 2023 unless otherwise specified. Bag limits are three singly or in the aggregate and nine in possession unless otherwise specified.

CENTRAL FLYWAY		
species	open areas	season dates
mourning and white-winged dove	north	Sept. 1 - Dec. 4 and Dec. 21 - Jan. 1, 2024
	south	Sept. 1 - Nov. 5 and Nov. 22 - Jan. 1, 2024
band-tailed pigeon	southwest BPHA	Oct. 1 - 14
	statewide except southwest BPHA	Sept. 1 - 14
sora and Virginia rail	all	Sept. 9 - Dec. 24
snipe	all	Oct. 7 - Jan. 21, 2024
gallinule	all	Sept. 9 - Dec. 24
ducks and coots	north	Sept. 9 - 17 and Oct. 7 - Jan 10, 2024
	south	Sept. 9 - 17 and Oct. 28 - Jan 31, 2024
goose (light and dark)	all	Oct. 17 - Jan. 31, 2024
goose (dark)	MRGV	Dec. 19 - Jan. 31, 2024
sandhill crane	regular (eastern)	Oct. 14 - Jan. 28, 2024; 3 (6 in possession)
	Estancia valley	Oct. 28 - Dec. 26; 3 (6 in possession)
PACIFIC FLYWAY		
species	open areas	season dates
mourning and white-winged dove	north	Sept. 1 - Dec. 4 and Dec. 21 - Jan. 1, 2024
	south	Sept. 1 - Nov. 5 and Nov. 22 - Jan. 1, 2024
band-tailed pigeon	southwest BPHA	Oct. 1 - 14
	statewide except southwest BPHA	Sept. 1 - 14
ducks	all	Oct. 19 - Jan. 31, 2024
scaup	all	Oct. 19 - Jan. 12, 2024
goose (all)	north	Sept. 23 - Oct. 8 and Nov. 2 - Jan. 31, 2024
	south	Oct. 17 - Jan. 31, 2024
snipe	all	Oct. 17 - Jan. 31, 2024
coots and gallinule	all	Oct. 19 - Jan. 31, 2024
sora and Virginia rail	all	Sept. 9 - Nov. 17

[19.31.6.12 NMAC - Rp, 19.31.6.12 NMAC, 9/1/2023]

19.31.6.13 [RESERVED]

[19.31.6.13 NMAC - Rp, 19.31.6.13 NMAC, 9/1/2022; Repealed, 9/1/2023]

19.31.6.14 REQUIREMENTS FOR THE SPECIAL BERNARDO YOUTH WATERFOWL UNIT: Blind selection will be available on a first-come, first-serve basis from one-half hour before sunrise to 1:00 p.m. Youth hunters must be accompanied by a supervising adult who may not hunt. A maximum of four people, at least half of which must be youth hunters, is allowed per blind.

[19.31.6.14 NMAC - Rp, 19.31.6.14 NMAC, 9/1/2023]

19.31.6.15 SEASON DATES, OPEN AREAS, BAG LIMITS, HUNT CODES AND PERMIT NUMBERS FOR THE SPECIAL ESTANCIA VALLEY, MIDDLE RIO GRANDE VALLEY AND SOUTHWEST NEW MEXICO SANDHILL CRANE SEASONS:

A. The daily bag limit is 3. The possession limit is twice the daily bag limit, except for the MRGV youth-only hunt where the daily bag and possession limit is 3. The hunting seasons for 2023-2024 are:

hunt location	hunt dates	hunt code	permits
EV	Oct. 28 - Oct. 31 and Nov. 2 - Nov. 5	SCR-0-101	65
MRGV	Nov. 11 - 12	SCR-0-102	80
MRGV	Nov. 25 - Nov. 26	SCR-0-103	80
MRGV	Dec. 9 - 10	SCR-0-104	80
MRGV	Jan. 6 - 7, 2024	SCR-0-105	80
MRGV	Jan. 13 - 14, 2024	SCR-0-106	80
MRGV, youth-only	Nov. 18	SCR-0-107	24
SW	Oct. 28 - Nov. 5	SCR-0-108	70
SW	Jan. 6 - 7, 2024	SCR-0-109	70

B. Hunters who participate in the MRGV season shall be required to check-out at designated check stations when they harvest any sandhill cranes.

C. The department may cancel one or more EV, MRGV or SW sandhill crane hunts if harvest is expected to exceed our federal allocation of greater sandhill cranes.

[19.31.6.15 NMAC - Rp, 19.31.6.15 NMAC, 9/1/2023]

HISTORY OF 19.31.6 NMAC:

Pre-NMAC Filing History: The material in this part was derived from that previously filed with the State Records Center & Archives under: Regulation No. 486, Establishing 1967 Seasons On Quail, Pheasants, Prairie Chickens, and Lesser Sandhill (Little Brown) Crane And Additional Seasons On Migratory Waterfowl, filed 9/22/67; Regulation No. 494, Establishing 1968 Seasons On Migratory Waterfowl, Common Snipe, Lesser Sandhill Crane, Scaled, Gambel’s, And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 10/2/68; Regulation No. 508, Establishing 1969 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Scaled, Gambel’s And Bobwhite Quail, Pheasants, And Prairie Chickens, filed 9/19/69; Regulation No. 527, Establishing 1971 Seasons On Migratory Waterfowl And Lesser Sandhill Cranes, filed 9/10/71; Regulation No. 540, Establishing 1972 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, And Wilson’s Swipec, filed 9/26/72; Regulation No. 551,

Establishing 1973 Seasons On Migratory Waterfowl And Lesser Sandhill Crane, filed 8/20/73; Regulation No. 560, Establishing 1974 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/21/74; Regulation No. 570, Establishing 1975 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/5/75; Regulation No. 578, Establishing 1976 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 8/31/1976; Regulation No. 588, Establishing 1977 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Common Snipe, Quail, Pheasants, And Prairie Chickens, filed 9/6/1977; Regulation No. 594, Establishing 1978 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/11/1978; Regulation No. 601, Establishing 1979 Seasons on

Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 8/30/1979; Regulation No. 606, Establishing 1980 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/3/80; Regulation No. 611, Establishing 1981 Seasons On Migratory Waterfowl, Lesser Sandhill Crane, Quail, Pheasants, And Prairie Chickens, filed 9/4/1981; Regulation No. 616, Establishing 1982 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/3/1982; Regulation No. 626, Establishing 1983 Seasons On Migratory Waterfowl, Quail, Pheasants, And Prairie Chickens, filed 9/7/1983; Regulation No. 631, Establishing 1984 Seasons On Migratory Waterfowl, filed 8/31/1984; Regulation No. 638, Establishing 1985 Seasons On Migratory Waterfowl, filed 9/11/1985; Regulation No. 643, Establishing 1986-1987 Seasons On Migratory Birds, filed 8/24/1987; Regulation No. 660, Establishing 1988-1989

Seasons On Migratory Birds, filed 6/28/1988; Regulation No. 669, Establishing 1989-1990 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Sandhill Crane, Band-tailed Pigeon, Dove, And Setting Falconry Seasons, filed 10/5/1989; Regulation No. 680, Establishing 1990-1991 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 9/28/1990; Regulation No. 687, Establishing 1991-1992 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 8/6/1991; Regulation No. 698, Establishing 1992-1993 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry seasons, filed 9/15/1992; Regulation No. 704, Establishing 1993-1994 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe And Setting Falconry Seasons, filed 3/11/1993; Regulation No. 707, Establishing The 1994-1995, 1995-1996, 1996-1997 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 7/28/1994; Regulation No. 708, Establishing The 1994-1995, 1995-1996, And 1996-1997 Seasons On Ducks, Geese, Virginia Rail, Sora, Common Moorhen, American Coot, Common Snipe, And Setting Falconry Seasons, filed 9/7/1994.

NMAC History:

19 NMAC 31.6, Waterfowl, filed 8/31/1995
 19.31.6 NMAC, Waterfowl, filed 8/15/2000
 19.31.6 NMAC, Waterfowl, filed 8/26/2002
 19.31.6 NMAC, Waterfowl, filed 8/12/2003

19.31.6 NMAC, Waterfowl, filed 8/2/2004
 19.31.6 NMAC, Waterfowl, filed 8/8/2005
 19.31.6 NMAC, Waterfowl, filed 8/1/2006
 19.31.6 NMAC, Waterfowl, filed 8/16/2007
 19.31.6 NMAC, Migratory Game Bird, filed 8/13/2008
 19.31.6 NMAC, Migratory Game Bird, filed 8/17/2009
 19.31.6 NMAC, Migratory Game Bird, filed 8/2/2010
 19.31.6 NMAC, Migratory Game Bird, filed 8/1/2011
 19.31.6 NMAC, Migratory Game Bird, filed 8/14/2012
 19.31.6 NMAC, Migratory Game Bird, filed 8/29/2013

History of Repealed Material:

19.31.6 NMAC, Waterfowl, filed 8/15/2000 - duration expired 3/31/2002
 19.31.6 NMAC, Waterfowl, filed 8/26/2002 - duration expired 3/31/2003
 19.31.6 NMAC, Waterfowl, filed 8/12/2003 - duration expired 3/31/2004
 19.31.6 NMAC, Waterfowl, filed 8/2/2004 - duration expired 3/31/2005
 19.31.6 NMAC, Waterfowl, filed 8/8/2005 - duration expired 3/31/2006
 19.31.6 NMAC, Waterfowl, filed 8/1/2006 - duration expired 3/31/2007
 19.31.6 NMAC, Waterfowl, filed 8/16/2007 - duration expired 3/31/2008
 19.31.6 NMAC, Migratory Game Bird, filed 8/13/2008 - duration expired 3/31/2009
 19.31.6 NMAC, Migratory Game Bird, filed 8/17/2009 - duration expired 3/31/2010
 19.31.6 NMAC, Migratory Game Bird, filed 8/2/2010 - duration expired 3/31/2011
 19.31.6 NMAC, Migratory Game Bird, filed 8/1/2011 - duration expired 3/31/2012
 19.31.6 NMAC, Migratory Game Bird, filed 8/14/2012 - duration expired 3/31/2013
 19.31.6 NMAC, Migratory Game Bird, filed 8/29/2013 - duration expired 3/31/2014

19.31.6 NMAC, Migratory Game Bird, filed 8/31/2014 - duration expired 3/31/2015
 19.31.6 NMAC, Migratory Game Bird, filed 9/1/2015 - duration expired 3/31/2016
 19.31.6 NMAC, Migratory Game Bird, filed 6/30/2016 - duration expired 3/31/2017
 19.31.6 NMAC, Migratory Game Bird, filed 7/27/2017 - duration expired 3/31/2018
 19.31.6 NMAC, Migratory Game Bird, filed 7/2/2018 - duration expired 3/31/2019
 19.31.6 NMAC, Migratory Game Bird, filed 8/28/2019 - duration expired 3/31/2020
 19.31.6 NMAC, Migratory Game Bird, filed 8/13/20 - duration expired 3/31/2021
 19.31.6 NMAC, Migratory Game Bird, filed 8/12/21 - duration expired 3/31/2022
 19.31.6 NMAC, Migratory Game Bird, filed 7/27/22 - duration expired 3/31/2023
 19.31.6 NMAC, Migratory Game Bird, filed 8/1/23 - duration expired 3/31/2024

HEALTH, DEPARTMENT OF

This is an emergency amendment to 7.30.13 NMAC, Sections 7, 9 & 29 effective, 8/3/2023.

7.30.13.7 DEFINITIONS:

~~A. "Administrator"~~ means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

~~B. "Advanced practice registered nurse"~~ means a registered nurse that includes a

certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.

—————**C.**————— **“Applicant”** means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.

—————**D.**————— **“Basic life support” (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

—————**E.**————— **“Caregivers criminal history screen”** means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the fitness determination. The caregiver’s criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

—————**F.**————— **“Chemical restraint”** means a drug or medication when it is used as a restriction to manage a client’s behavior or restrict a client’s freedom of movement and is not a standard treatment or dosage for a client’s condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

—————**G.**————— **“CLIA”** means clinical laboratory improvement amendments of 1988 as amended.

—————**H.**————— **“Client”** means any person who receives care at a crisis triage center.

—————**I.**————— **“Compliance”** means the CTC’s adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

—————**J.**————— **“Crisis stabilization services”** means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

—————**K.**————— **“CYFD”** means the New Mexico children youth and families department.

—————**L.**————— **“CYFD criminal records and background checks”** means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children’s and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and Section 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and

promoting the children’s/youth’s safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants’ background bearing on whether they are eligible to provide services; a screening of CYFD’s information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

—————**M.**————— **“Deficiency”** means a violation of or failure to comply with any provision(s) of these regulations.

—————**N.**————— **“Department”** means the New Mexico department of health.

—————**O.**————— **“Employee”** means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

—————**P.**————— **“Facility”** means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

—————**Q.**————— **“High risk behavior”** means behaviors that place clients, staff or visitors’ physical and mental health and safety at risk.

—————**R.**————— **“HSD”** means the NM human services department.

—————**S.**————— **“Incident”** means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

—————**T.**————— **“Incident management system”** means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

U. — **“Incident report form”** means the reporting format issued by the department for the reporting of incidents or complaints.

V. — **“Level III-7-D—Medically Monitored Inpatient Detoxification”** means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III & D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more intensive detoxification services.

W. — **“Licensee”** means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

X. — **“Licensing authority”** means the New Mexico department of health.

Y. — **“Licensed mental health professional”** means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

Z. — **“Management company”** means the legal entity that manages the CTC program, if different from the legal owner of the facility.

AA. — **“NFPA”** means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.

BB. — **“NMSA”** means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

CC. — **“Outpatient services”** means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis

stabilization services are not ongoing behavioral health treatment services.

DD. — **“Physical restraint”** means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client’s hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

EE. — **“Physician”** means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

FF. — **“Physician’s assistant”** means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians’ Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

GG. — **“Plan of correction”** (POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all

subsequent appeals relating to a CTC license, including to prove licensee compliance violations or failures.

HH. — **“Policy”** means a written statement that guides and determines present and future CTC decisions and actions.

I. — **“Premises”** means all of the CTC including buildings, grounds and equipment.

JJ. — **“Primary source verification”** means the act of obtaining credentials directly from the original or primary source(s).

KK. — **“Procedure”** means the action(s) that must be taken in order to implement a written policy.

LL. — **“Quality assurance”** means the CTC’s ongoing comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

MM. — **“Quality committee”** means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

NN. — **“Quality improvement system”** means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

OO. — **“Registered nurse”** means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

PP. — **“Residential services”** means any crisis stabilization services provided to a client admitted to the residential setting.

QQ. — **“Restraint clinician”** means a New Mexico licensed medical doctor, doctor

of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

——— **RR.** —— **“Sanitize clothes”** means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

——— **SS.** —— **“Scope of practice”** means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

——— **TT.** —— **“Seclusion”** means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

——— **UU.** —— **“Short-term residential stay”** means the limit of a client’s stay is eight days for the residential setting.

——— **VV.** —— **“Staff”** means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

——— **WW.** —— **“U/L approved”** means approved for safety by the national underwriter’s laboratory.

——— **XX.** —— **“Violation”** means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

——— **YY.** —— **“Variance”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A variance can be renewed upon

approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

——— **ZZ.** —— **“Waiver”** means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

——— **AAA.** —— **“Withdrawal management”** means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

——— **BBB.** —— **“Youth”** means residents 14 years of age and older up to age 18.

——— **CCC.** —— **“Youth Staff”** means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.]

A. Definitions beginning with “A”:

(1)

“Administrator” means the person who is delegated the administrative responsibility for interpreting, implementing, and applying policies and procedures at the crisis triage center. The administrator is responsible for establishing and maintaining safe and effective management, control and operation of the CTC and all of the services

provided at the CTC including fiscal management. The administrator must meet the minimum administrator qualifications in these regulations.

(2)

“Advanced practice registered nurse” means a registered nurse that includes a certified nurse practitioner, or a clinical nurse specialist as defined and licensed under the Nursing Practice Act, as amended, and related regulations, and is currently in good standing.

(3)

“Applicant” means the individual or legal entity that applies for a CTC license to provide services in a particular facility. If the applicant is a legal entity, the individual signing the license application on behalf of the legal entity must have written legal authority from the legal entity to act on its behalf and execute the application. The license applicant must be the legal owner of the entity providing services, but not necessarily the facility.

B. Definitions

beginning with “B”: **“Basic life support” (BLS)** means training and current certification in adult cardiopulmonary resuscitation equivalent to American heart association class C basic life support and in emergency treatment of a victim of cardiac or respiratory arrest through cardiopulmonary resuscitation and emergency cardiac care.

C. Definitions

beginning with “C”:

(1)

“Caregivers criminal history screen” means pursuant to the criminal history screening for Caregivers Act, Section 29-17-1 through Section 29-17-5 NMSA 1978, the process for health facilities and medicaid home and community-based waiver providers to complete a caregiver criminal history screening for all caregivers no later than 20 calendar days after the employment hire date. The screening or background check includes the submission of fingerprints required for obtaining state and federal criminal history used to conduct the

fitness determination. The caregiver's criminal history screening program receives and processes background check applications for criminal history screenings from care providers in the state of New Mexico. Caregivers may be prohibited from employment if the caregiver has a disqualifying condition.

(2)

“Chemical restraint” means a drug or medication when it is used as a restriction to manage a client's behavior or restrict a client's freedom of movement and is not a standard treatment or dosage for a client's condition. If a drug or medication is used as a standard treatment to address the assessed current symptoms and needs of a client with a particular medical or psychiatric condition, its use is not considered a chemical restraint.

(3)

“CLIA” means clinical laboratory improvement amendments of 1988 as amended.

(4) **“Client”**

means any person who receives care at a crisis triage center.

(5)

“Compliance” means the CTC's adherence to these regulations, as well as all other applicable state and federal statutes and regulations. Compliance violations may result in sanctions, civil monetary penalties and revocation or suspension of the CTC license.

(6) **“Crisis stabilization services”**

means behavioral health services that are provided to help the client return his baseline level of functioning before the crisis.

(7) **“Crisis triage center”**

means a health facility that:

(a) is licensed by the department of health; and

(b) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization.

(8) **“CYFD”**

means the New Mexico children youth and families department.

(9) **“CYFD**

criminal records and background checks” means pursuant to the Criminal Offender Employment Act, Section 28-2-1 to Section 28-2-6 NMSA 1978, the New Mexico Children's and Juvenile Facility Criminal Records Screening Act, Section 32A-15-1 to Section 32A-15-4 NMSA 1978, amended, and 8.8.3 NMAC, the process of conducting a nationwide criminal history records check, background check and employment history verification on all operators, staff and employees and prospective operators, staff and employees of treatment facilities and programs with the objective of protecting children/youth and promoting the children's/youth's safety and welfare while receiving service from the facilities and programs. The process shall include submission of electronic fingerprints for those individuals to the department of public safety and the federal bureau of investigation for the purpose of conducting a criminal history and background check; identification of information in applicants' background bearing on whether they are eligible to provide services; a screening of CYFD's information databases in New Mexico and in each state where the applicant resided during the preceding five years; and any other reasonably reliable information about an applicant in order to identify those persons who pose a continuing threat of abuse or neglect to care recipients in settings to which these regulations apply.

D. Definitions

beginning with “D”:

(1)

“Deficiency” means a violation of or failure to comply with any provision(s) of these regulations.

(2)

“Department” means the New Mexico department of health.

E. Definitions

beginning with “E”: **“Employee”** means any person who works at the CTC and is a direct hire of the owner entity or management company, if applicable.

F. Definitions

beginning with “F”: **“Facility”** means the physical premises, building(s) and equipment where the crisis triage center services are provided, whether owned or leased and which is licensed pursuant to these regulations.

G. Definitions

beginning with “G”: [RESERVED]

H. Definitions

beginning with “H”:

(1) **“High risk behavior”**

means behaviors that place clients, staff or visitors' physical and mental health and safety at risk.

(2) **“HSD”**

means the New Mexico human services department.

I. Definitions

beginning with “I”:

(1) **“Incident”**

means any known, alleged or suspected event of abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(2) **“Incident management system”**

means the written policies and procedures adopted or developed by the CTC for reporting abuse, neglect, exploitation, injuries of unknown origin or other reportable incidents.

(3) **“Incident report form”**

means the reporting format issued by the department for the reporting of incidents or complaints.

J. Definitions

beginning with “J”: [RESERVED]

K. Definitions

beginning with “K”: [RESERVED]

L. Definitions

beginning with “L”:

(1) **“Level**

III.7-D: Medically monitored inpatient detoxification” means the types of detoxification services described by American Society of Addiction Medicine (ASAM) in its *Patient Placement Criteria, Second Edition, Revised* (PPC-2R) Level III & -D includes 24-hour medically supervised detoxification services requiring 24-hour nursing care and physician visits as necessary, unlikely to complete detox, without medical, nursing monitoring and more

intensive detoxification services.

(2)

“Licensee” means the person(s) or legal entity that operates the CTC and in whose name the CTC license has been issued and who is legally responsible for compliance with these regulations.

(3) **“Licensing authority”**

means the New Mexico department of health.

(4) **“Licensed mental health professional”**

means a psychologist, social worker, physician, psychiatrist, physician assistant, registered nurse, practical nurse, advanced practice registered nurse, each shall have behavioral health training and shall be licensed in the state of New Mexico.

M. Definitions

beginning with “M”: **“Management company”** means the legal entity that manages the CTC program, if different from the legal owner of the facility.

N. Definitions

beginning with “N”:

(1) **“NFPA”**

means the national fire protection association which sets codes and standards for fire and life safety. NFPA 101 and related standards, current edition as required by the department.

(2) **“NMSA”**

means the New Mexico Statutes Annotated 1978 compilation and all subsequent amendments, revisions and compilations.

O. Definitions

beginning with “O”:

(1) **“Onsite medical professional”**

means in this regulation a registered nurse, emergency medical service provider, emergency medical technician, licensed practical nurse, medical assistant, mental health technician, and certified nurse assistant.

(2)

“Outpatient services” means immediate crisis stabilization services provided to clients who are not admitted to the residential setting. Outpatient crisis stabilization services are not ongoing behavioral health treatment services.

P. Definitions

beginning with “P”:

(1) **“Physical restraint”**

means the use of physical force, consistent with State and Federal laws and regulations, without the use of any device or material that restricts the free movement of all or a portion of a body, but does not include: briefly holding a client in order to calm or comfort the client; holding a client’s hand or arm to escort the client safely from one area to another; or intervening in a physical fight.

(2)

“Physician” means a licensed individual, currently in good standing, authorized to practice medicine as defined and licensed under the New Mexico Medical Practice Act, Section 61-6-1 to Section 61-6-34 NMSA 1978, as amended, and related regulations or osteopathic medicine as defined and licensed under Section 61-10-1 to Section 61-10-22 NMSA 1978, as amended, and related regulations.

(3)

“Physician’s assistant” means an individual, currently in good standing, who is licensed and authorized to provide services to patients under the supervision and direction of a licensed physician under the Physician Assistant Act, Section 61-6-7 to Section 61-6-10 NMSA 1978, as amended and related regulations, or is authorized and licensed to provide services to patients under the supervision and direction of a licensed osteopathic physician under the Osteopathic Physicians’ Assistants Act, Section 61-10A-1 to Section 61-10-7 NMSA 1978 as amended, and related regulations.

(4) **“Plan of correction”**

(POC) means the plan submitted by the licensee or its representative(s) addressing how and when deficiencies identified through a survey or investigation will be corrected. A plan of correction is a public record once it has been approved by the regulatory authority and is admissible for all purposes in any adjudicatory hearing and all subsequent appeals relating to a CTC

license, including to prove licensee compliance violations or failures.

(5) **“Policy”**

means a written statement that guides and determines present and future CTC decisions and actions.

(6)

“Premises” means all of the CTC including buildings, grounds and equipment.

(7) **“Primary source verification”**

means the act of obtaining credentials directly from the original or primary source(s).

(8)

“Procedure” means the action(s) that must be taken in order to implement a written policy.

Q. Definitions

beginning with “Q”:

(1) **“Quality assurance”**

means the CTC’s on-going comprehensive self-assessment of compliance with these regulations and other applicable statutes and regulations.

(2) **“Quality committee”**

means a committee comprised at a minimum of the administrator, clinical director, director of nursing, licensed mental health professional, and psychiatrist. Other committee members may be specified by rules governing payor requirements. The committee shall establish and implement quality assurance and quality improvement systems that monitor and promote quality care to clients.

(3) **“Quality improvement system”**

means systematic and continuous actions that lead to measurable improvement in services and focus on reduction and stabilization of crises for clients.

R. Definitions

beginning with “R”:

(1)

“Registered nurse” means an individual, currently in good standing, who is licensed and authorized to provide nursing services under the Nursing Practice Act, Section 61-3-1 to Section 61-3-30 NMSA 1978, as amended, and related regulations.

(2)

“Residential services” means any crisis stabilization services provided

to a client admitted to the residential setting.

(3) “Restraint clinician” means a New Mexico licensed medical doctor, doctor of osteopathy, advanced practice registered nurse, clinical nurse specialist, physician assistant or doctoral level psychologist (Psy.D., Ph.D., or E.D.), who is trained in the use of emergency safety interventions.

S. Definitions beginning with “S”:

(1) “Sanitize clothes” means the use of water at a temperature of 212 degrees or use of a disinfectant agent to wash clothes.

(2) “Scope of practice” means the procedures, actions, and processes that a healthcare practitioner is permitted to undertake under the terms of their professional license. The scope of practice is limited to that which the applicable law allows for specific education, training, experience and demonstrated competency.

(3) “Seclusion” means the involuntary confinement of a client alone in a room where the client is physically prevented from leaving.

(4) “Short-term residential stay” means the limit of a client’s stay is eight days for the residential setting.

(5) “Staff” means any person who works at the CTC, and includes employees, contracted persons, independent contractors and volunteers who perform work or provide goods and services at the CTC.

T. Definitions beginning with “T”: [RESERVED]

U. Definitions beginning with “U”: “U/L approved” means approved for safety by the national underwriter’s laboratory.

V. Definitions beginning with “V”:

(1) “Variance” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a period that expires upon remodel of the CTC

or change of ownership, providing the variance does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations.

A variance can be renewed upon approval of the licensing authority. A variance may be revoked at the discretion of the licensing authority due to changes in state or federal regulations and statutes, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2) “Violation” means all actions or procedures by the CTC or licensee that are not in compliance with these regulations and all other applicable state and federal statutes and regulations.

W. Definitions beginning with “W”:

(1) “Waiver” means a written decision, made at the licensing authority’s sole discretion, to allow a CTC to deviate from a portion(s) or a provision(s) of these regulations for a limited and specified time period not to exceed the duration of the license, providing the waiver does not jeopardize the health, safety or welfare of the CTC’s clients, visitors and staff and is not in violation of other applicable state and federal statutes and regulations. A waiver can be renewed on an annual basis upon approval of the licensing authority. A waiver may be revoked at the discretion of the licensing authority due to changes in state or federal regulations, or change of circumstances that may jeopardize the health, safety or welfare of clients.

(2) “Withdrawal management” means the immediate psychological stabilization, diagnosis and treatment of a client who is intoxicated, incapacitated, or experiencing withdrawal of alcohol or drugs.

X. Definitions beginning with “X”: [RESERVED]

Y. Definitions beginning with “Y”:
(1) “Youth” means residents 14 years of age and older up to age 18.

(2) “Youth Staff” means a person who has contact with youth in a licensed facility and includes the owner, operator or director of a program, volunteers, full-time, part-time, and contract employees.

Z. Definitions beginning with “Z”: [RESERVED] [7.30.13.7 NMAC - N, 10/30/2018; A/E, 8/3/2023]

7.30.13.9 SCOPE OF SERVICES:

A. General scope of services: These regulations apply to crisis triage centers (CTC) which are health facilities offering youth and adult outpatient and residential care services. A CTC provides stabilization of behavioral health crises as outpatient stabilization or short-term residential stabilization in a residential rather than institutional setting, which may provide an alternative to hospitalization or incarceration. The CTC services may vary in array of services offered to meet the specific needs of different communities in New Mexico. A CTC may provide limited detoxification services but is differentiated from a detoxification center in that it does treat individuals who require treatment beyond Level III.7-D: Medically Monitored Inpatient Detoxification. The CTC provides emergency behavioral health triage and evaluation [and on a voluntary basis]. The CTC may serve individuals 14 years of age or older who meet admission criteria. The CTC shall offer services to manage individuals at high risk of suicide or intentional self-harm. The CTC shall not refuse service to any individual who meets criteria for services.

B. Type of services:
(1) a CTC structured for less than 24-hour stays providing only outpatient withdrawal management or other stabilization services;

(2) a CTC providing outpatient and residential crisis stabilization services; and

(3) a CTC providing residential crisis stabilization services.

C. Limitations on scope of services:

- (1) the CTC ~~[shall not accept involuntary commitments or individuals who are not voluntarily seeking treatment]~~ may accept voluntary admissions, individuals who are voluntarily seeking treatment, involuntary admissions and individuals who are not voluntarily seeking treatment;
- (2) the CTC shall not provide detoxification services beyond Level III.7-D: Medically Monitored Inpatient Detoxification services;
- (3) the CTC shall not provide medical care not related to crisis triage intervention services beyond basic medical care of first aid and CPR;
- (4) the CTC shall not provide residential services in excess of 14 calendar days, unless an involuntary admission is accepted and the CTC shall comply with all hearing and treatment provisions of Section 43-1-1 et.al NMSA 1978;
- (5) the CTC shall not provide ongoing outpatient behavioral health treatment;
- (6) the CTC shall not exceed the capacity for which the CTC is licensed;
- (7) a CTC with both adult and youth occupants must locate youth rooms and restrooms in a unit or wing that is physically separated from the adult facilities;
- (8) A CTC shall not administer emergency psychotropic medications as described in Subsection M of Section 43-1-15 NMSA 1978 if admitting only voluntary admissions. Any use of emergency psychotropic medications for involuntary admissions shall only be done in accordance with Subsection M of Section 43-1-15 NMSA 1978.

D. License required:

- (1) a CTC shall not be operated without a license issued by the department;
- (2) any facility providing the services described in these regulations on the effective date

of these regulations, shall apply for a CTC license within 180 days;

- (3) a CTC licensed under these regulations shall not assert, represent, offer, provide or imply that the CTC is or may render care or services other than the services it is permitted to render under these regulations and within the scope of all applicable professional license(s);
- (4) if an unlicensed CTC is found to be providing services for which a license is required under these regulations, the secretary may issue a cease-and-desist order, to protect human health or safety or welfare. The unlicensed facility may request a hearing that shall be held in the manner provided under these regulations and all other applicable regulations. [7.30.13.9 NMAC - N, 10/30/2018; A/E, 8/3/2023]

7.30.13.29 STAFFING REQUIREMENTS:

A. Minimum staffing requirements:

- (1) The CTC shall have an on-site administrator, which can be the same person as the clinical director.
- (2) The CTC shall have a full time clinical director appropriately licensed to provide clinical oversight.
- (3) The CTC shall have an RN present on-site 24 hours a day, seven days a week or as long as clients are present in programs that do not offer residential services, to provide direct nursing services. This requirement does not apply to CTCs offering 23 hours or less non-residential services; instead these CTCs may have onsite medical professionals who have access to immediate support and supervision by an RN or a higher-level provider in accordance with Section 24-25-1 et al.NMSA 1978 New Mexico Telehealth Act.

- (4) An on-call physician or advanced practice registered nurse shall be available 24 hours a day by phone, and available on-site as needed or through telehealth.

(5)

Consultation by a psychiatrist or prescribing psychologist may be provided through telehealth.

(6) The CTC shall maintain sufficient staff including direct care and mental health professionals to provide for supervision and the care of residential and non-residential clients served by the CTC, based on the acuity of client needs.

(7) At least one staff trained in basic cardiac life support (BCLS) and first aid shall be on duty at all times. In addition, one staff trained in the use of the automated external defibrillator (AED) equipment shall also be on duty.

B. Other staff requirements:

(1) The CTC shall ensure that the type and number of professional staff are:

- (a) licensed, certified or credentialed in the professional field as required, and practice within the scope of the license;
- (b) present in numbers to provide services, supports, care, treatment and supervision to clients as required; and
- (c) experienced and competent in the profession they are licensed or practice.

(2) The CTC shall comply with all applicable laws, rules and regulations governing caregivers' criminal history screen requirements and employee abuse registry requirements.

(3) The CTC shall ensure that, within the first sixty days of providing direct care to individuals, all staff, volunteers and contractors having direct contact with clients shall receive required training.

(4) The CTC shall be staffed to ensure the safety of clients when staff are accused of abuse, neglect or exploitation.

(5) In instances of involuntary admission as allowed under amendments to Section 43-1-1 NMSA, Mental Health and

Developmental Disabilities Code, adequate staffing must be provided to ensure patient and staff safety, and the CTC must meet medical records requirements for licensure of psychiatric hospitals as set forth, in 7.7.2.40 NMAC.

[7.30.13.29 NMAC - N, 10/30/2018; A/E, 8/3/2023]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.7.3 NMAC Sections 6, 7, 9, 11 and 12 effective 8/15/2023.

5.7.3.6 OBJECTIVE: The objective and purpose of 5.7.3 NMAC is to increase the number of health professionals in underserved areas of the state through a program of loan repayment of eligible educational loans. The program will pay its participants for the principal and reasonable interest accrued on loans obtained for educational purposes. The program requires, as a condition of each eligible participant, that they practice their profession within one of the areas of the state designated by the health profession advisory committee as a health professional shortage area for a minimum period of ~~two~~ three years.

[7/15/1998; 5.7.3.6 NMAC - Rn, 5 NMAC 7.3.6, 7/31/2005; A, 8/15/2023]

5.7.3.7 DEFINITIONS:

A. ~~“Department”~~ “Commission”, without further specification, means the New Mexico higher education department.

B. “Committee” means the health professions advisory committee of the department.

C. ~~“Department”~~ “Department” means the New Mexico higher education department.

[E] D. “Eligible educational loan” means government and commercial loans for actual costs paid for tuition, reasonable education expenses including fees, books, supplies and materials; and reasonable living expenses including room and

board and other itemized expenses incurred during an individual’s enrollment at a post-secondary institution in a health occupation educational program. Expenses incurred must be related to the acquiring of said education.

[D] E. “Eligible participant” includes ~~[primary care]~~ physicians, physician assistants, advanced practice nurses, registered nurses, dentists, ~~[pediatrists]~~ podiatrists, ~~[optometrists and allied health care providers. Other specialties may be considered at the discretion of the committee.]~~ optometrists, allied health care providers and other specialties approved by the committee.

[E] F. “Extenuating circumstances” means circumstances not within the control of the recipient.

[F] G. “Health professional shortage area” means an area of the state or a facility which has been determined by the health professions advisory committee as an acceptable practice site in which program participants may fulfill their commitment.

[G] H. ~~“Primary care physician”~~ “Physician” means a physician, allopathic or osteopathic with a specialty in family or general medicine, general internal medicine, general pediatrics and obstetrics and gynecology ~~[Other]~~ and other specialties [may be considered at the discretion of] approved by the committee.

[7/15/1998; 5.7.3.7 NMAC - Rn & A, 5 NMAC 7.3.7, 7/31/2005; A, 5/16/2023; A, 8/15/2023]

5.7.3.9 PARTICIPANT ELIGIBILITY:

To be eligible for this program, an applicant must:

A. submit an application containing biographical, educational and health profession education loan information including lender name, address, telephone number, loan numbers, loan balances, interest rates and remaining payments for review;

B. be licensed or certified in the state of New Mexico to practice their profession;

C. be a citizen of the United States or a permanent resident alien and a resident of New Mexico;

D. provide service in a clinical practice of their profession full time (36 hours per week), the committee may consider part-time service, with prorated awards, on a case-by-case basis;

E. practice in an approved health professional shortage area for a minimum period of ~~two~~ three years, the committee may consider longer periods of service on a case-by-case basis;

F. charge for their professional services at the usual and customary rates prevailing in the areas in which such services are provided, except that if a person is unable to pay such a charge, such person shall be charged at a reduced rate or not charged any fee;

G. agree that, in providing health services, they will not, in the case of an individual seeking care, discriminate on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in Title XVIII (medicare) of the Social Security Act or pursuant to the program established in Title XIX (medicaid) of such act; and

H. agree that they will accept assignment under Section 1842(b)(3)(B)(ii) of the Social Security act for all services for which payment may be made under Part B of Title XVIII and will enter into an appropriate agreement with the state agency that administers the state plan for medical assistance under Title XIX of such act to provide service to individuals entitled to medical assistance under the plan.

[7/15/1998; 5.7.3.9 NMAC - Rn, 5 NMAC 7.3.9, 7/31/2005; A, 5/16/2023; A, 8/15/2023]

5.7.3.11 PARTICIPATION AGREEMENT:

Upon approval, a participation agreement shall be drawn between each eligible participant receiving loan repayment and the department on behalf of the state of New Mexico. The agreement

shall state both the participant's obligation under the program as well as the department's responsibility. No payment will be made until a duly signed document is on file at the department offices. The participation agreement shall include, but not be limited to, the following stipulations:

A. provide for the repayment of a specified sum as determined in Section 10; the commission will pay the amount due for each quarter of completed service by the program participant, directly to the participant or their lender(s) for payment of their health professional education loans; any amounts allocated to repay loans will be divided equally by the number of quarters in the service period covered by the award; quarters comprise an average of thirteen weeks including paid leave or any combination of hours and weeks thereof for the entire service period;

B. state that the department will complete annual reports to all tax authorities delineating award payments made to the program participant;

C. state that payment of the award is conditioned upon the program participant submitting timely reports and requests for reimbursement to the department or its designee, as required by the commission;

D. state the participant's obligations including a minimum [~~two~~] three year period of service in a practice providing continuous clinical services in the field of their profession in an area designated by the committee as eligible;

E. state that the program participant is responsible for payment(s) of their eligible health professional education loans until such time that actual loan repayment is performed by the department. Repayment by the department will begin following the first certified quarter of completed clinical service in an area designated by the committee;

F. state that the recipient will charge for professional

services at the usual and customary rate prevailing in the area where the services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee;

G. in providing health services, the participant shall not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under Part A or B of Title XVIII of the Social Security Act or under a state plan for medical assistance approved under Title XIX of such act;

H. the participant will accept assignment under Sections 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be under Part B of Title XVIII of such act and enter into an appropriate agreement with the state agency which administers the state plan for medical assistance under Title XIX of such act to provide services to individuals entitled to medical assistance under the plan;

I. the award will be terminated if any of the following should occur:

(1) the participant fails to perform continuous clinical service at the approved facility, unless a change of facility or an interruption in service is approved in advance and in writing by the department; no interruption in service exceeding six months will be approved;

(2) the employment of the participant at an approved location is terminated;

(3) the participant loses their professional license, board certification or billing privileges for medicaid or medicare; or

(4) the department deems termination is warranted for any other reasonable cause.

J. in the event this agreement is terminated by the commission, the commission shall

have no obligation to make any further payments to or on behalf of the participant;

K. penalties as outlined in Section 12; and

L. shall state that the participant further promises:

(1) to use the allocated award solely for the purposes of repaying health professional education loans, including principal, interest and related expenses or, where approved by the commission;

(2) to be responsible for all tax liabilities incurred in the acceptance of the award; and

(3) to complete all necessary reports and requests for loan repayment required by commission and submit them to the commission or its designee on a timely basis.

[7/15/1998; 5.7.3.11 NMAC - Rn & A, 5 NMAC 7.3.11, 7/31/2005; A, 12/11/2018; A, 8/15/2023]

5.7.3.12 PENALTIES:

A. If a program participant does not comply with the terms of the participation agreement, the department shall assess a penalty of up to three times the amount of award disbursed, plus eighteen percent interest, unless the commission finds acceptable extenuating circumstances for why the participant could not serve and comply with the terms of the provisions. If the commission does not find acceptable extenuating circumstances for the participant's failure to comply, the commission shall require immediate repayment plus the amount of any penalty assessed pursuant to this section.

(1) The full penalty shall apply unless the circumstances reflect that the penalty should be reduced on a prorata basis reasonably reached based upon the degree of control which the recipient has over the decision not to serve. The recipient shall have the burden of proof.

(2) If the commission does not find acceptable

extenuating circumstances for the recipient’s failure to carry out their declared intent to serve in a designated shortage area in the state, the commission shall require immediate repayment of the award granted to the recipient plus the amount of any penalty assessed pursuant to this subsection.

B. Participants who have signed a participation agreement for [two] three years and fail to complete a quarter of service will not receive a prorated award amount. [7/15/1998; 5.7.3.12 NMAC - Rn & A, 5 NMAC 7.3.12, 7/31/2005; A, 8/15/2023]

HIGHER EDUCATION DEPARTMENT

This is an amendment to 5.7.34 NMAC Sections 6, 7, 8 and 11 effective 8/15/2023.

5.7.34.6 OBJECTIVE:
The objective of 5.7.34 NMAC is to provide a guideline for implementing the Teacher Preparation Affordability Act (the Act). The purpose of the Act is to encourage eligible New Mexico students to attend and complete an accredited public education department approved teacher preparation program at a New Mexico public post-secondary educational institution or a tribal college by providing a scholarship opportunity. The Act also provides a scholarship opportunity for licensed teachers enrolled in a graduate program in education or a degree related to their teaching specialty. The scholarship is intended to help defray the educational expenses charged by the public postsecondary institution or tribal college including tuition, fees, books and course supplies and living expenses. [5.7.34.6 NMAC - N, 7/30/2019; A, 8/15/2023]

5.7.34.7 DEFINITIONS:
A. “Academic year” means any consecutive period of two semesters, three quarters or other

comparable units commencing with the fall term each year.

B. “Award recipient” means a student awarded a scholarship.

C. “Department” means the New Mexico higher education department.

D. “FAFSA” means the free application for federal student aid.

~~**E. “Half-time”** means an enrolled student who is carrying a half-time academic work load as determined by the institution according to its own standards and practices.~~

~~**F] E. “Institution”** means a New Mexico public post-secondary educational institution or tribal college.~~

~~**[G] E. “Public post-secondary educational institution”** means a research or comprehensive institution, as defined in Article XII, Section 11 of the New Mexico constitution, and branch community colleges or community college or technical and vocational institute as defined by Section 21-13, 14 and 16 NMSA 1978.~~

~~**[H] G. “Returning adult”** means a student enrolling in an institution at any time later than the first semester following high school graduation or the award of a high-school equivalency credential recognized by the State of New Mexico.~~

~~**[I] H. “Satisfactory academic progress”** means maintaining the required academic progress toward program completion as determined by the institution.~~

~~**[J] I. “Scholarship”** means a teacher preparation affordability program award.~~

~~**[K] J. “Tribal college”** means a tribally, federally or congressionally chartered post-secondary educational institution with a physical campus in New Mexico that is accredited by the higher learning commission. [5.7.34.7 NMAC - N, 7/30/2019; A, 8/15/2023]~~

5.7.34.8 STUDENT ELIGIBILITY AND SELECTION OF AWARD RECIPIENTS:

A. A scholarship may be granted to a student who:

(1) is a resident of New Mexico as defined in 5.7.18.9 NMAC or is eligible for the nondiscrimination waiver as defined in Subsection K of 5.7.18.10 NMAC;

~~**(2)** has demonstrated financial need as determined by the institution;~~

~~**[2] (3)** is enrolled or enrolling [at least half-time] at an eligible institution [in a teacher preparation program that leads to an appropriate educational credential to be licensed as a teacher by the public education department including but not limited to an education major or alternative licensure certification program. The student’s enrollment must be later than 120 days following high school graduation or the award of a high school equivalency credential recognized by the state of New Mexico]; and~~

~~**[3] (4)** [has not earned appropriate educational credentials to be licensed as a teacher by the public education department; and] is:~~

~~**(a)** a licensed teacher enrolled or enrolling at an eligible institution in a graduate program in education or a degree related to their teaching specialty; or~~

~~**(b)** an individual who has not earned appropriate educational credentials to be licensed as a teacher by the public education department and enrolled in a teacher preparation program that leads to an appropriate educational credential to be licensed as a teacher by the public education department, including to an education major or alternative licensure certification program, no later than 120 days following high school graduation or the award of a high school equivalency credential recognized by the state of New Mexico.~~

~~**[4]** has demonstrated financial need as determined by the institution.]~~

B. Institutions shall make awards first to students who meet the provisions of Subsection A of 5.7.34.8 NMAC and who:

(1) are English language learners whose first or heritage language was not English;

(2) are historically underrepresented minorities in New Mexico's teaching profession; or

(3) have declared intent to teach in a high-need teacher position as defined by the public education department.

C. After scholarships have been awarded to eligible students pursuant to Subsection B of 5.7.34.8 NMAC, institutions shall make awards to students who meet the provisions of Subsection A of 5.7.34.8 NMAC

[5.7.34.8 NMAC - N, 7/30/2019; A, 7/12/2022; A, 8/15/2023]

5.7.34.11 TERMINATION OF SCHOLARSHIP: A scholarship is terminated upon occurrence of one or more of the following by the award recipient:

A. withdrawal from the institution or from the teacher preparation program;

B. failure to maintain [at least half-time] enrollment;

C. failure to achieve satisfactory academic progress; or

D. substantial noncompliance with the Teacher Preparation Affordability Act or the provisions of 5.7.34 NMAC.

[5.7.34.11 NMAC - 7/30/2019; A, 8/15/2023]

PUBLIC EDUCATION DEPARTMENT

This is an amendment to 6.10.7 NMAC Sections 2, 3, 6, 7, 8, 9, and 12, effective August 15, 2023.

6.10.7.2 SCOPE: [All-school] School districts, charter schools, state [educational] institutions, and bureau of Indian education (BIE) schools, including

virtual programs, that administer standardized tests, as well as their employees or volunteers who have access to those standardized tests.

[6.10.7.2 NMAC - Rp, 6.10.7.2 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.3 STATUTORY AUTHORITY: Sections 9-24-8, 22-2-1, 22-2-2 and 22-2C-4 NMSA 1978. [6.10.7.3 NMAC - Rp, 6.10.7.3 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.6 OBJECTIVE: This rule establishes the roles, responsibilities, and procedures required for the preparation, storing, handling, distribution, security, and administration of standardized tests. The purpose of this rule is to maintain standardization of procedures to ensure valid and reliable results, equity of opportunity, and fairness to students.

[6.10.7.6 NMAC - Rp, 6.10.7.6 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.7 DEFINITIONS:
A. "District or charter test coordinator" or "DTC" means the licensed school instructor, counselor, student success advisor, or administrator in a school district, charter school, virtual program, state educational institution, or bureau of Indian education school (BIE) designated by the district superintendent, charter administrator, or governing authority of a state educational institution or BIE school with the overall responsibility for:

(1) handling, storing, and distributing standardized tests and test material, including student test tickets for online tests;

(2) recording standardized test distribution by booklet or answer sheet number;

(3) collecting and administering standardized tests;

(4) training school personnel in test security matters; and

(5) following proper test administration procedures.

B. "Instructional support provider" means a licensed educational diagnostician, interpreter

for the deaf, rehabilitation counselor, school counselor, school psychologist, school social worker, or speech language pathologist.

C. "New Mexico statewide assessment program" or "NMSAP" means the assessment program that is approved by the department and designates the required standardized tests to be administered in New Mexico public school districts, charter schools, state educational institutions, and BIE education schools.

D. "Proctor" means a designated, trained person who assists the test administrator during the time of testing.

E. "School test coordinator" means the licensed school instructor, counselor, student success advisor, administrator, or instructional support provider responsible for:

(1) handling, storing, and distributing standardized tests for administration to test administrators;

(2) recording standardized test distribution by booklet or answer sheet number;

(3) collecting and administering standardized tests;

(4) training school personnel in test security matters; and

(5) following proper test administration procedures within the school site.

F. "Standardized test" means any nationally norm-referenced assessment, state or national performance assessment, or state or national criterion-referenced assessment.

G. "Standardized test material" means a standardized test or any related items for paper-based or online testing such as examiner guides, preparation materials, student test tickets, test security guides, answer sheets or booklets, and any student notes, answers, or essays generated during the administration of a standardized test.

H. "Test administrator" means the licensed school instructor, counselor, student

success advisor, administrator, or instructional support provider in a school district, charter school, state educational institution, or BIE education school with the responsibility of administering tests under the guidelines outlined in 6.10.7 NMAC.

I. “Test administration window” means a specified period of time, as designated by the department assessment bureau, during which statewide tests shall be administered.

J. “Testing irregularity” means any circumstance within or beyond the control of a school district or charter that raises doubts with the department, district, or charter about the propriety of standardized testing procedures, preparation materials, standardized testing administration, standardized testing security, student scores attained from standardized testing, or educators’ or individuals’ conduct observed during standardized test administration.

K. “Virtual program” means an educational program conducted via computers online, either entirely or as a hybrid virtual program in combination with in-person educational programming. [6.10.7.7 NMAC - Rp, 6.10.7.7 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.8 RESPONSIBILITIES OF SUPERINTENDENTS AND CHARTER ADMINISTRATORS:

It shall be the responsibility of each superintendent or charter administrator to ensure that standardized tests are handled, stored, prepared for, and administered in accordance with [6.10.7 NMAC] this rule and test manuals provided by the department or testing vendors.

A. Superintendents and state charter administrators shall designate one DTC and may designate a secondary test coordinator for the purpose of delegating the duties necessary to comply with 6.10.7 NMAC.

B. Test administration at district charters shall be the responsibility of the DTC designated by the district superintendent. District

charters may submit documented requests to designate their own test coordinator. Requests shall be submitted to and approved by the superintendent at the start of the school year. Failure to meet any standardized test administration policies or practices will result in removal of the district charter test coordinator without appeal. Upon such determination, all test coordination responsibilities shall defer back to the authorizing district’s test coordinator.

C. The designation of district, charter, and secondary test coordinators shall:

- (1) be in writing; and
- (2) identify the name, title, and contact information of the person(s) so delegated.

D. The superintendent or charter administrator shall complete and return the verification of test security, staff training, and accommodations requirements documentation to the department within 10 business days after the close of all NMSAP testing at the end of each semester.

[6.10.7.8 NMAC - Rp, 6.10.7.8 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.9 RESPONSIBILITIES OF DISTRICT OR CHARTER TEST COORDINATORS:

A. The DTC shall attend all trainings indicated as mandatory by the department in their entirety. DTC attendance at mandatory trainings shall be subject to verification.

B. Once trained, the DTC shall provide training for all secondary test coordinators, school test coordinators, and all personnel involved in test administration, preparation, and security.

C. The DTC shall provide principals the same training as test administrators as well as additional training in the storing, handling, destruction, and administration of standardized test material. Assistant principals shall, at a minimum, be knowledgeable of the requirements for the administration

of standardized tests set forth in Subsection C of 6.10.7.12 NMAC.

D. The DTC shall inform all teachers, educational assistants, substitutes, volunteers, licensed and unlicensed office staff, and anyone else who is likely to come into contact with standardized testing material of the need to maintain strict standardized test security by:

- (1) developing and disseminating handouts to these individuals;
- (2) providing training to these individuals; and
- (3) posting conspicuous signs near school copy machines prior to and during a standardized test that warn of department rules prohibiting the copying of any portion of a standardized test, including student responses and any other standardized testing material.

E. The DTC shall provide training participants with copies of the following:

- (1) [6.10.7 NMAC] this rule and any other relevant statute or regulation, if necessary;
- (2) written district or charter school guidance documents;
- (3) testing schedules;
- (4) test administration manuals; and
- (5) the

department shall inform DTCs of the test administration windows in writing at least annually. DTCs shall ensure that all required training, including online testing and test security training, is administered prior to the fall and spring test administration windows.

F. In the absence of a written district or charter policy that includes the procedures outlined in 6.10.7.12 NMAC, the DTC shall develop checklists and written procedures for internal use to ensure compliance with [6.10.7 NMAC] this rule.

G. The DTC shall, in accordance with department rules and standards:

(1) ensure all procedures for standardized testing comply with 6.10.7.12 NMAC; ~~and~~ (2) collaborate with appropriately licensed personnel to ensure appropriate test assignment for all students, and appropriate accommodations for students with disabilities and English learners; and ~~(2)~~ (3) carry out infrastructure trials, as necessary, and online testing preparations. [6.10.7.9 NMAC - Rp, 6.10.7.9 NMAC, 12/27/2018; A, 8/15/2023]

6.10.7.12 PROCEDURES FOR STANDARDIZED TESTING:

All schools, including virtual programs, shall maintain a chain of custody that identifies authorized staff members and tracks the movement of secure test materials from one location to another.

A. Storing and handling of standardized test material.

(1) Standardized ~~[tests]~~ test material, including student test tickets for online testing, shall be counted, inventoried, and stored in a secure, locked location with limited access.

(2) Space permitting, standardized test material shall be stored in sealed containers in a secure area.

(3) Standardized test materials, as directed by the department, shall be disposed of by either shredding or returning such materials to the test vendor.

(4) Virtual programs shall document a chain of custody that includes secure storage and handling of all test administration equipment and materials from the designated delivery of vendor materials to the designated testing locations of all students eligible for testing.

B. Accessing standardized test material.

(1) Access to standardized test materials, including student test tickets for on-site, online testing, shall be restricted, limited, and controlled.

(2) Personnel with access to standardized test materials shall be designated by the superintendent or charter administrator.

(3) The removal of standardized test materials from their secure, locked location for the purposes of test administration and submittal at the close of the test administration window shall be logged and recorded. Records shall:

(a) identify the individual who removed standardized test materials;

(b) identify the name(s) and identifying number(s) of the standardized test materials that were removed;

(c) identify the number of standardized test materials that were removed;

(d) identify the date the standardized test materials that were removed;

(e) include documentation of any standardized test materials taken off school grounds and their return;

(f) be maintained for at least five calendar years; and

(g) be made available for review by the department upon request.

C. Administration of standardized tests.

(1) Only licensed school instructors, counselors, student success advisors, administrators, and instructional support providers shall administer a standardized test.

(2) Substitutes, educational assistants, school nurses, and coaches shall not administer standardized tests unless the individual additionally holds valid licensure to serve as a teacher, counselor, student success advisor, administrator, or instructional support provider.

(3) Educational assistants may be permitted to support testing accommodations for one-on-one and small group testing under the supervision of a test administrator.

~~(b)~~ Educational assistants administering accommodations shall:

~~(i)~~ (a) meet the requirements stated in 6.10.7.11 NMAC;

~~(ii)~~ (b) receive the written approval of the DTC;

~~(iii)~~ (c) be under the supervision of a test administrator as defined in Subsection H of 6.10.7.7 NMAC; and

~~(iv)~~ (d) not support accommodations for a group larger than five students.

(4) Training shall be provided to all persons who administer or proctor a standardized test. Individuals shall not be permitted to administer or proctor a standardized test without first completing training in accordance with the timelines, topics, and materials designated by the department.

(a) Sign-in forms listing training topics, printed name, and signature shall be maintained as a record by date to identify all individuals who have completed the district or charter training in test security, practice materials, and administration of standardized tests.

(b) Each sign-in record shall be maintained for at least five calendar years and be made available for review by the department upon request.

(5) The ratio of test administrators to students shall not exceed 25 students per test administrator.

(a) Tests may be administered to no greater than 30 students per test administrator if, at a minimum, an additional test administrator or test proctor is present for the duration of the test.

(b) At no point shall the number of students tested simultaneously and in the same location exceed 30 students without the presence of at least two test administrators or one test administrator and one test proctor.

(6) Test proctors shall be utilized to support the following:

(a) gathering of missing supplies;

(b) assistance with medical situations; and

(c) monitoring of the testing environment in the presence of a test administrator.

(7) All mandatory statewide assessments, including those administered to students in fully virtual or hybrid programs, shall be administered in person, on site, by a test administrator on school premises or at an official district designated location.

(8) Test administrators shall prepare and manage the environment for on-site, in-person, online testing to ensure that students look only at their individual computers.

D. Prohibited [Practices] practices. The following practices shall be prohibited:

- (1) changing a student’s standardized test answers, erasing double-marked or lightly erased or lightly marked answers, or directing or suggesting that a student change a standardized test answer;
- (2) providing students with a review of specific standardized test items, specific standardized test items with minor changes in settings or numbers, verbal or written restatements or paraphrasing of standardized test items, specific vocabulary from standardized test directions or standardized test items, or answers before, during or after a standardized test;
- (3) discussing, photocopying, or reproducing in any other fashion including paraphrasing, any portion of a standardized test or student responses;
- (4) affording any student under a standardized administration extra time to complete a timed subtest, unless permitted as an accommodation in the student’s IEP, 504 plan, or English learner plan;

- (5) reading standardized test items aloud to students unless required in a specific standardized test or unless required as an accommodation in the student’s IEP, 504 plan, or English learner plan;
- (6) permitting students during a standardized test to have on or near their desk or on their person, any unauthorized items, including scrap paper, tablets, laptop computers without secure browsers, cell phones with or without cameras, cameras, calculators, calculator watches, smart watches, media players, headphones, wireless earbuds, backpacks, and rulers unless any of these are required or permitted by standardized test instructions;
- (7) permitting students to observe standardized test vocabulary words with definitions, addition or multiplication tables (in various forms), spelling words on the standardized test, or similar assistance material during the administration of the standardized test;
- (8) permitting students to talk, become disruptive, or exchange any test materials;
- (9) permitting students to begin a subtest, leave the testing room, and return to finish the subtest;
- (10) permitting students to enter a testing room after the standardized test has already commenced;
- (11) permitting standardized test material to remain unattended in an unlocked room;
- (12) taking standardized test material off campus unless specifically authorized by the DTC;
- (13) displaying or failing to conceal visual aids that may assist students in the testing room;
- (14) administering a standardized test to immediate family members or relatives including children, stepchildren, siblings, nieces, nephews, or grandchildren;
- (15) teaching from, possessing, or in any way disseminating a photocopy or

- other reproduced or paraphrased standardized test or portion of a standardized test;
- (16) copying copyrighted test preparation materials for the purpose of distribution;
- (17) coaching or otherwise inappropriately assisting with the selection or writing of student answers; and
- (18) accessing secure, online testing portals with unassigned log-in information [6.10.7.12 NMAC - Rp, 6.10.7.12 NMAC, 12/27/2018; A, 8/15/2023]

PUBLIC REGULATION COMMISSION

This is an emergency amendment to 17.9.551 NMAC, Section 2, 3, 7, 8, 10, and 11 effective 8/15/2023.

17.9.551.2 SCOPE: This rule applies to the investor owned electric [utility] utilities operating within New Mexico that are subject to the jurisdiction of the New Mexico public regulation commission and to purchased power agreements entered into after the [the] effective date of this rule. This rule shall not supersede or modify requirements pertaining to an electric utility’s purchased power agreements with its affiliates as set by New Mexico public regulation commission orders. [17.9.551.2 NMAC - N, 7/31/2012; A/E, 8/15/2023]

17.9.551.3 STATUTORY AUTHORITY: Public Regulation Commission Act, [~~Sections 8-8-1 et. seq. NMSA 1978;~~] Section 62-19-9 NMSA 1978, Public Utility Act, Sections 62-3-1, 62-6-4, and 62-6-19 NMSA 1978. [17.9.551.3 NMAC - N, 7/31/2012; A/E, 8/15/2023]

17.9.551.7 DEFINITIONS:

A. “Capacity cost” means a charge separately identified and incurred under a purchased power agreement for capacity or the reservation of capacity.

B. “Commission”

means the New Mexico public regulation commission.

C. “Electric utility”

means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act Sections 62-13-1, et seq. NMSA 1978, but does not include rural electric cooperatives.

D. “Fixed cost”

means a charge separately identified and incurred under a purchased power agreement that does not vary with changes in amount used, volume consumed, or units purchased. A fixed cost includes, but is not limited to, administrative fees, accounting fees, facilitation fees, minimum payment amounts, and similar charges.

E. “Long term purchased power agreement” or “LTPPA” means a purchased power agreement with a term of five [(5)] years or more and for which an electric utility seeks or intends to seek rate recovery from its New Mexico retail customers. The term shall be inclusive of the base term and any automatic or option extensions.

F. “Purchased power agreement” means [a] an agreement for the purchase of energy or capacity, or both, by an electric utility with a term of any length and for which an electric utility seeks or intends to seek rate recovery from its New Mexico retail customers, but does not include agreements to purchase renewable energy subject to commission review and approval under the Renewable Energy Act Sections 62-16-1, et seq. NMSA 1978, or agreements to purchase energy or capacity from a qualifying facility pursuant to Section 17.9.570 NMAC.

[17.9.551.7 NMAC - N, 7/31/2012; A/E, 8/15/2023]

17.9.551.8 GENERAL REQUIREMENTS FOR FILING AN APPLICATION FOR APPROVAL OF A LONG-TERM PURCHASED POWER AGREEMENT:

A. No electric utility shall become irrevocably obligated

under an LTPPA without first obtaining the commission’s written approval of the agreement.

B. An electric utility shall file at the commission within [~~thirty (30)~~] 30 days after the execution of a LTPPA an application for the commission’s review and approval of the LTPPA. [~~The proceeding to consider the application shall be a proceeding concerning a utility’s resource acquisition under Subsection B of 17.7.3.12 NMAC.~~]

C. Copies of the application shall be served on commission staff, the New Mexico attorney general and parties in the electric utility’s most recent general [electric] rate case, in accordance with Subsection C of 1.2.2.10 NMAC.

D. An application for commission review and approval of an LTPPA shall be accompanied by supporting testimony and exhibits that provide:

(1) a copy of the LTPPA; [and]

(2) an explanation of the key terms and conditions of the LTPPA containing:

(a) the term of the LTPPA including any options to extend the agreement;

(b) the size in MW of capacity and the amount of energy in MWh or kWh per month and any conditions regarding the minimum or maximum amount of energy or capacity made available or required to be purchased;

(c) the price or pricing formula under which the electric utility will pay for the power and energy contracted for, including identification of when charges begin to be incurred, any price reopeners and any price escalation provisions;

(d) obligations by the electric utility to pay for any fixed or variable administrative, transactional, or operation and maintenance costs incurred through the operation of the generation facility, including start-up costs, taxes, insurance, environmental or reclamation-related costs, fuel costs, and any other costs that the electric utility may incur; and

(e)

provisions relating to non-performance by the counter-party and the remedies provided;

(3) a

description of transmission costs the electric utility will incur or pay to receive the purchased power, which may include the costs of third-party transmission wheeling, or construction of transmission to facilitate purchases under the LTPPA or both;

(4) an

explanation of how the electric utility proposes to recover from ratepayers the costs incurred and an estimate of the effect on rates to customers;

(5) a general

description of:

(a)

the generating facility or facilities that will generate the purchased power; or

(b) if

the power is to be generated from one or more specific generating units to be constructed outside New Mexico, a description of the anticipated siting of the generating unit, expected construction time, and the expected commercial operation date; and

(c) if

the power is to be generated from one or more specific generating units to be constructed within New Mexico, a description of:

(i)

the approvals required to construct and operate the generating unit, including air quality and other environmental permits;

(ii)

the expected construction time;

(iii)

the expected commercial operation date;

(iv)

the fuel type and supply sources; and

(v)

other provisions addressing the electric utility’s ownership options for the generating unit during or after the term of the agreement;

(6) evidence

that entering into the LTPPA is consistent with the provision of safe and reliable electric utility service at the lowest reasonable cost,

considering both short and long-term costs and all other relevant factors;

(7) evidence of the LTPPA’s impact on the electric utility’s financial condition and financial metrics;

(8) evidence that the LTPPA is consistent with the electric utility’s most recent commission-accepted integrated resource plan unless [as described in Section 17.7.3.10 NMAC,] material changes that would warrant a different course of action by the electric utility have occurred, in which case, the testimony shall include justification for deviation from the integrated resource plan;

(9) evidence addressing whether a utility-owned generation resource could have been constructed as an alternative to the LTPPA with greater benefit to ratepayers;

(10) evidence addressing the methodology and criteria by which the purchased power agreement was selected; and

(11) any other information or evidence that the electric utility believes will assist the commission in its review of the LTPPA.

E. The electric utility may, as set forth in Subsection D of 17.9.551.8 NMAC, submit any portion of its application and supporting documentation under seal, to the extent that the electric utility deems the specific information to be confidential. The electric utility shall seek a protective order under Subsection B of 1.2.2.8 NMAC for the information it considers confidential. [17.9.551.8 NMAC - N, 7/31/2012; A/E, 8/15/2023]

17.9.551.10 PROCESS FOR APPROVAL OF A LONG-TERM PURCHASED POWER AGREEMENT:

A. The commission may approve an application for approval of an LTPPA without a formal hearing if no protest is filed within [sixty (60)] 60 days after the date that notice is given pursuant to a commission order.

B. The commission shall issue its final order acting on the application within six [(6)] months after the date the application was filed. A final order denying an application shall be without prejudice. The electric utility may re-file a previously denied application at any time after that denial. If the commission does not issue its final order within six [(6)] months after the date that the application was filed by the electric utility, the application shall be deemed to be approved. [17.9.551.10 NMAC - N, 7/31/2012; A/E, 8/15/2023]

17.9.551.11 INFORMATIONAL FILING REQUIREMENTS FOR A PURCHASED POWER AGREEMENT WITH A TERM OF TWO [(2)] YEARS OR MORE BUT LESS THAN FIVE [(5)] YEARS:

A. An electric utility may, but is not required to, request approval or request ratemaking treatment other than as provided in Subsection A of 17.9.551.9 NMAC, for a purchased power agreement with a term of two [(2)] years or more but less than five [(5)] years, by filing the same type of application applicable to a LTPPA. The provisions in 17.9.551.10 NMAC shall apply to an application regarding a purchased power agreement with a term of two [(2)] years or more but less than five [(5)] years.

B. An electric utility entering into a purchased power agreement with a term of two [(2)] years or more but less than five [(5)] years for which the utility intends to seek rate recovery either in base rates or its fuel and purchased power cost adjustment clause, shall file with the commission a notice of purchased power agreement within [thirty (30)] 30 days of execution.

C. A notice of purchased power agreement shall include a copy of the agreement and:

(1) an explanation of the key terms and conditions of the agreement, including:

- (a) its term;
- (b) its size in MW of capacity and any conditions regarding the minimum or maximum amount of energy or capacity made available or required to be purchased;
- (c) the price or pricing formula, including any escalation provisions, and, if applicable, any obligations of the utility to pay for any fixed or variable operation and maintenance costs incurred through the operation of any generation facility providing service under the agreement, including start-up costs, taxes, insurance, environmental or reclamation-related costs and fuel costs; and
- (d) any other costs for which the public utility is obligated;
- (2) a description of transmission costs the utility will incur or pay to receive the purchased power and any impact on the transmission system of the agreement, including any needed construction of transmission facilities to facilitate purchases under the agreement;
- (3) an explanation of how the utility intends to recover costs incurred under the agreement from ratepayers;
- (4) an explanation of the impact of the agreement on the electric utility’s financial condition or financial metrics;
- (5) an explanation of how entering into the agreement is consistent with the provision of safe and reliable electric utility service at the lowest reasonable cost, considering both short- and long-term costs and all other relevant factors;
- (6) an explanation of whether the agreement will result in the deferment or delay of any capacity addition by the public utility, and whether the agreement is consistent with the utility’s most recent commission-accepted integrated resource plan;

(7) evidence addressing the methodology and criteria by which the purchased power agreement was selected; and

(8) any information that the electric utility believes will assist the commission in its review of the agreement. [17.9.551.11 NMAC - N, 7/31/2012; A/E, 8/15/2023]

**REGULATION
AND LICENSING
DEPARTMENT
FINANCIAL INSTITUTIONS
DIVISION**

House Bill 228 (HB 228) enacted the “Improvement Special Assessment Act.” L. 2023, Ch. 150, (H.B. 228). Section 11 of HB 228 repealed the “Solar Energy Improvement Special Assessment Act,” NMSA 1978, Sections 4-55C-1 to -9 (2009 as amended through 2019), which includes the statutory authority for 12.15.16 NMAC – Certification of Qualified Entities as Solar Energy Improvement Financial Institutions. Therefore, the Financial Institutions Division of the Regulation and Licensing Department approved, at its 06/02/2023 public hearing, to repeal Part 16 of Title 12, Chapter 15 NMAC, filed 04/15/2010, effective 08/15/2023.

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

The New Mexico Board of Social Work Examiners Board has approved the repeal of its rule 16.63.18 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans (filed 03/13/2022) and replace it with 16.63.18 NMAC – Expedited Licensure adopted on 7/21/2023 and effective 08/15/2023.

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

**TITLE 16 OCCUPATIONAL
AND PROFESSIONAL
LICENSING
CHAPTER 63 SOCIAL
WORKERS
PART 18 EXPEDITED
LICENSURE**

16.63.18.1 ISSUING AGENCY: The New Mexico Board of Social Work Examiners. [16.63.18.1 NMAC - Rp, 16.63.18.1 NMAC, 08/15/2023]

16.63.18.2 SCOPE: The provisions of Part 18 apply to all applicants for expedited licensure. [16.63.18.2 NMAC - Rp, 16.63.18.2 NMAC, 08/15/2023]

16.63.18.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with the Social Work Practice Act, Subsection A of Section 61-31-8, 14-2-1, 61-31-19 NMSA 1978 and the Uniform Licensing Act, Section 61-1-31.1 NMSA 1978. [16.63.18.3 NMAC - Rp, 16.63.18.3 NMAC, 08/15/2023]

16.63.18.4 DURATION: Permanent. [16.63.18.4 NMAC - Rp, 16.63.18.4 NMAC, 08/15/2023]

16.63.18.5 EFFECTIVE DATE: August 15, 2023, unless a later date is cited at the end of a section. [16.63.18.5 NMAC - Rp, 16.63.18.5 NMAC, 08/15/2023]

16.63.18.6 OBJECTIVE: To promote, preserve and protect the public health, safety and welfare by regulating and setting professional standards for applicants for expedited licensure. [16.63.18.6 NMAC - Rp, 16.63.18.6 NMAC, 08/15/2023]

16.63.18.7 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 16.63.18.8 NMAC; and
(2) any foreign country included in 16.63.18.8 NMAC.

B. “Expedited license” means a provisional license that confers the same rights, privileges and responsibilities as a regular license issued by the board pursuant to Section 61-31-13 NMSA 1978.

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

E. “Licensing Jurisdiction” has the same meaning as defined in Subsection F of Section 61-1-2 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. “Veteran” has the same meaning as defined in Paragraph (3) of Subsection E of Section 61-1-34 NMSA 1978.

[16.63.18.7 NMAC - Rp, 16.63.18.7 NMAC, 08/15/2023]

16.63.18.8 LIST OF APPROVED AND DISAPPROVED LICENSING JURISDICTIONS; REASONS FOR DISAPPROVAL:

A. Applicants for licensure as a licensed bachelor social worker (lbsw) in the following states and territories of the United States or the District of Columbia shall not be eligible for expedited licensure pursuant to Section 61-31-4.4 NMSA 1978 of the Social Work Practice Act:

(1) California, Colorado, Connecticut, Florida, Georgia, New York, Rhode Island, Vermont, and Washington on the grounds that these jurisdictions do not license, register, certify, or otherwise regulate bachelor level social workers; and

(2) American Samoa, Louisiana, Massachusetts (licensed social worker associate), Nebraska (certified social worker), New Hampshire (licensed social worker associate 1 and 2), New Jersey, Ohio (registered social work assistant), Puerto Rico (licensed social worker), South Dakota (social work associate), the US Virgin Islands (social worker associate), on the grounds that education, experience, and examination requirements cannot be determined or are not consistent with New Mexico.

B. Approved jurisdictions for expedited licensure as a licensed bachelor social worker (lbsw), with the jurisdictions equivalent license in parentheses, are: Alabama (lbsw), Alaska (lbsw), Arizona (lbsw), Arkansas (licensed social worker), Delaware (lbsw), District of Columbia (licensed social work associate), Guam (lbsw), Hawaii (lbsw), Idaho (licensed social worker), Illinois (licensed social worker 2), Indiana (lbsw), Iowa (lbsw), Kansas (lbsw), Kentucky (licensed social worker), Maine (licensed social worker 1), Maryland (lbsw), Massachusetts (licensed social worker), Michigan (lbsw), Minnesota (licensed social worker), Mississippi (licensed social worker), Missouri (lbsw), Montana (lbsw), Nevada (social worker), New Hampshire (licensed social worker), North Carolina (certified social worker), North Dakota (lbsw), Northern Mariana Islands (lbsw), Ohio (licensed social worker), Oklahoma (licensed social work associate), Oregon (registered bachelor of social work), Pennsylvania (lbsw), South Carolina (lbsw), South Dakota (licensed social worker), Tennessee (lbsw), Texas (lbsw), US Virgin Islands (social worker 1 and 2), Utah (social worker 1 and 2), Virginia

(lbsw), West Virginia (licensed social worker), Wisconsin (certified social worker), Wyoming (certified social worker).

C. Applicants licensed as a licensed master social worker (lmsw) in the following states and territories of the United States or the District of Columbia shall not be eligible for expedited licensure pursuant to Section 61-31-4.3 NMSA 1978 of the Social Work Practice Act:

(1) Nebraska, New Hampshire, Rhode Island, Washington, and Wyoming on the grounds that these jurisdictions do not license, register, certify, or otherwise regulate master level social workers; and

(2) American Samoa, California (associate clinical social worker – asw), Florida (registered clinical social worker intern), Louisiana (certified social worker), Michigan (limited license master’s social worker), and Puerto Rico on the grounds that education, experience, and examination requirements cannot be determined or are not consistent with New Mexico.

D. Approved jurisdictions for expedited licensure as a licensed master social worker (lmsw), with the jurisdictions equivalent license in parentheses, are: Alabama (lmsw), Alaska (lmsw), Arizona (lmsw), Arkansas (lmsw), Colorado (licensed social worker), Connecticut (lmsw), Delaware (lmsw), District of Columbia (licensed graduate social work), Georgia (lmsw), Guam (lmsw), Hawaii (licensed social worker), Idaho (lmsw), Illinois (licensed social worker 1), Indiana (licensed social worker 1), Iowa (lmsw), Kansas (lmsw), Kentucky (certified social worker), Louisiana (lmsw), Maine (lmsw), Maryland (lmsw), Massachusetts (licensed certified social worker), Minnesota (licensed graduate social worker), Mississippi (lmsw), Missouri (lmsw), Montana (lmsw), Nevada (lmsw), New Jersey (licensed social worker), New York (lmsw), North Carolina (certified master social worker), North Dakota (lmsw), Northern Mariana Islands

(lmsw), Ohio (licensed social worker), Oklahoma (lmsw), Oregon (lmsw), Pennsylvania (licensed social worker), South Carolina (lmsw), South Dakota (certified social worker), Tennessee (lmsw), Texas (lmsw), US Virgin Islands (certified social worker), Utah (certified social worker), Vermont (lmsw), Virginia (lmsw), West Virginia (licensed graduate social worker), Wisconsin (advanced practice social worker).

E. Applicants licensed as a licensed clinical social worker (lcsw) in the following states and territories of the United States or the District of Columbia shall not be eligible for expedited licensure pursuant to Section 61-31-4.2 NMSA 1978 of the Social Work Practice Act:

(1) Ohio and Puerto Rico on the grounds that these jurisdictions do not license, register, certify, or otherwise regulate clinical social workers; and

(2) American Samoa, North Carolina (licensed clinical social worker associate), and Rhode Island (licensed clinical social worker), on the grounds that education, experience, and examination requirements cannot be determined or are not consistent with New Mexico.

F. Approved jurisdictions for expedited licensure as a licensed clinical social worker (lcsw), with the jurisdictions equivalent license in parentheses, are: Alabama (licensed independent clinical social worker), Alaska (lcsw), Arizona (lcsw), Arkansas (lcsw), California (lcsw), Colorado (lcsw), Connecticut (lcsw), Delaware (lcsw), District of Columbia (licensed independent clinical social work), Florida (lcsw), Georgia (lcsw), Guam (lcsw), Hawaii (lcsw), Idaho (lcsw), Illinois (licensed clinical social worker 1 and 2), Indiana (lcsw), Iowa (licensed independent social worker), Kansas (licensed specialist clinical social worker), Kentucky (lcsw), Louisiana (lcsw), Maine (licensed clinical social worker 1 and 2), Maryland (licensed certified social worker - clinical), Massachusetts (licensed independent clinical social

worker), Michigan (licensed master social worker – clinical), Minnesota (licensed independent clinical social worker), Mississippi (lcsww), Missouri (lcsww), Montana (lcsww), Nebraska (licensed mental health practitioner and licensed independent mental health practitioner), Nevada (clinical social worker), New Hampshire (licensed independent clinical social worker), New Jersey (lcsww), New York (lcsww), North Carolina (lcsww), North Dakota (lcsww), Northern Mariana Islands (lcsww), Oklahoma (lcsww), Oregon (lcsww), Pennsylvania (lcsww), Rhode Island (licensed independent clinical social worker), South Carolina (licensed independent social worker-cp), South Dakota (certified social worker private independent practice), Tennessee (lcsww), Texas (lcsww), Utah (lcsww), US Virgin Islands (certified independent social worker), Utah (lcsww), Vermont (licensed independent clinical social worker), Virginia (lcsww), Washington (licensed independent clinical social worker), West Virginia (licensed independent clinical social worker), Wisconsin (lcsww), and Wyoming (lcsww).

G. Applicants licensed as a licensed independent social worker (lisw) in the following states and territories of the United States or the District of Columbia shall not be eligible for expedited licensure pursuant to Section 61-31-4.1 NMSA 1978 of the Social Work Practice Act:

(1) Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Guam, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Mississippi, Montana, New Hampshire, New Jersey, New York, North Dakota, Northern Mariana Islands, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Dakota, US Virgin Islands, Utah, Vermont, Virginia, and Wyoming on the grounds that these jurisdictions do not license, register, certify, or otherwise regulate licensed independent social workers; and

(2) American Samoa on the grounds that education, experience, and examination requirements cannot be determined or are not consistent with New Mexico.

H. Approved jurisdictions for expedited licensure as a licensed independent social worker (lisw), with the jurisdictions equivalent license in parentheses, are: District of Columbia (lisw), Florida (certified master social worker), Maryland (licensed certified social worker), Michigan (licensed master social worker – macro), Minnesota (lisw), Missouri (licensed advanced macro social worker), Nebraska (certified master social worker), Nevada (independent social worker), North Carolina (certified social work manager), Ohio (lisw), Oklahoma (licensed social worker), South Carolina (licensed independent social worker-advanced practice), Tennessee (licensed advanced practice social worker), Texas (licensed master social worker – advanced practice), Washington (licensed advanced social worker), West Virginia (licensed certified social worker), and Wisconsin (certified independent social worker).

[16.63.18.8 NMAC - Rp, 16.63.18.8 NMAC, 08/15/2023]

16.63.18.9 LIST OF APPROVED FOREIGN JURISDICTIONS: [RESERVED]

16.63.18.10 EXPEDITED LICENSURE APPLICATION REQUIREMENTS:

A. A candidate for expedited licensure under Section 61-1-31.1 NMSA 1978 and Section 61-31-13

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 a current license in good standing in an eligible jurisdiction as defined; and

(3) 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 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 potentially disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-31-17 NMSA 1978 and 16.63.13.9 NMAC:

(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.

[16.63.18.10 NMAC - Rp, 16.63.18.10 NMAC, 08/15/2023]

16.63.18.11 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 a current license in good standing in another jurisdiction, including a branch of the United States armed forces; and

(3) 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; or

(e) for veterans (retired or separated): proof of honorable discharge such as a copy of DD Form 214, DD Form 215, DD Form 256, DD Form 257, NGB Form 22, military ID card, a driver’s license or state ID card with a veteran’s designation, or other documentation verifying 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 potentially disqualifying criminal conviction or the board may have other cause to deny the application pursuant to Section 61-31-17 NMSA 1978 and 16.63.13.9 NMAC:

(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.
[16.63.18.11 NMAC - Rp, 16.63.18.11 NMAC, 08/15/2023]

16.63.18.12 EXPEDITED LICENSE DURATION AND RENEWAL:

A. An expedited license shall be valid for the same length of time as a regular initial license issued by the board and must be renewed on or before July 1 of each year, as provided by 16.63.3.8 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, if the licensee holding an expedited license was not required by the licensee’s original jurisdiction outside of New Mexico to pass the Association of Social Work Boards (ASWB) examination for the appropriate license level, the licensee shall be required to pass the examination prior to renewing the license.

C. Upon renewal, the board shall issue a regular license to a licensee holding an expedited license issued pursuant to these rules.
[16.63.18.12 NMAC - Rp, 16.63.18.12 NMAC, 08/15/2023]

HISTORY OF 16.63.18 NMAC:

History of Repealed Material:
16.63.18 NMAC – Licensure for

Military Service Members, Spouses and Veterans, filed 8/1/2014 was repealed and replaced by 16.63.18 NMAC Licensure for Military Service Members, Spouses, Dependent Children and Veterans, effective 3/13/2022. 16.63.18 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans, filed 02/11/2022 was repealed and replaced by 16.63.18 Expedited Licensure effective 08/15/2023

Other History:
16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans, (filed 8/1/2014) replaced by 16.63.18 NMAC – Licensure for Military Service Members, Spouses and Veterans, effective 3/13/2022. 16.63.18 NMAC – Licensure for Military Service Members, Spouses, Dependent Children and Veterans, filed 02/11/2022 was repealed and replaced by 16.63.18 Expedited Licensure effective 08/15/2023.

**TRANSPORTATION,
DEPARTMENT OF**

The New Mexico Department of Transportation - Aviation Division reviewed at its 04/19/2022 and 04/25/2023 hearings, to repeal its rule 18.11.3 NMAC, Air Service Assistance Program, filed 2/2/2017, and replace it with 18.11.3 NMAC, Air Service Marketing Assistance Program, adopted by the State Transportation Commission on 7/20/2023 and effective 08/15/2023.

**TRANSPORTATION,
DEPARTMENT OF**

**TITLE 18
TRANSPORTATION AND
HIGHWAYS
CHAPTER 11 AIRPORTS
PART 3 AIR SERVICE
MARKETING ASSISTANCE
PROGRAM**

18.11.3.1 ISSUING

AGENCY: Aviation Division of the New Mexico Department of Transportation, 1120 Cerrillos Rd 87504, P.O. Box 1149 Santa Fe, New Mexico 87504-1149, (505) 827-1525, Fax: (505) 827-1531.

[18.11.3.1 NMAC - Rp, 18.11.3.1 NMAC, 8/15/2023]

18.11.3.2 SCOPE:

Municipalities, counties, tribal entities or other public entities located within the state of New Mexico.

[18.11.3.2 NMAC - Rp, 18.11.3.2 NMAC, 8/15/2023]

18.11.3.3 STATUTORY

AUTHORITY: Adoption of this regulation is pursuant to authority granted to the aviation division of department of transportation under Section 64-1-13.1 NMSA 1978.

[18.11.3.3 NMAC - Rp, 18.11.3.3 NMAC, 8/15/2023]

18.11.3.4 DURATION:

Permanent.

[18.11.3.4 NMAC - Rp, 18.11.3.4 NMAC, 8/15/2023]

18.11.3.5 EFFECTIVE

DATE: August 15, 2023, unless a later date is cited at the end of a section or paragraph.

[18.11.3.5 NMAC - Rp, 18.11.3.5 NMAC, 8/15/2023]

18.11.3.6 OBJECTIVE:

The objective of 18.11.3 NMAC is to establish eligibility requirements, including the maximum amount a recipient may receive, under the Air Service Assistance Act.

[18.11.3.6 NMAC - Rp, 18.11.3.6 NMAC, 8/15/2023]

18.11.3.7 DEFINITIONS:

A. "Director" means the director of the division.

B. "Division" means the aviation division of the department of transportation.

C. "Eligible recipient" means municipalities, counties, tribal entities or other public entities located within the state of New Mexico.

D. "Hub airports"

means commercial airport facilities located within the southwest United States serving a small, medium, or large air traffic hub listed in the United States department of transportation publication, *airport activity statistics of certificated route air carriers*.

E. "Minimum level of airline service" means:

(1) service for two or more New Mexico municipalities, counties, tribal entities or other public entities to one or more hub airports, by a reliable airline; the minimum number of round trip flights per day and per week provided by the service shall be approved by the division;

(2) flights shall be at reasonable times considering the needs of passengers with connecting flights at the hub airport and at prices that are not excessive compared to the generally prevailing prices of other air carriers for like service between similar places;

[18.11.3.7 NMAC - Rp, 18.11.3.7 NMAC, 8/15/2023]

18.11.3.8 ELIGIBILITY FOR MARKETING ASSISTANCE:

A. In order to apply for an air service marketing assistance grant, eligible recipients shall submit a single application to the division in a format provided by the division.

B. The division shall provide grants to eligible recipients to market and promote air service.

C. The maximum amount of assistance provided to eligible recipients shall be determined the division and may not exceed the amounts available from the state aviation fund per Subsection C of Section 7-1-6.7 NMSA 1978 and Subsection B of Section 64-1-15 NMSA 1978.

[18.11.3.8 NMAC - Rp, 18.11.3.8 NMAC, 8/15/2023]

18.11.3.9 PROCUREMENT REQUIREMENTS:

A. Eligible recipients that receive assistance shall comply

with the requirements of the New Mexico Procurement Code, Sections 13-1-28 to 13-1-199 NMSA 1978, as amended.

B. Eligible recipients exempted from complying with the Procurement Code pursuant to Section 13-1-98K shall comply with their own purchasing ordinances and must provide a copy of those ordinances to the division.

[18.11.3.8 NMAC - Rp, 18.11.3.9 NMAC, 8/15/2023]

HISTORY OF 18.11.3 NMAC: [RESERVED]

History of Repealed Material: 18 NMAC 11.3, Airports Air Service Assistance Program, filed 11/2/1999, repealed effective 2/14/2017. 18.11.3 NMAC, Airport Air Service Assistance Program, filed 2/2/2017 repealed 8/15/2023.

Other:

18.11.3 NMAC, Air Service Assistance Program, filed 2/14/2017, replaced by 18.11.3 NMAC, Air Service Assistance Program effective 2/14/2017.

18.11.3.1 NMAC, Air Service Assistance Program filed 2/2/2017 replaced by 18.11.3 NMAC, Air Service Marketing Assistance Program effective 8/15/2023.

End of Adopted Rules

Other Material Related to Administrative Law

**PUBLIC EDUCATION
DEPARTMENT****NOTICE OF MINOR,
NONSUBSTANTIVE
CORRECTION**

The Public Education Department gives Notice of a Minor, Nonsubstantive Correction to 6.2.9 NMAC, 6.29.1 NMAC and 6.31.2 NMAC.

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

For both rules, there was existing, unchanged language that was inadvertently left off the filed version of each cited section. The existing, unchanged language was reinserted in all electronic versions.

6.2.9 NMAC:

Section 16: Changed numbering for Subsections I through M to Subsections H through L.

6.29.1 NMAC:

Section 8: Had a subsection A without a subsection B. The last remaining sentence in Subsection A was changed to subsection B, per direction from the agency.

6.31.2 NMAC:

In its repeal and replacement of the above part, the agency amended the part name from "Children with Disabilities/Gifted Children" to "Children with Disabilities".

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

**End of Other Material
Related to Administrative
Law**

2023 New Mexico Register

Submittal Deadlines and Publication Dates

Volume XXXIV, Issues 1-24

Issue	Submittal Deadline	Publication Date
Issue 1	January 5	January 18
Issue 2	January 19	January 31
Issue 3	February 2	February 14
Issue 4	February 16	February 28
Issue 5	March 2	March 14
Issue 6	March 16	March 28
Issue 7	March 30	April 11
Issue 8	April 13	April 25
Issue 9	May 4	May 16
Issue 10	May 18	May 31
Issue 11	June 1	June 13
Issue 12	June 15	June 27
Issue 13	July 7	July 18
Issue 14	July 20	July 31
Issue 15	August 3	August 15
Issue 16	August 17	August 29
Issue 17	August 31	September 12
Issue 18	September 14	September 26
Issue 19	September 28	October 10
Issue 20	October 12	October 24
Issue 21	October 26	November 7
Issue 22	November 9	November 21
Issue 23	November 22	December 5
Issue 24	December 7	December 19

The *New Mexico Register* is the official publication for all material relating to administrative law, such as notices of rulemaking, proposed rules, adopted rules, emergency rules, and other material related to administrative law. The Commission of Public Records, Administrative Law Division, publishes the *New Mexico Register* twice a month pursuant to Section 14-4-7.1 NMSA 1978. The *New Mexico Register* is available free online at: <http://www.srca.nm.gov/new-mexico-register/>. For further information, call 505-476-7941