

NOTICE OF PROPOSED RULEMAKING AND RULE HEARING

The Regulation and Licensing Department (Department) in consultation with the Advisory Board of Respiratory Care Practitioners (Board) will hold a rule hearing on Friday, November 19, 2021 at 9:00 a.m. Due to the ongoing public health concerns posed by the threat of the contagious disease COVID-19, the rule hearing will be virtual via an Internet-based video conference and via telephone. The rule hearing will be held via Cisco WebEx, please use the following link:

<https://nmrld.webex.com/nmrld/onstage/g.php?MTID=ea4e1491527db3e73617f310f37325a68>

Event Number: 2487 919 2992

Event Password: HFidKim3P38

To join the meeting by phone: 1-415-655-0002 United States Toll

Access Code: 2487 919 2992

The purpose of the rule hearing is to consider the proposed rule amendments to Title 16, Chapter 23 Parts 1 through 18 of the New Mexico Administrative Code:

16.23.1 NMAC - General Provisions

16.23.2 NMAC - Fees

16.23.3 NMAC - Practitioner License Qualifications, Application, Renewal, and Expiration

16.23.4 NMAC - Part 4 will be repealed.

16.23.5 NMAC - Licensure for Military Service Members, Spouses, Dependent Children, and Veterans

16.23.6 NMAC - Initial Application and Renewal of Temporary Permits for Students, Student Externs, and Graduates

16.23.7 NMAC - Part 7 will be repealed

16.23.8 NMAC - Part 8 will be repealed

16.23.9 NMAC - Part 9 will be repealed

16.23.11 NMAC - Part 11 will be repealed

16.23.12 NMAC - Continuing Education

16.23.13 NMAC - Expanded Practice

16.23.15 NMAC - Part 15 will be repealed

16.23.16 NMAC - Part 16 will be repealed

16.23.17 NMAC - Grounds for Disciplinary Action and Disciplinary Proceedings

16.23.18 NMAC - Disciplinary Guidelines for Impaired Practitioner

On October 13, 2021 you may obtain and review copies of the proposed changes and public comments, by going to the Boards and Commissions Division, Advisory Board of Respiratory Care Practitioners website at:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/respiratory-care/rc-board-information/rc-board-meetings/>

or by contacting the Board Administrator for the Board at (505) 476-4606.

The Department and the Board will begin accepting public comments on the proposed new rules beginning October 13, 2021. Please submit written comments on the proposed changes to Nicolas Henderson, Board Administrator, via electronic mail at: respiratorycarebd@state.nm.us, or by regular mail at P.O. Box 25101, Santa Fe, NM 87504 no later than Thursday, November 18, 2021. Comments received prior to the rule hearing will be posted to the RLD website within three days of receipt at:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/respiratory-care/rc-board-information/rc-board-meetings/>

Any person in attendance will be given the opportunity to present their comments at the rule hearing.

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Nicolas Henderson, Board Administrator (505) 476-4606.

Statutory Authority: Legal authority for this rulemaking may be found in the Regulation and Licensing Act, Section 9-16-6 NMSA 1978, and the Respiratory Care Act, Section 61-12B-6 NMSA 1978, which among other provisions, specifically authorizes the Department, in consultation with the Board to “promulgate rules as may be necessary to implement the provisions of the Respiratory Care Act.”

Summary of Proposed New Rules:

16.23.1 - General Provisions: This part has been amended to consolidate all rule requirements in separate sections throughout Chapter 23, that have universal application to anyone affected or interested in the licensing and regulation of the practice of respiratory care. This part consolidates all definitions that were previously in separate parts of Chapter 23 into Section 16.23.1.7 NMAC, and organizes the definitions into alphabetical order. This part has been amended to allow the Department to administer the provisions of the Parental Responsibility Act pursuant to Section 16.1.1 NMAC.

16.23.2 - Fees: This part is being amended to correct the issuing agency and statutory authority sections.

16.23.3 - Practitioner License Qualifications, Application, Renewal, and Expiration: Part 3 has been amended to consolidate all rule requirements from Parts 4, 8, and 9, for a respiratory care practitioner’s license application, renewal and expiration. The definitions in this part have been consolidated into Section 16.23.1.7 NMAC. The issuing agency and statutory authority sections have been corrected. This part lists the documentation required for practitioner’s license, lays out the requirements for licensure by reciprocity, licensure expiration, inactive status, and renewal. This part was amended to remove the requirement for notarization of applications and to require applications to be signed by the applicant under penalty of perjury.

16.23.4 - Application Procedures for Practitioner License: The application requirements in Part 4 have been consolidated into Part 3. Part 4 will be repealed.

16.23.5 - Licensure for Military Service Members, Spouses, Dependent Children, and Veterans: This part has been amended to correct the issuing agency and statutory authority sections. The definitions in this part have been consolidated into Section 16.23.1.7 NMAC. This part was also amended to align with Section 61-1-34 NMSA 1978, amended in the 2021 legislative session in House Bill 120. The rule amends the requirements for expedited licensure for military service members their spouses, dependent children, and for all veterans with a license in good standing issued in another United States jurisdiction or by a branch of the United States armed forces. The rule lists the documentation required to obtain an expedited license pursuant to Section 61-1-34.

16.23.6 - Initial Application and Renewal of Temporary Permits for Students, Student Externs, and Graduates: This part has been amended to consolidate the provisions for renewal from Part 7. This part makes corrections to the issuing agency and statutory authority sections, and outlines the requirements for temporary, student, and graduate permits. This part was amended to remove the requirement for notarization of applications and to require applications to be signed by the applicant under penalty of perjury. The definitions in this part have been consolidated into Section 16.23.1.7 NMAC.

16.23.7 - Temporary Student Permit Renewal: The temporary student permit renewal provisions in Part 7 have been consolidated into Part 6. Part 7 will be repealed.

16.23.8 - Renewal and Expiration of Practitioner License: The provisions for the renewal and expiration of practitioner licenses have been consolidated into Part 3. Part 8 will be repealed.

16.23.9 - Inactive Status for Practitioner License: The provisions required to place a practitioner license on inactive status have been consolidated into Part 3. Part 9 will be repealed.

16.23.11 - License Reactivation; License Lapse: The provisions for practitioner license reactivation and license lapse have been consolidated into Part 1. Part 11 will be repealed.

16.23.12 - Continuing Education: This part has been amended to make corrections to the issuing agency and statutory authority sections. The part was also amended to require twenty clock hours of continuing education as a requirement for biennial license renewal or license reactivation, and requires at least one clock hour of ethics related continuing education in the license renewal cycle. The rule also requires a minimum of twelve clock hours of the twenty clock hours of required continuing education must be consistent with the American Medical Association Category I types of training enumerated in the rule in Subsection D. The rule also enumerates the list of approved continuing education providers.

16.23.13 - Expanded Practice: This part has been amended to make corrections to the issuing agency and statutory authority sections. The definitions in this part have been consolidated into Section 16.23.1.7 NMAC.

16.23.15 - Parental Responsibility Act Compliance: This part was consolidated into Part 1. The Department will take responsibility for administering the disciplinary procedures required by the Parental Responsibility Act, pursuant to 16.1.1 NMAC. Part 15 will be repealed.

16.23.16 - Disciplinary Proceedings: This part was consolidated into Part 17. The definitions in this part have been consolidated into Section 16.23.1.7 NMAC. Part 16 will be repealed.

16.23.17 - Grounds for Disciplinary Action and Disciplinary Proceedings: This part has been amended to make corrections to the issuing agency and statutory authority sections. Definitions under this part have been moved to Section 16.23.1.7 NMAC, or have been removed because they are subject to common usage or are defined in a statute pursuant to Section 14-4-5. of the State Rules Act. Section 16.23.17.10 NMAC is new and delineates the disqualifying criminal convictions required by Section 61-1-36 NMSA 1978, enacted in the 2021 1st Special Session in Senate Bill 2. Section 16.23.17.13 NMAC has been amended to rename the “Standards of Practice Committee” to “Complaint Committee.”

16.23.18 - Disciplinary Guidelines for Impaired Practitioner: This part has been amended to make corrections to the issuing agency and statutory authority sections. Definitions under this part have been moved to Section 16.23.1.7 NMAC. Definitions under this part have been moved to Section 16.23.1.7 NMAC.