

This is an amendment to 16.19.4 NMAC, Sections 7 and 9, effective 11-13-2018.

In 16.19.4.7 NMAC, Subsections H through S and Subsection U through DD were not published as there are no changes.

16.19.4.7 DEFINITIONS:

A. “A year” begins with the first day of the pharmacist’s birth month and ends the last day of the pharmacist’s birth month the following year.

B. “Activity” as used in the ACPE criteria for quality and these regulations, the term refers to an individual educational experience or program such as a lecture, home study course, workshop, seminar, symposium, etc.

C. “Alternate supervising physician” means a physician who holds a current unrestricted license, is a cosignatory on the notification of supervision, agrees to act as the supervising physician in the supervising physician’s absence, or expand the “scope of practice ~~and/or~~ or sites of practice” of the pharmacist clinician and is approved by the board.

D. “Approved provider” means an institution, organization or agency that has been recognized by the accreditation council for pharmaceutical education (ACPE) as having met it’s criteria indicative of the ability to provide quality continuing pharmaceutical education, and is listed in the ACPE annual publication of approved providers.

E. “Board” means the New Mexico board of pharmacy.

F. “Consultation” means communication in person, telephonically, by two-way radio, by e-mail or by other electronic means.

G. [~~“Contract hour”~~] “Contact hour” means a unit of measure equivalent to 60 minutes of participation in an approved organized learning experience or activity.

T. “Pharmaceutical care” means the provision of drug therapy and other patient care services related to drug therapy intended to achieve definite outcomes that improve a patient’s quality of ~~like~~ life, including identifying potential and actual drug-related problems, resolving actual drug-related problems and preventing potential drug-related problems.

[02-15-96; 16.19.4.7 NMAC - Rn, 16 NMAC 19.4.7, 03-30-02; A, 01-31-07; A, 08-16-10; A, 10-25-12; A, 11-13-18]

16.19.4.9 DEFINING UNPROFESSIONAL OR DISHONORABLE CONDUCT:

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

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

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

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

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

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

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

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

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

(7) Acquiring prescription stock from unlicensed sources.

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

- (9) Participation in a plan or agreement which compromises the quality or extent of professional services, or facilities at the expense of public health or welfare.
- (10) The solicitation of prescription business by providing prescribers with prescription blanks with the name of any licensed pharmacy or pharmacist printed thereon.
- (11) the solicitation of prescription business by providing a prescriber with pre-selected medication on a prescription blank. This does not apply to:
- (a) the inpatient, or institutional setting (i.e. long term care or correctional facility) by an in-house or contracted pharmacy; or
- (b) a request for therapeutic interchange or refill of a medication prescribed for the patient;
- (12) the solicitation of a prescription whereby the initial prescription request was not initiated by the patient or practitioner. This does not apply to a request for therapeutic interchange of a medication prescribed for the patient;
- ~~[(14)]~~ (13) Failure to report a theft or loss of controlled substances in accordance with 16.19.20.36 NMAC.
- ~~[(12)]~~ (14) Failure to report an impaired licensee in compliance with Subparagraph (a) of Paragraph (1) of Subsection C of 16.19.4.12 NMAC.
- ~~[(13)]~~ (15) Failure to train or supervise adequately supportive personnel or the use of supportive personnel in activities outside the scope of their permitted activities.
- ~~[(14)]~~ (16) Conviction, plea of nolo contendere, or entering into any other legal agreements for any violation of the Pharmacy Act, Controlled Substances Act, Drug Device and Cosmetic Act or any similar act of another state or territory of the United States.
- ~~[(15)]~~ (17) Suspension, revocation, denial, or forfeiture of license to practice or similar disciplinary action by a licensing agency of another state or territory of the United States.
- ~~[(16)]~~ (18) Dispensing a prescription for a dangerous drug to a patient without an established practitioner-patient relationship:
- (a) except for the provision of treatment of partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health;
- (b) except for on-call practitioners providing services for a patient's established practitioner;
- (c) except for delivery of dangerous drug therapies to patients ordered by a New Mexico department of health physician as part of a declared public health emergency;
- (d) except for dispensing the dangerous drug naloxone as authorized in Section 24-23-1 NMSA 1978;
- (e) except for the prescribing or dispensing and administering for immunizations programs.
- ~~[(17)]~~ (19) Dispensing a prescription order for a dangerous drug to a patient if the pharmacist has knowledge, or reasonably should know under the circumstances, that the prescription order was issued on the basis of an internet-based questionnaire or an internet-based consultation without a valid practitioner-patient relationship.
- ~~[(18)]~~ (20) Failure to perform a prospective drug review as described in Subsection D of 16.19.4.17 NMAC and document steps taken to resolve potential problems.
- [03-01-93; 16.19.4.9 NMAC - Rn, 16 NMAC 19.4.9, 03-30-02; A, 07-15-02; A, 01-15-08; A, 09-16-11; A, 8-31-12; A, 03-23-16; A, 10-19-16; A, 11-13-18]