

NOTICE OF PROPOSED RULEMAKING

The New Mexico Board of Nursing (hereinafter the “Board”) will hold a public rule hearing on Thursday, November 3, 2022 at 9:00 a.m. Due to the COVID-19 pandemic and state of emergency, the rules hearing will be held online and telephonically via Microsoft Teams teleconferencing. A Board staff member will also be present on the day of the hearing from approximately 8:00 a.m. to 9:00 a.m. at 6301 Indian School Rd, NE, Suite 710, Albuquerque, NM 87110, to accept comments in written form and submit those comments to the board during the hearing.

To attend the hearing online, please use the following link: <https://links.bon.nm.gov/Rulemaking>
Meeting ID: 239 289 694 576 Passcode: zjmckz

To join the meeting by phone, please call: Dial: +1 505-312-4308, Phone Conference ID: 181 360 186#

The purpose of the rules hearing is to consider changes to approximately seven (7) Parts within the Board’s rules. This includes a proposal to repeal and replace for the following five parts: 16.12.1 NMAC (“General Provisions”; 16.12.2 NMAC (“Nurse Licensure”); 16.12.4 NMAC (“Hemodialysis Technicians”); 16.12.5 NMAC (“Medication Aides”); and 16.12.11 (Lactation Care Provider”). In addition, the rules hearing will also consider a new part, 16.12.13 NMAC (“Diversion Program for Chemically Dependent Nurses”). Finally, the rules hearing will consider a proposal to amend 16.12.3 NMAC (“Nursing Education Programs”).

Persons desiring to view the proposed rules may download them from <https://nmbon.sks.com/rule-changes.aspx>. If you do not have internet access, a copy of the proposed rules may be requested by contacting the NMBON at (505) 841-9083.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes via email to sheena.ferguson@state.nm.us. Alternatively, members of the public may submit written comments by sending an original, signed copy to:

New Mexico Board of Nursing
ATTN: NMBON Public Comments
PO Box 3628
Albuquerque, NM 87190

The Board will accept written public comment received on or before 5:00 PM on Tuesday, November 1, 2022, as well as written public comment hand-delivered between approximately 8:00 a.m. to 9:00 a.m. at the above-referenced address on the date of the rule hearing. All written comments will be posted to the Board’s website no later than three business days following receipt to allow for public viewing.

The Board will preside over the hearing. The Board will hear public comments, review written public comments, and any exhibits admitted during the hearing.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact the NMBON at (505) 841-9083. The NMBON requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Statutory Authority: Subsection A of Section 61-3-10 NMSA 1978 of the Nursing Practice Act, Sections 61-3-1 to -30 NMSA 1978, specifically authorizes the Board to “promulgate rules in accordance with the State Rules Act Chapter 14, Article 4 NMSA 1078 as necessary to enable it to carry into effect the provisions of the Nursing Practice Act and to maintain high standards of practice.” In addition, Section 61-1-31.1 NMSA 1978 of the Uniform Licensing Act, requires the Board to “determine those states and territories of the United States and District of Columbia from which the board will not accept an applicant for expedited licensure and those foreign countries from which the Board will accept an applicant for expedited licensure.”

Purpose of the Proposed Rules: The proposed rules are intended to provide greater clarity in existing regulatory and statutory requirements, ensure continued high levels of professionalism among licensees and certificate holders, and to generally satisfy the Board's statutory obligation to "promote, preserve and protect the public health, safety and welfare." Section 61-3-2. In addition, several of the proposed rule changes are intended to address recent statutory changes to the Uniform Licensing Act, Nursing Practice Act, and Lactation Care Provider Act. See H.B. 191, 56th Leg., Regular Session. (N.M. 2022), available at <https://nmlegis.gov/Sessions/22%20Regular/final/HB0191.pdf>.

Summary of Proposed Changes: The Board summarizes its proposed changes to its administrative rules as follows:

16.12.1 NMAC - General Provisions

The proposed changes to Part 1 of the Board's current rules consist of repealing and replacing existing language. The new Part 1 would set forth critical definitions applicable to all of the Board's rules. The proposed amended Part 1 also adds a glossary of abbreviations. Additional language is added for the nursing practice advisory committee.

16.12.2 NMAC - Nurse Licensure

The proposed changes to Part 2 of the Board's current rules consist of repealing and replacing existing language. The new Part 2 deletes all the definitions and glossary of abbreviations. The fees for the military expedited licensure is added to the fee section. New rules for licensure, included expedited licensure and military expedited licensure are included. The number of times a candidate may take the test for licensure is updated. Continuing education requirements for advanced practice registered nurses has also been updated.

16.12.3 NMAC - Nursing Education Programs

The proposed changes to Part 3 of the Board's current rules are to amend the existing language. The amended Part 3 proposed to change the way the pass rates are calculated for nursing education programs and changes the education requirements for part-time nursing education faculty.

16.12.4 NMAC - Hemodialysis Technicians

The proposed changes to Part 4 of the Board's rules consist of repealing and replacing existing language. The new Part 4 updates definitions and creates a process for hemodialysis technicians who have a national certification to function at their level of competency and safety. In addition, language for military expedited licensure has been added.

16.12.5 NMAC - Medication Aide

The proposed changes to Part 5 of the Board's rules consist of repealing and replacing existing language. The new part 5 updates definitions, updates language for the relationship between the medication aide advisory committee and board and adds language for military expedited licensure.

16.12.11 NMAC - Lactation Care Provider

The proposed changes to Part 11 of the Board's rules consist of repealing and replacing existing language. The new Part 11 adds language for expedited licensure and military expedited licensure.

16.12.13 NMAC - Diversion Program for Chemically Dependent Nurses

The proposed new Part 13 of the Board's rules moves the description of the diversion program from the current 16.12.2 NMAC. The new Part 13 also includes languages related to summary suspension.

Technical Information: No technical information provided the basis for either of the proposed rules.