

This is an amendment to 16.27.20 NMAC, Sections 8 through 15, effective 11/30/2021.

**16.27.20.8 PARENTAL RESPONSIBILITY ACT; DELEGATION OF AUTHORITY:** The authority of the New Mexico counseling and therapy practice board to issue a notice of contemplated action, to refer cases in which a notice of contemplated action has been issued for administrative prosecution, to hold hearings and issue decision and orders to any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in Section 40-5A-1 NMSA 1978 et seq., may be delegated to the New Mexico regulation and licensing department. This section shall not be construed to deprive the board of its authority to issue a notice of contemplated action for any violation of the Parental Responsibility Act, to refer a case for administrative prosecution, hold a hearing or issue a decision and order for any violation of the Parental Responsibility Act.

[16.27.20.8 NMAC - N, 11/30/2021]

**[16.27.20.8] 16.27.20.9 DISCIPLINARY ACTION:** If an applicant or licensee is not in compliance with a judgment and order for support, the board:

- A. shall deny an application for a license;
- B. shall deny the renewal of a license; and
- C. has grounds for suspension or revocation of the license.

[16.27.20.9 NMAC - Rn 16.27.17.8 NMAC, 11/30/2021]

**[16.27.20.9] 16.27.20.10 CERTIFIED LIST:** Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support, the board shall match the certified list against the current list of board licensees and applicants. Upon the later receipt of an application for license or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.

[16.27.20.10 NMAC - Rn 16.27.17.9, 11/30/2021]

**[16.27.20.10] 16.27.20.11 INITIAL ACTION:** Upon determination that an applicant or licensee appears on the certified list, the board shall:

- A. commence a formal proceeding [under Part 20] pursuant to 16.27.20.12 NMAC to take the appropriate action [under Part 20]; or
- B. For current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed [(30 days, 60 days)] 30 or 60 days. If the licensee fails to provide this statement, the board shall commence a formal proceeding [under Part 20] pursuant to Section 12 of 16.27.20 NMAC.

[16.27.20.11 NMAC - Rn & A, 16.27.17.10, 11/30/2021]

**[16.27.20.11] 16.27.20.12 NOTICE OF CONTEMPLATED ACTION:** Prior to taking any action specified in Part 20, the board shall serve upon the applicant or licensee a written notice stating that:

- A. The board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:
  - (1) mails a letter (certified mail return receipt requested) within 20 days after service of the notice requesting a hearing; or
  - (2) provides the board, within 30 days of the date of the notice, with a statement of compliance from HSD;
- B. If the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

[16.27.20.12 NMAC - Rn 16.27.17.11, 11/30/2021]

**[16.27.20.12] 16.27.20.13 EVIDENCE AND PROOF:** In any hearing under this Part 20, relevant evidence is limited to the following:

**A.** A statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under ~~[Part 20 of this section]~~ 16.27.20 NMAC, unless:

**B.** The applicant or licensee provides the board with a subsequent statement of compliance, which shall preclude the board from taking any action ~~[under this Part 20]~~ based solely on the prior statement of non-compliance.

[16.27.20.13 NMAC - Rn & A, 16.27.17.12, 11/30/2021]

~~[16.27.20.13]~~ **16.27.20.14 ORDER:** When a disciplinary action is taken under this Part 20 solely because the applicant or licensee is not in compliance with a judgment and order for support, the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for re-applications or reinstatement of lapsed licensees.

[16.27.20.14 NMAC - Rn 16.27.17.13, 11/30/2021]

~~[16.27.20.14]~~ **16.27.20.15 PROCEDURES:** Proceedings under Part 20 shall be governed by the Uniform Licensing Act, Section 61- 1-1, et seq. NMSA 1978.

[16.27.20.15 NMAC - Rn 16.27.17.14, 11/30/2021]