

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 56 PARENTAL RESPONSIBILITY COMPLIANCE

16.5.56.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.56.1 NMAC - N, 6/14/2012]

16.5.56.2 SCOPE: This part applies to disciplinary proceedings by an issuing agency pursuant to the Parental Responsibility Act against a license, certificate, registration or permit required to engage in a profession or occupation.
[16.5.56.2 NMAC - N, 6/14/2012]

16.5.56.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Parental Responsibility Act, Sections 40-5A-1 to 40-5A-13 NMSA1978.
[16.5.56.3 NMAC - N, 6/14/2012]

16.5.56.4 DURATION: Permanent.
[16.5.56.4 NMAC - N, 6/14/2012]

16.5.56.5 EFFECTIVE DATE: June 14, 2012, unless a later date is cited at the end of a section.
[16.5.56.5 NMAC - N, 6/14/2012]

16.5.56.6 OBJECTIVE: This part is intended to implement the requirements of the Parental Responsibility Act as they apply to the issuance, renewal, suspension or revocation of any license, certificate, registration or permit required for dentists, dental hygienists, dental assistants, expanded fuction dental auxiliaries, community dental health coordinators, dental therapists and non-dentist owners for dental practices.
[16.5.56.6 NMAC - N, 6/14/2012; A, 5/30/2021]

16.5.56.7 DEFINITIONS:

A. All terms defined in the Parental Responsibility Act shall have the same meanings in this part unless defined below.

B. As used in this part.

(1) "Board" means the New Mexico board of dental health care or any entity to which it has delegated authority to pursue violations of the Parental Responsibility Act.

(2) "HSD" means the New Mexico human services department.

(3) "License" means a license, certificate, registrtrion or permit issued by the board that a person is required to have to engage in a profession or occupation in New Mexico.

(4) "Statement of compliance" means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support, and has complied with subpoenas or warrants relating to paternity or child support proceedings.

(5) "Statement of non-compliance" means a certified statement from HSD stating that an applicant or licensee is not in compliance with judgment and order for support or has not complied with subpoenas or warrants relating to paternity or child support proceedings.

[16.5.56.7 NMAC - N, 6/14/2012]

16.5.56.8 PARENTAL RESPONSIBILITY ACT; DELEGATION OF AUTHORITY: The authority of the New Mexico board of dental health care 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 NMSA 1978, 40-5A-1, 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.
[16.5.56.8 NMAC - N, 6/14/2012]

16.5.56.9 DISCIPLINARY PROCEEDINGS:

A. Disciplinary action: If an applicant or licensee is not in compliance with a judgment and order for support, or has not complied with subpoenas or warrants, relating to paternity or child support proceedings the board shall follow:

- (1) shall deny an application for licensure;
- (2) shall deny the renewal of a license; and
- (3) has grounds for suspension or revocation of a license.

B. Certified list: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support or who have not complied with subpoenas or warrants relating to paternity or child support proceedings, the board shall match the certified list against the current list of applicants and licensees. Upon the later receipt of an application for licensure 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 applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.

C. Initial action: Upon determination that an applicant or licensee appears on the certified list, the board shall:

- (1) commence a formal proceeding under Subsection D of 16.5.56.8 NMAC to take the appropriate action under Subsection A of 16.5.56.8 NMAC; or
- (2) 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 by the earlier of the application for license renewal or a specified date not to exceed six months, if the licensee fails to provide the statement, the board shall commence formal proceeding under Subsection D of 16.5.56.8 NMAC.

D. Notice of contemplated action: Prior to taking any action specified in Subsection A of 16.5.56.8 NMAC, the board shall serve upon the applicant or licensee a written notice stating that:

- (1) the board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:
 - (a) mails a letter (certified mail, return receipt requested) within 20 days after service of the notice requesting a hearing; or
 - (b) provides the board, within 30 days of the date of the notice, with a statement of compliance; and
- (2) 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.

E. Evidence and proof: If any hearing under this part, relevant evidence is limited to the following:

- (1) a statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under Subsection A of 16.5.56.8 NMAC unless:

- (2) the applicant or licensee can provide the board with subsequent statement of compliance which shall preclude the board from taking any action based solely on the prior statement of non-compliance.

F. Order: When an action is taken under this part solely because the applicant or licensee is not in compliance with a judgement and order for support or has not complied with subpoenas or warrants relating to paternity or child support proceedings 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 reapplication or reinstatement of lapsed license.

G. Procedures: Proceedings under this part shall be governed by the Uniform Licensing Act, NMSA 1978, Section 61-1-1 *et seq.*, or any other adjudicatory procedures adopted by the board.
[16.5.56.9 NMAC - N, 6/14/2012]

HISTORY OF 16.5.56 NMAC: [RESERVED]