NOTICE OF REGULAR BOARD MEETING AND RULE HEARING

The New Mexico Board of Pharmacy will convene on January 19th and 20th, 2023 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board's website: https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/pharmacy/pharmacy-board-information/pharmacy-board-meetings/. All proposed language regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Board Administrator, Gabriella Romero, gabriella.romero@state.nm.us at least one week in advance of the scheduled meeting, as public comment is allowed during the rule hearing.

The board may go into Executive Session to discuss items pursuant to Section 10-15-1H (1), Section 10-15-1H (2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gabriella Romero 505-222-9835 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Gabriella Romero, at 505-222-9835 or e-mail gabriella.romero@state.nm.us if a summary or other type of accessible format is needed.

The Board will address:

All Board Matters:

Rule Hearings: January 19, 2023, at 9:10 a.m.

16.19.12 NMAC – FEES – Section 3 is amended to include medicinal gas repackagers and sellers. Section 13 is amended by lowering the fee for seller or dispenser of contact lenses, and adding a fee for medical gas repackager or seller. Section 15 is amended by addition of Class E clinic to Clinic License Fees.

STATUTORY AUTHORITY: Subsection B of Section 61-11-14 NMSA 1978 authorizes the board of pharmacy to define and limit by regulation sellers or dispensers of contact lenses, clinics, medicinal gas repackagers and medicinal gas sellers. Paragraph (4) of Subsection C of Section 61-11-14 authorizes the board to set a fee for each of these license types not to exceed two hundred dollars per year.

16.19.14 NMAC – DEVICES, MEDICAL GAS REPACKAGERS AND SELLERS – Section 1, administrative updates. Section 3, administrative update and update to statutory authority to include reference to Paragraphs 18 and 19 of Subsection B of Section 61-11-14 which authorize the Board to license and otherwise establish minimum standards for medical gas sellers and repackagers. Section 6, update to include objective for establishing standards for the repackaging and selling of medical gases, to minimize the risk of injury from the distribution and use of adulterated or misbranded medical gases. In Section 7, definitions were added. New Sections 13, 14, 15, 16, 17, 18, 19 and 20, to address medical gas repackager or seller procedure for licensure, license requirements, minimum qualifications, minimum requirements, change in location, transfer of ownership, prescription requirement, and report of robbery, fire and flood.

STATUTORY AUTHORITY: Paragraphs 18 and 19 of Subsection B of Section 61-11-14 authorize the Board to license and otherwise establish minimum standards for medicinal gas sellers and repackagers.

16.19.27 NMAC – DISHONORABLE CONDUCT – Section 3, update to statutory authority. Section 7, adding provisions to dishonorable conduct by a business to include: failure to provide a work environment that allows performance of duties requiring professional judgment, and duties of a pharmacist; introducing or enforcing factors such as quotas that interfere with the ability to provide appropriate professional services to the public; and retaliation against a pharmacy employee for reporting or filing a complaint regarding violation of board requirements that the business has the authority to correct.

STATUTORY AUTHORITY: Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Paragraph (7) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the board of pharmacy to enforce the provisions of all state laws pertaining to the practice of pharmacy and the manufacture, production, sale or distribution of drugs, cosmetics or poisons, including the New Mexico Drug, Device and Cosmetic Act.

16.19.29 NMAC – CONTROLLED SUBSTANCE PRESCRIPTION MONITORING PROGRAM – Section 2, update scope to include reference to drugs of concern. Section 3, update to statutory authority. Sections 6 and 7, update to reference and define drugs of concern. "Drug of concern" means a non-controlled dangerous drug that the Board has by rule determined to require dispenser PMP reporting of in the same manner as controlled substance prescription dispensing, when required reporting is expected to protect patients due to interaction of the drug of concern with controlled substances or other compelling issue. Gabapentin is a drug of concern. Sections 8, 9 and 10, update to include reference to drugs of concern.

STATUTORY AUTHORITY: Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to promulgate rules to carry out the provisions of the Pharmacy Act, Paragraph (18) of Subsection A of Section 61-11-6 NMSA 1978 authorizes the Board to promulgate rules that prescribe the activities and duties of pharmacy owners and pharmacists in each practice setting. Section 61-11-8 NMSA requires drug records to be kept for all dangerous drugs pursuant to the Pharmacy Act.

Disciplinary Hearing(s): note – the information below is tentative. Final hearing date and time for each case will be included in the agenda posted to the board's website at least 72 hours before the meeting. Additional hearing(s), if scheduled, will be included in the agenda.

January 19, 2023, 1:30 p.m. B. Tom White, RPh, PhC, Case 2021-001 and 2021-033

Executive Director's Report:

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