

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

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

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

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

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

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

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

16.12.1.7 DEFINITIONS:

A. Definitions beginning with the letter A:

(1) **“actually engaged in nursing”**, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

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

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

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

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

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

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

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

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

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

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

B. Definitions beginning with the letter B:

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

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

C. Definitions beginning with the letter C:

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

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

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

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

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

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

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

(8) **“competency”**, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

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

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

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

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

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

D. Definitions beginning with the letter D:

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

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

(3) **“department of public safety”**, the New Mexico department of public safety or other state’s department of public safety;

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

E. Definitions beginning with the letter E:

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

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

(3) **“expedited license”** is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by the board.

F. Definitions beginning with the letter F: **“final transcript”**, an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. Definitions beginning with the letter G:

(1) **“generally recognized organization”**, an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition derives from both the profession and the public;

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

H. Definitions beginning with the letter H: “health care work force data collection”, an electronic survey, designed to be completed by applicants for licensure or renewal, which includes questions regarding a core essential data set.

I. Definitions beginning with the letter I:

(1) **“inactive list”**, compilation of those licenses that are in good standing but not current;

(2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3) **“institution of higher education”**, college or university.

J. Definitions beginning with the letter J: “jurisdiction”, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions beginning with the letter K: [RESERVED]

L. Definitions beginning with the letter L:

(1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **“license”** means a legal document granting an individual the privilege and authority to engage in practice of an occupation or profession;

(5) **“licensure period”** means the length of time for which a license or certificate is valid. The initial (first) licensure period it is from the date of initial license or certificate issuance to the day the license or certificate expires. For subsequent licensure periods it is the day after the previous licensure period ended to the end next license or certificate expiration date.

M. Definitions beginning with the letter M:

(1) **“medical emergency”**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **“multistate/compact license”** means a license granted through New Mexico’s participation in the nurse licensure compact that grants the licensee the legal authority to practice in all party states of the nurse licensure compact.

(4) **“must”**, a requirement.

N. Definitions beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“National practitioner data bank”** means the database operated by the U.S. department of health and human services that contains medical malpractice payment and adverse action reports on health care professionals;

(3) **“nationwide criminal history record”**, information concerning a person’s arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(4) **“nationwide criminal history screening”**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the

department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions beginning with the letter O: [RESERVED]

P. Definitions beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced degree;

(6) **“preceptor”**, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7) **“prescriptive authority”**, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) **“private practice”**, employment status of an individual nurse who is self-employed.

(9) **“procedural sedation”**, a technique of administering sedatives or dissociative agents with or without analgesics to induce a state that allows the patient to tolerate unpleasant procedures while maintaining cardio respiratory functions.

Q. Definitions beginning with the letter Q: [RESERVED]

R. Definitions beginning with the letter R:

(1) **“reactivation”**, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;

(2) **“recognized national or state institutions/organizations”**, institutions and organizations recognized as providers of CE for nurses;

(3) **“refresher course”**, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;

(4) **“reinstatement”**, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(5) **“relicensure”**, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions beginning with the letter S:

(1) **“shall”**, mandatory; a requirement;

(2) **“should”**, a suggestion or recommendation; not a requirement;

(3) **“sponsor/provider”**, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(4) **“state approved program”**, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;

(5) **“supervision/direction”**, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;

(6) **“surrogate”**, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. Definitions beginning with the letter T: “temporary license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. Definitions beginning with the letter U: [RESERVED]

V. Definitions beginning with the letter V: “valid practitioner-patient relationship” means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

W. Definitions beginning with the letter W: [RESERVED]

X. Definitions beginning with the letter X: [RESERVED]

Y. Definitions beginning with the letter Y: [RESERVED]

Z. Definitions beginning with the letter Z: [RESERVED]

[16.12.1.7 NMAC - Rp, 16.12.1.7 NMAC, 12/13/2022]

16.12.1.8 GLOSSARY OF ABBREVIATIONS:

- A.** APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA).
- B.** CE: Continuing education.
- C.** CNP: Certified nurse practitioner.
- D.** CNS: Clinical nurse specialist.
- E.** COA: Council on accreditation of nurse anesthesia educational program.
- F.** CRNA: Certified registered nurse anesthetist.
- G.** DNP: Doctor of nursing practice.
- H.** GCNS: Graduate clinical nurse specialist.
- I.** GN: Graduate nurse.
- J.** GNP: Graduate nurse practitioner.
- K.** GPN: Graduate practical nurse
- L.** GRNA: Graduate registered nurse anesthetist.
- M.** LPN: Licensed practical nurse.
- N.** MN: Master’s in nursing.
- O.** MSN: Master of science in nursing.
- P.** NBCRNA: National board on certification & recertification of nurse anesthetists.
- Q.** NCLEX-RN/PN: National council licensing examination - RN/PN.
- R.** NCSBN: National council of state boards of nursing.
- S.** NLNAC: National league for nursing accrediting commission.
- T.** NMSA: New Mexico statutes annotated.
- U.** NPA: Nursing Practice Act.
- V.** RN: Registered nurse.
- W.** ULA: Uniform Licensing Act.

[16.12.1.8 NMAC - N, 12/13/2022]

16.12.1.9 MISSION OF THE BOARD: The mission of the board is to promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, schools of nursing, hemodialysis technicians, medication aides, and lactation care providers in New Mexico. The board is not an advocacy organization but is instead a regulatory body responsible at all times and in all situations for acting in the interest of the public.

[16.12.1.9 NMAC - Rp, 16.12.1.8 NMAC, 12/13/2022]

16.12.1.10 BOARD ADMINISTRATION:

A. Organization:

(1) The board shall annually elect a chair, vice-chair, and secretary. The term of office begins immediately after the conclusion of the meeting at which the election occurred.

(2) All members of the board, including public members, are eligible to serve as an officer of the board.

B. Executive director:

(1) The board shall hire and employ a qualified registered nurse, who shall not be a member of the board, to serve as executive director.

(2) The executive director shall be accountable to the board for the administration and management of the board office and staff, including but not limited to the board's fiscal operations, records, and management of personnel (including hiring, supervising, and firing staff).

(3) The executive director, or designee, shall represent the board to the public.

(4) As provided in the Nursing Practice Act, the board shall not delegate to the executive director the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act.

C. Board meetings:

(1) The board shall meet at least once every three months.

(2) The board shall annually review and adopt an open meetings resolution, consistent with the Open Meetings Act, Sections 10-15-1 to 10-15-4 NMSA 1978.

(3) The board shall approve a schedule of regular meeting dates at a regular meeting prior to the beginning of the next calendar year. The board shall publish this schedule in its newsletter and on its website.

(4) Individual board members may attend meetings through telephonic or similar communications equipment when it is difficult or impossible for the person to be physically present. Whenever attending a meeting in such a manner, board members must fully comply with all requirements set by the Open Meetings Act and the board's annual open meetings resolution.

D. Signatures: A record, order, contract, or other document requiring a signature from an authorized person on behalf of the board may be signed by the chair, vice-chair, or executive director.

[16.12.1.10 NMAC - Rp, 16.12.1.9 NMAC, 12/13/2022]

16.12.1.11 AGENCY:

A. Verification of license or certificate:

(1) The board staff shall make informal verification of licensure or certification status available immediately on the board website.

(2) Any employer or other interested person or entity may request informal verification of the status of a license or certificate.

(3) Formal verification of licensure may only be requested through postal mail or fax through the submission of the board's verification request form and remittance of the required fee pursuant to 16.12.2.8 NMAC.

(4) Formal verification of registered nurse or licensed practical nurse licensure for the purposes of another U.S. nursing regulatory body must be requested through the national council of state boards of nursing (NCSBN) web-based system.

B. Reporting of discipline and other licensure matters: The board staff shall complete all required reporting of disciplinary matters and other reportable actions to the national practitioner databank and coordinated licensure information system as required by federal and state law.

[16.12.1.11 NMAC - Rp, 16.12.1.10 NMAC, 12/13/2022]

16.12.1.12 COMMITTEES:

A. Advisory function: To assist and advise the board in its functions and mission, the board may appoint and utilize, at its discretion, advisory committees consisting of at least one board member and at least two members expert in the pertinent field of relevant health care to assist in the performance of the board's duties. Any committee serving the board shall have a purely advisory role and shall not have any policymaking authority of any kind.

B. Membership: Except as otherwise provided in the board's rules, the board has absolute discretion with respect to the number of individuals who may serve on a committee, provided that in no case shall a quorum of the members of the board serve on a committee.

C. Duties and responsibilities: The board shall annually, at an open meeting, review the duties and responsibilities of each committee and subsequently provide each committee with written objectives to satisfy within the following year.

D. Except as otherwise provided in the board's rules:

(1) Committee members may serve two-year terms.

(2) The board may reappoint currently serving committee members to serve additional terms.

(3) An individual's service on a committee is voluntary, and the individual may resign from the committee at any time upon written notification to the executive director.

(4) Advisory committee members may be reimbursed as provided in the per diem and Mileage Act, provided that mileage may only be paid when there is a total of 60 miles or more traveled.

(5) Termination of membership:

(a) Members of committees serve at the pleasure of the board, and the board may remove a member from a committee at any board meeting.

(b) The executive director shall automatically terminate an individual's membership on a committee if the individual fails to attend three consecutive committee meetings.

E. Any committee shall, if ordered by the executive director or the board, meet virtually rather than in person as a means of achieving greater efficiency and productivity.

F. Specific committees: Nursing practice advisory committee. The board may appoint a minimum of a seven-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.

[16.12.1.12 NMAC - Rp, 16.12.1.11 NMAC, 12/13/2022]

16.12.1.13 ETHICAL RESPONSIBILITIES OF BOARD MEMBERS, STAFF, AND COMMITTEE MEMBERS:

A. High ethical standards: Pursuant to the mission of the board, all members of the board, employees of the board, and committee members shall act in their official capacities in the interest of the public and not for personal gain or the benefit of the members of a particular profession.

B. All members of the board, employees of the board, and committee members shall abide by the requirements of the Governmental Conduct Act and all other New Mexico laws governing the ethical conduct of public officers and employees.

C. Code of conduct: The board shall annually adopt, at a regularly scheduled board meeting, a code of conduct for all members of the board, employees of the board, and committee members.

[16.12.1.13 NMAC - Rp, 16.12.1.12 NMAC, 12/13/2022]

16.12.1.14 INFORMATIONAL OBLIGATIONS OF LICENSE AND CERTIFICATE HOLDERS:

A. Use of legal name: A licensee or certificate holder must use the licensee or certificate holder's legal name on all applications and licenses.

B. Name changes:

(1) A licensee or certificate holder may submit a name change to the board at any time.

(2) A licensee or certificate holder must submit, as part of any name change request, a copy of one of the following legal documents verifying the name change: a recorded marriage certificate, a divorce decree, or a court order.

(3) The licensee or certificate holder must continue to use the name on record with the board for work purposes until the board acknowledges the official change of name.

C. Contact information:

(1) A licensee or certificate holder is obligated to maintain current and accurate contact information on file with the board.

(2) A licensee or certificate holder shall notify the board within 30 days of a change of the licensee or certificate holder's contact information.

(3) Failure to disclose a change of mailing or residential address shall constitute grounds for disciplinary action.

(4) For the purposes of this rule, "contact information" means the licensee or certificate holder's mailing address, residential address, email address, and telephone number.

D. Name and mailing address of employer:

(1) A licensee or certificate holder is obligated to maintain the current and accurate name and mailing address of the licensee or certificate holder's employer on file with the board.

(2) A licensee or certificate holder shall notify the board within 30 days of any change in the name and address of the licensee or certificate holder's employer.

(3) Failure to disclose a change of the name and mailing address of the licensee or certificate holder's employer shall constitute grounds for disciplinary action.

[16.12.1.14 NMAC - Rp, 16.12.1.13 NMAC, 12/13/2022]

HISTORY of 16.12.1 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center & archives under: BON 70-2, Administrative Policy, filed 7/17/1970;
BON 73-1, Rules and Regulations of the Nursing Practice Act, filed 3/13/1973;
BON 78-1, Administrative Rules and Regulations of the New Mexico Board of Nursing, filed 11/2/1978;
BON MANUAL #83-1, Administrative Rules and Regulations of the Board of Nursing, filed 6/13/1983;
BON MANUAL #85-1, Administrative Rules and Regulation of the Board of Nursing, filed 8/13/1985;
BON MANUAL 91-2, Administrative Rules and Regulations of the New Mexico board of nursing, filed 10/09/1991.

History of Repealed Material:

16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions, filed 6/12/2001 - Repealed effective 10/1/2016.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 - Repealed effective 12/30/2021.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 11/12/2021 - Repealed effective 12/13/2022.

Other History: 16 NMAC 12.1, Nursing and Health Care Related Providers - General Provisions, filed 12/10/1997, renumbered, reformatted and amended to 16.12.1 NMAC, General Provisions effective 7/30/2001.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 9/1/2016 Replaced 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions effective 12/30/2021.
16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions filed 11/12/2021 Replaced 16.12.1 NMAC, Nursing and Health Care Related Providers - General Provisions effective 12/13/2022.