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# New Mexico Register

The official publication for all official notices of rulemaking  
and filing of proposed, adopted and emergency rules.

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## **The New Mexico Register**

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# New Mexico Register

Volume XXIX, Issue 10

May 29, 2018

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## Notices of Rulemaking and Proposed Rules

### CHILDREN, YOUTH AND FAMILIES DEPARTMENT

#### NOTICE OF PUBLIC HEARING 2019-2021 CCDF STATE PLAN

The Children, Youth and Families Department, Early Childhood Services, will hold a formal public hearing on Tuesday, June 19, 2018, from 9:00 a.m. to 12:00 p.m. in Apodaca Hall on the second floor of the PERA Building located at 1120 Paseo de Peralta, Santa Fe, New Mexico, to receive public comments regarding proposed updates to the 2019-2021 Child Care and Development Fund State Plan (CCDF State Plan). This Plan describes the Child Care and Development Fund program to be administered by New Mexico for the period from 10/1/2018 to 9/30/2021, as provided in the applicable statutes and regulations. The CCDF program provides resources to New Mexico that enable low-income parents to work or pursue education and training so that they can better support their families while at the same time promoting the learning and development of their children. The CCDF program also provides funding to enhance the quality of child care for all children.

The draft CCDF State Plan may be obtained at [www.newmexicokids.org](http://www.newmexicokids.org) or by calling 800-832-1321. Interested persons may testify at the hearing or submit written comments no later than 5:00 p.m. Tuesday, June 19, 2018. Written comments will be given the same consideration as oral testimony given at the hearing. Written comments should be addressed to: Early Childhood Services, Children, Youth and Families Department, PO Drawer 5160, Santa Fe, NM 87502; Fax: 505-827-9978.

If you are a person with a disability and you require this information in an alternative format or require special accommodations to participate in the public hearing, please contact Early Childhood Services at 800-832-1321.

CYFD requests at least 10 days advance notice to provide requested alternative formats and special accommodations.

#### NOTICIA DE AUDICION PÚBLICA 2019-2021 CCDF PLAN ESTATAL

El Departamento de Niños, Jóvenes y Familias, Servicios de la Primera Infancia, celebrará una audiencia pública formal el día martes, 19 de junio, 2018, empezando a las 9 am hasta las 12 pm, en el salón Apodaca del viejo edificio de PERA, situado en 1120 Paseo de Peralta, Santa Fe, New Mexico, para recibir comentarios públicos con respecto a los cambios propuestos al plan federal del cuidado del niño estatal (plan estatal de CCDF). Este Plan describe el programa del Fondo de Desarrollo de Cuidado Infantil (CCDF) que administrará el Estado de Nuevo México para el período comprendido entre el 10/1/2018 y el 9/30/2021, según lo estipulado en los estatutos y reglamentos aplicables. El programa de CCDF proporciona recursos a Nuevo México para permitir que los padres de bajos ingresos trabajen o se eduquen, para que puedan mejor proveer para sus familias y al mismo tiempo, promover el aprendizaje y el desarrollo de sus hijos. El programa de CCDF también proporciona los fondos para mejorar la calidad del cuidado infantil para todos los niños.

La propuesta de cambios al plan estatal de CCDF se puede obtener en [www.newmexicokids.org](http://www.newmexicokids.org), o puede llamar al 1-800-832-1321. Las personas interesadas pueden estar presentes en persona para dar testimonio en la audiencia pública, o pueden presentar por escrito sus comentarios a más tardar 5:00 de la tarde el martes, 19 de junio, 2018. Los comentarios escritos serán dados la misma consideración como testimonio oral en la audiencia. Los comentarios escritos deben dirigirse a: Early Childhood Services, Children, Youth and Families Department, PO

Drawer 5160, Santa Fe, NM 87502;  
Fax: 505-827-9978.

Si usted es una persona con discapacidades y requiere esta información en una forma alternativa o requiere arreglos especiales para tomar parte en la audiencia pública, por favor llame al 1-800-832-1321. CYFD requiere aviso con al menos 10 días de anticipación para proporcionar formatos alternativos solicitados y adaptaciones especiales.

### FINANCE AND ADMINISTRATION, DEPARTMENT OF

#### NOTICE OF PROPOSED RULEMAKING

Pursuant to Subsection A of 1.24.25.9 and 1.24.25.11 NMAC, the State of New Mexico Department of Finance and Administration (hereinafter "DFA") hereby gives notice of the following meeting and public hearing to be held at 10:00 am on Friday, July 6, 2018 in the Red Room (Room 238) at 407 Galisteo, Santa Fe NM 87501. DFA will hold a hearing to repeal and replace 2.40.2 NMAC, Governing the Approval of Contracts for the Purchase of Professional Services. Pursuant to Subsection E of 9-1-5 and 9-6-5 NMSA 1978, DFA promulgates these rules to administer the duties of the department of finance and administration and its divisions.

The proposed repeal and replace of 2.40.2 NMAC is to update administrative language to comply with statutory language directives in the Procurement Code, and to clarify certain procedures and citations thereto, including formatting requirements per 1.24.10 NMAC.

Interested individuals are encouraged to submit comments during the Public Comment Period, which runs from May 30, 2018 through June 29, 2018. Written comments may be submitted to Clinton Nicley, Deputy

General Counsel, DFA, via email at [Clinton.Nicley@state.nm.us](mailto:Clinton.Nicley@state.nm.us), fax (505) 827-4984, or directed to Mr. Nicley at Department of Finance and Administration, Office of the Secretary, 407 Galisteo St. #180B, Santa Fe, New Mexico 87501.

Copies of the proposed rule may be accessed on the Department's website at <http://www.nmdfa.state.nm.us/>, or obtained from Mr. Nicley by calling (505) 827-3013.

Individuals with disabilities who require this information in an alternative format, or need any form of auxiliary aid to submit comments, are asked to contact Mr. Nicley as soon as possible. DFA requires at least ten (10) days advance notice to provide requested special accommodations.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 2:00 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed repeal of **5.6.2 NMAC - ENROLLMENT REPORTING** and replace with newly titled **5.6.2 NMAC - DATA REPORTING**.

**Purpose:**

The purpose of the proposed rule change is to update data reporting procedures. The department collects data as part of its duty to conduct statewide planning and to prepare reports required by law. The department has retitled the Part from "ENROLLMENT REPORTING" to "DATA REPORTING" in order to consolidate multiple types of

reporting requirements into a single rule. The department proposes consolidated aspects of 5.6.2 NMAC, ENROLLMENT REPORTING, 5.6.3 NMAC, VARIABLE SCHEDULING, and 5.6.4 NMAC, ENROLLMENT VERIFICATION so as to address data reporting and data verification requirements within a single rule.

**Summary of proposed changes:**

The department collects data as part of its duty to conduct statewide planning and to prepare reports required by law. The department utilizes the Electronic Data Editing and Reporting System (eDEAR) to collect data from institutions. The department maintains the eDEAR User Manual to aid institutions in addressing data reporting requirements and to provide user assistance. The proposed replacement includes general requirements of data reporting through the eDEAR system, establishes the requirement that the department set a data reporting schedule, and sets out procedures for the department to follow when conducting verification of data submissions.

**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed rule is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 2:00 p.m. until 3:00 p.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule may appear and testify.

**Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note

that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 21-2-5 NMSA 1978 and 21-2-7 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 1:00 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed repeal of **5.6.3 NMAC - VARIABLE SCHEDULING**.

**Purpose:**

The department has proposed the repeal of 5.6.3 NMAC to consolidate and update regulations related to data reporting procedures in the proposed repeal and replace of 5.6.2 NMAC, Data Reporting (formerly titled Enrollment Reporting). Any data reporting procedures and verification procedures previously addressed in 5.6.3 NMAC have been consolidated

with other data reporting procedures in 5.6.2 NMAC. The purpose of the proposed rule change is to update data reporting procedures. The department collects data as part of its duty to conduct statewide planning and to prepare reports required by law. The department utilizes the Electronic Data Editing and Reporting System (eDEAR) to collect data from institutions. The department maintains the eDEAR User Manual to aid institutions in addressing data reporting requirements and to provide user assistance. The proposed replacement to 5.6.2 NMAC includes the general requirements of data reporting through the eDEAR system, establishes the requirement that the department set a data reporting schedule, and sets out procedures for the department to conduct verification of data submissions.

**Summary of proposed changes:**

The proposed repeal of 5.6.3 NMAC is to consolidate and update all regulations related to data reporting. The regulations previously addressed in 5.6.2 NMAC, 5.6.3 NMAC, 5.6.4 NMAC have been consolidated and updated within proposed 5.6.2 NMAC, Data Reporting.

**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed statement of repeal is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed statement of repeal is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed statement of repeal be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 1:00 p.m. until 1:30 p.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule may appear and testify.

**Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us)**

[state.nm.us](http://state.nm.us). **Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 21-2-5 NMSA 1978 and 21-2-7 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 1:30 p.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed repeal of **5.6.4 NMAC - ENROLLMENT VERIFICATION.**

**Purpose:**

The department has proposed the repeal of 5.6.4 NMAC to consolidate and update regulations related to data reporting procedures in the proposed replacement of 5.6.2 NMAC, Data Reporting (formerly titled Enrollment Reporting). Any

data reporting procedures and verification procedures previously addressed in 5.6.4 NMAC have been consolidated with other data reporting procedures in 5.6.2 NMAC. The department collects data as part of its duty to conduct statewide planning and to prepare reports required by law. The department utilizes the Electronic Data Editing and Reporting System (eDEAR) to collect data from institutions. The department maintains the eDEAR User Manual to aid institutions in addressing data reporting requirements and to provide user assistance. The proposed replacement to 5.6.2 NMAC includes general requirements of data reporting through the eDEAR system, establishes the requirement that the department set a data reporting schedule, and sets out procedures for the department to conduct verification of data submissions.

**Summary of proposed changes:**

The proposed repeal of 5.6.4 NMAC is to consolidate and update all regulations related to data reporting. The regulations previously addressed in 5.6.2 NMAC, 5.6.3 NMAC, 5.6.4 NMAC have been consolidated and updated within proposed 5.6.2 NMAC, Data Reporting.

**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed statement of repeal is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed statement of repeal is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed statement of repeal be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 1:30 p.m. until 2:00 p.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule change may appear and testify.

**Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4,**



**Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 21-2-5 NMSA 1978 and 21-2-7 NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 11:00 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed amendments to **5.7.6 NMAC - FIRE FIGHTER AND PEACE OFFICER SURVIVORS SCHOLARSHIP.**

#### Amendments:

5.7.6.2 NMAC, SCOPE  
5.7.6.7 NMAC, DEFINITIONS;  
5.7.6.9 NMAC, DURATION OF SCHOLARSHIP;

5.7.6.10 NMAC, AMOUNT OF SCHOLARSHIP;  
5.7.6.11 NMAC, ADMINISTRATION OF FIRE FIGHTER AND PEACE OFFICER SURVIVORS SCHOLARSHIP;  
5.7.6.12 NMAC, TERMINATION OF SCHOLARSHIP

#### Purpose:

The purpose of the proposed rule change is to modify eligibility requirements for the Fire Fighter and Peace Officer Survivors Scholarship. The proposed amendments are based upon changes that were made to the program through the signing of House Bill 55 in the 2018 regular New Mexico legislative session. The program was modified to statutorily expand benefits covered by the scholarship. The program was statutorily modified to increase benefit eligibility to a term of six years.

#### Summary of proposed changes:

Amendment to 5.7.6.2 NMAC modifies the scope to align with new statutory requirements.

Amendments to 5.7.6.7 NMAC modify the definition of cost of attendance and research institution according to the statutory changes. Any defined terms that are not used within the body of the rule were removed.

Amendments to 5.7.6.9 NMAC modify the duration of the scholarship term from five to six academic years, pursuant to statutory changes.

Amendments to 5.7.6.10 NMAC modify the scholarship amounts to include eligible costs pursuant to statutory changes.

Amendments to 5.7.6.11 NMAC modify administrative procedures for the department in setting award amounts consistent with the new statutory provisions.

Amendments to 5.7.6.12 NMAC add clarifying language about termination of the scholarship.

Non-substantive renumbering changes are made throughout the rule.

#### Details for Obtaining a Copy, Public Hearing and Comments:

The proposed rule is available at NMHED located at 2044 Galisteo

Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 11:00 a.m. until 12:00 p.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 21-21F-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

## HIGHER EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that

the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 10:00 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed amendments to **5.7.20 NMAC - LEGISLATIVE LOTTERY SCHOLARSHIP PROGRAM.**

**Amendments:**

5.7.20.7 NMAC, DEFINITIONS;  
5.7.20.10 NMAC, AMOUNT OF SCHOLARSHIP;  
5.7.20.11 NMAC,  
ADMINISTRATION OF THE  
LEGISLATIVE LOTTERY  
SCHOLARSHIP

**Purpose:**

The purpose of the proposed rule changes are to restructure the Legislative Lottery Scholarship Program tuition scholarship amounts to accommodate for changes that were made to the program through the signing of Senate Bill 140 in the 2018 regular New Mexico legislative session.

**Summary of proposed changes:**

Amendments to 5.7.20.7 NMAC correct a minor non-substantive error by re-numbering subsection R to subsection P and subsection S to subsection Q;  
Amendments to 5.7.20.10 NMAC modify the provisions related to the amount of scholarship. The amendments modify the scholarship to a flat amount depending on the sector of the institution a student attends. The proposed amended amounts are based upon changes to Sections 21-21N-1 et seq. NMSA 1978 through the signing of 2018 Senate Bill 140.  
Amendments to 5.7.20.11 NMAC modify administration of the legislative lottery scholarship by the department. The amendment removes reference to setting the scholarship amount based on percentage of average tuition, so as to allow for flat

award amounts, pursuant to statutory changes.

**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed rule is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 10:00 a.m. until 11:00 a.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 6-24-1 et seq. NMSA 1978 and Sections 21-21N-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

**HIGHER EDUCATION DEPARTMENT**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the New Mexico Higher Education Department (NMHED or department) will hold a public rulemaking hearing on June 29, 2018. The hearing will begin at 9:00 a.m. and will be held at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505. The purpose of the rulemaking hearing is to take public comment regarding proposed amendments to **5.7.31 NMAC - PUBLIC SERVICE LAW LOAN REPAYMENT PROGRAM.**

**Amendments:**

5.7.31.7 NMAC, DEFINITIONS;  
5.7.31.9 NMAC, LOAN REPAYMENT PROGRAM ELIGIBILITY AND AWARD CRITERIA;

**Purpose:**

The purpose of the proposed rule change is to modify eligibility requirements for the Public Service Law Loan Repayment Assistance Program. The proposed amendments are based upon changes that were made to the program through the signing of Senate Bill 143 in the 2018 regular New Mexico legislative session. The program was modified to statutorily remove the salary cap for applicants, so as to allow the department to set the maximum salary cap in rule. The department seeks to set an eligibility maximum salary cap of \$75,000.

**Summary of proposed changes:**

Amendment to 5.7.31.7 NMAC inserts the term "american bar association" to reflect the statutory criteria for an eligible legal education. Amendment to 5.7.31.9 modifies the maximum allowable salary cap for eligible participants to \$75,000. Capitalization has been modified throughout to reflect legislative style.  
**Details for Obtaining a Copy, Public Hearing and Comments:**

The proposed rule is available at NMHED located at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505-2100. The proposed rule is also posted on the NMHED website and may be accessed at <http://www.hed.state.nm.us/> under the "Recent Posting" section. To request that a copy of the proposed rule be sent to you by mail or e-mail, please contact [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) or 1-800-279-9777.

A public hearing will be held from 9:00 a.m. until 10:00 a.m. at NMHED on June 29, 2018. Any person who is or may be affected by this proposed rule may appear and testify. **Interested persons may submit written comments to NMHED at 2044 Galisteo Street, Suite 4, Santa Fe, NM 87505 or [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 28, 2018.** Please note that any written comments received will become part of the rulemaking record, be posted to the New Mexico Sunshine Portal, and be accessible to the public. If submitting written comments by email, please indicate in the subject line the number and section of each rule(s) for which you are providing comments. Oral comments will also be accepted at the rule hearing, subject to time limitations.

Legal authority for this rulemaking can be found in Section 9-25-8 NMSA 1978, Sections 21-22F-1 et seq. NMSA 1978.

Any person with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or auxiliary aid or service to attend or participate in the hearing should contact 1-800-279-9777 or email [fin.aid@state.nm.us](mailto:fin.aid@state.nm.us) ten (10) business days prior to the hearing.

**HUMAN SERVICES  
DEPARTMENT  
MEDICAL ASSISTANCE  
DIVISION**

**NOTICE OF RULEMAKING**

The Human Services Department (the Department), Medical Assistance Division (MAD), is amending the following rules that are part of the New Mexico Administrative Code (NMAC): *8.200.520 NMAC Medicaid Eligibility Income Standards* and *8.291.430 NMAC Medicaid Eligibility Affordable Care* in order to implement the Department of Health and Human Services (HHS) updates to the Federal Poverty Level (FPL) income guidelines for the Medical Assistance Program categories of eligibility effective April 01, 2018. The SSI and Spousal Impoverishment standards are being updated due to the annual cost of living increase (COLA) that went into effect January 01, 2018. The Department is re-promulgating this section of the rule in full within six months of issuance of the emergency rule in accordance with the New Mexico State Rules Act.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: May 29, 2018  
Hearing Date: June 28, 2018  
Adoption Date: Proposed as September 1, 2018  
Technical Citations: 42 USC Section 9902 (2), Federal SSI and Spousal Impoverishment Standards, and SSA COLA Fact Sheet

**Throughout the rules:**

**8.200.520 NMAC**

Section 11 is amended to reflect current FPL mandates.  
Section 12 is amended to reflect the cost of living increase.  
Section 13 is amended to reflect the increase in the Federal Benefit Rate.  
Section 15 is amended to reflect the increase in SSI living arrangement amounts.  
Section 16 is amended to reflect the increase in the monthly income standard for Institutional Care and Home and Community Based Waiver Services categories.  
Section 20 is amended to reflect

the increase in the covered quarter income standard.

**8.291.430 NMAC**

Section 10 is amended to reflect current FPL mandates.

The register for these proposed amendments to this rule will be available May 15, 2018 on the HSD web site at <http://www.hsd.state.nm.us/LookingForInformation/register.aspx> or at <http://www.hsd.state.nm.us/public-notice-proposed-rule-and-waiver-changes-and-opportunities-to-comment.aspx>. If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at (505) 827-6252.

The Department proposes to implement these rules effective September 1, 2018. A public hearing to receive testimony on this proposed rule will be held in the Rio Grande room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico June 28, 2018 from 9 a.m. to 10 a.m., Mountain Daylight Time (MDT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us). Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. MDT, June 28, 2018.

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 MAD in Santa Fe at 505-827-6252. The Department requests at least ten

(10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

**HUMAN SERVICES  
DEPARTMENT  
MEDICAL ASSISTANCE  
DIVISION**

**NOTICE OF RULEMAKING**

The Human Services Department (the Department), Medical Assistance Division (MAD), is amending the following rule that is part of the New Mexico Administrative Code (NMAC): 8.314.6, Long Term Care Services - Waivers, Mi Via Home and Community Based Services Waiver.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: May 29, 2018  
Hearing Date: June 28, 2018  
Adoption Date: Proposed as September 1, 2018  
Technical Citations: 42 CFR 438 subparts A through J

On April 11, 2017, the Department received approval from the Centers for Medicare and Medicaid Services (CMS) of an amendment to the Mi Via 1915 (c) Home and Community-Based (HCBS) waiver with an effective date of April 15, 2017. The rule is being amended to align services and definitions with the approved amendment and the CMS HCBS Settings Final Rule.

**Throughout the rule**

Language updated to clarify that a recipient may be his or her own Employer of Record (EOR) unless

the recipient is a minor or has a plenary or limited guardianship or conservatorship over financial matters in place.

**Section 8**

This section is updated to align the program mission statement with the Human Services Department mission statement.

**Section 11**

**Subsection A** - Requirements for independent contractors are updated to clarify that an individual seeking to provide services as an independent contractor must submit the nature of services questionnaire and be determined by the Financial Management Agent (FMA) to be an independent contractor.

**Subsection B** - General Qualifications for employees are updated to include four additional required background screenings; clarification added that a Legally Responsible Individual (LRI) may not be paid to provide transportation services for a minor or individual directed goods and services; requirement of an EOR questionnaire is added; and clarifying language regarding EOR responsibilities is added.

**Subsection E** - Language added to clarify responsibilities and roles of in-home living supports providers.

**Subsection H** - Language added to identify vendors for individual directed goods and services.

**Section 14**

This section is updated to include EOR responsibility to submit Mi Via employee timesheets online, unless exempted by HSD.

**Section 15**

This section is updated to align with the CMS HCBS Settings Final Rule. Language has been added clarifying the recipient's right to privacy, dignity, and respect as well as freedom from coercion and restraint.

**Subsection C** - Conflict of interest is updated to align with

Code of Federal Regulations (CFR) requirements.

**Subsection E** - Language added to clarify the setting in which living supports may be provided. Home health aide services covered under the waiver are clarified to differ in nature and scope from those in the State Plan.

**Subsection H** - Scope of transportation service and respite services is aligned with the approved Mi Via Waiver. The restriction disallowing transportation for minors is removed. Language added to clarify the scope of respite services. Related goods is renamed Individual Directed Goods and Services and the scope of this service is aligned with the approved Mi Via Waiver.

**Section 16**

**Subsection G** - Language is added to clarify goods and services considered recreational and diversionary in nature.

**Subsection T** - Language is added to specify adaptive clothing or accessories.

**Section 17**

**Subsection B** - Language is added to clarify that waiver rates are defined in the Mi Via waiver and approved by CMS. Requirements for requesting an exception to the approved range of rates is added.

**Subsection F** - Language is clarified that additional funding is service specific.

**Subsection G** - Language updated that the FMA will issue payments to employees, vendor, and for individual directed goods and services.

**Subsection H** - Timeline for the Third Party Assessor review of Service and Support plan and annual budget submissions is updated.

The register for these proposed amendments to this rule will be available May 29, 2018 on the HSD web site at <http://www.hsd.state.nm.us/LookingForInformation/registers.aspx> or at <http://www.hsd.state.nm.us/public-notices-proposed-rule-and-waiver-changes-and->

[opportunities-to-comment.aspx](#). If you do not have Internet access, a copy of the proposed rules may be requested by contacting MAD in Santa Fe at 505-827-6252.

The Department proposes to implement these rules effective September 1, 2018. A public hearing to receive testimony on this rule will be held in the Rio Grande Conference Room, Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico, 87505 on June 28, 2018 from 10:30 a.m. to 11:30 a.m., Mountain Daylight Time (MDT).

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left by calling (505) 827-1337. Electronic comments may be submitted to [madrules@state.nm.us](mailto:madrules@state.nm.us). Written, electronic and recorded comments will be given the same consideration as oral testimony made at the public hearing. All comments must be received no later than 5:00 p.m. MDT, June 28, 2018.

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 MAD in Santa Fe at 505-827-6252. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.

## PUBLIC EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**Public Hearing.** The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing in Mabry Hall located at the Jerry Apodaca Education Building, 300 Don Gaspar Avenue, Santa Fe, New Mexico 87501, on Thursday, July 5, 2018 from 9:00 a.m. to 11:00 a.m. (MDT). The purpose of the public hearing is to receive public input on the proposed new rule 6.63.17 NMAC, Licensure for Attendance Coaches Pre K-12. At the hearing, the PED will provide a verbal summary statement on record. Attendees who wish to provide public comment on record will be given three (3) minutes to make a statement regarding the rule changes. Written comment will also be accepted at the hearing.

#### Explanation of Purpose and Summary of Text.

The purpose of the proposed new rule 6.63.17 NMAC is to establish a new license for school staff who support attendance interventions for chronically absent students Pre K-12. This rule establishes two levels of licensure for attendance coaches and governs the licensure requirements for persons seeking level 1 and level 2 attendance coach licensure.

**Statutory Authorizations:**  
Sections 22-2-1 NMSA 1978,  
22-2-2 NMSA 1978  
22-10A-17 NMSA 1978, and  
22-10A-5 NMSA 1978

No technical information served as a basis for this proposed rule change.

#### Stakeholder Engagement.

Stakeholder engagement regarding this proposed rule change was held. Stakeholders included district and school leaders whose work is closely aligned to attendance initiatives.

**Public Comment.** Interested parties

may provide comment at the public hearing or may submit written comments by mail to Jamie Gonzales, Policy Division, New Mexico Public Education Department, 300 Don Gaspar Avenue, Room 101, Santa Fe, New Mexico 87501, by electronic mail to [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us), or by fax to (505) 827-6681. All written comments must be received no later than 5:00 p.m. (MDT) on Thursday, July 5, 2018. The PED encourages the early submission of written comments. The public comment period is from May 29, 2018 to Thursday, July 5, 2018 at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding final decision at a later date.

Copies of the proposed new rule may be accessed through the page titled, "Rule Notification," on the PED's website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from Jamie Gonzales at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible before the date set for the public hearing. The PED requires at least ten (10) calendar days advance notice to provide any special accommodations requested.

## PUBLIC EDUCATION DEPARTMENT

### NOTICE OF PROPOSED RULEMAKING

**Public Hearing.** The New Mexico Public Education Department (PED) gives notice that it will conduct a public hearing in Mabry Hall located at the Jerry Apodaca Education Building, 300 Don Gaspar Avenue,

Santa Fe, New Mexico 87501, on Tuesday, July 3, 2018 from 9:00 a.m. to 5:00 p.m. (MDT). The purpose of the public hearing is to receive public input on the proposed repeal of 6.19.7 NMAC, High School Readiness Assessment System for Career and College to be replaced by 6.19.7 NMAC, Demonstration of Competency for High School Graduation. At the hearing, the PED will provide a verbal summary statement on record. Attendees who wish to provide public comment on record will be given three (3) minutes to make a statement regarding the rule changes. Written comment will also be accepted at the hearing.

**Explanation of Purpose and Summary of Text.** The purpose of the proposed rule change is to establish pathways for demonstrating competency in mathematics, reading, writing, science, and social studies for high school graduation. Establishing such pathways will help ensure that high students are college and career ready and that every student in New Mexico is given the opportunity to earn a meaningful high school diploma. The proposed rule defines eligibility requirements, establishes appropriate assessment options, and outlines requirements for standards-based portfolios. Additionally, the proposed rule will address which indicators the PED will approve as demonstrations of competency for high school graduation and establish data reporting requirements.

This rule shall apply to public schools, state educational institutions, and state agencies enrolling high school students except for institutions of higher education and the New Mexico military institute. The rule would be effective July 24, 2018 and will indicate to which graduating class it will apply.

**Statutory Authorizations:**

Sections 22-2-1, 22-2-2, 22-2C-4.1, and 22-13-1.1 NMSA 1978

No technical information served as a basis for this proposed rule change.

**Stakeholder Engagement and Tribal Consultation.** Stakeholder engagement and tribal consultation regarding this proposed rule change began in the fall of 2016. Multiple working groups and presentations provided opportunities for feedback on rule language and the overall policy. Stakeholders included: tribal leaders, legislators, Legislative Educations Study Committee staff, district leaders, school leaders, teachers, parents, and various advocacy organizations.

**Public Comment.** Interested parties may provide comment at the public hearing or may submit written comments by mail to Jamie Gonzales, Policy Division, New Mexico Public Education Department, 300 Don Gaspar Avenue, Room 101, Santa Fe, New Mexico 87501, by electronic mail to [rule.feedback@state.nm.us](mailto:rule.feedback@state.nm.us), or by fax to (505) 827-6681. All written comments must be received no later than 5:00 p.m. (MDT) on Tuesday, July 3, 2018. The PED encourages the early submission of written comments. The public comment period is from May 29, 2018 to July 3, 2018 at 5:00 p.m. (MDT). The PED will review all feedback received during the public comment period and issue communication regarding a final decision at a later date.

Copies of the proposed rule may be accessed through the page titled, "Rule Notification," on the PED's website at <http://webnew.ped.state.nm.us/bureaus/policy-innovation-measurement/rule-notification/>, or may be obtained from Jamie Gonzales at (505) 827-7889 during regular business hours.

Individuals with disabilities who require the above information in an alternative format, or who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Jamie Gonzales at (505) 827-7889 as soon as possible before the date set for the public hearing. The PED requires at least ten (10) calendar days advance notice to provide any special accommodations

requested.

**PUBLIC EMPLOYEE  
LABOR RELATIONS  
BOARD**

**NOTICE OF PROPOSED  
RULEMAKING**

The New Mexico Public Employee Labor Relations Board ("NMPELRB"), pursuant to Section 10-7E-9, NMSA 1978 (2017), hereby gives notice that it will conduct a public rulemaking hearing at its offices at 2929 Coors Blvd. NW, Ste. 303, Albuquerque, NM 87102 on Tuesday July 10, 2018, at 9:30 a.m. The purpose of the public hearing is to amend 11.21.1 NMAC to correct typographical errors and obtain input on proposed amendments to Sections 7, 10 and 24. Interested individuals may provide comments at the public hearing and/or submit written comments to Thomas Griego, Executive Director, New Mexico Public Employee Labor Relations Board, 2929 Coors Blvd. NW, Albuquerque, NM 87102 (Tom. Griego@state.nm.us) (505) 831-5422, fax (505) 831-8820. Written comments must be received no later than 5:00 p.m. on the date of the hearing. However, the submission of written comments as soon as possible is encouraged. Parties seeking to attend the public hearing telephonically must inform Mr. Matthew Abousleman, Executive Administrative Assistant, at the address or phone number above or by e-mail at [MatthewJ.Abousleman@state.nm.us](mailto:MatthewJ.Abousleman@state.nm.us), no later than 5:00 p.m. on Tuesday July 3. Copies of the proposed rules may be accessed on the Board's website (<http://www.pelrb.state.nm.us>), or obtained from Mr. Abousleman at the email address or phone number indicated. Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in either of these meetings are asked to contact Mr. Abousleman as soon as possible. The NMPELRB

requires at least 10 days advance notice to provide requested special accommodations.

## WATER QUALITY CONTROL COMMISSION

### NOTICE OF PUBLIC HEARING TO AMEND 20.7.5 NMAC, WASTEWATER FACILITY CONSTRUCTION LOANS

The New Mexico Water Quality Control Commission (“Commission” or “WQCC”) will hold a public hearing beginning at 9:00 a.m. on Tuesday, August 14, 2018, and continuing thereafter as necessary in Room 307 at the State Capital Building, 490 Old Santa Fe Trail, Santa Fe, New Mexico. The hearing location may change prior to the hearing date, and those interested in attending should visit the WQCC website: <http://www.env.nm.gov/wqcc> prior to the hearing. The purpose of the hearing is to consider amendments to the rules on Wastewater Facility Construction Loans, 20.7.5 NMAC (“Rules”) proposed by the New Mexico Environment Department (“NMED”).

The amendments would bring the Rules into compliance with recent changes to the Wastewater Facility Construction Loan Act (Sections 74-6A-1 thru 74-6A-15 NMSA 1978) (“Act”). The Act governs the administration of New Mexico’s Clean Water State Revolving Fund (“CWSRF”) which provides low interest loans and grant/loan packages to eligible entities for wastewater and storm water projects. Primarily, these amendments would expand the scope of projects and borrowers eligible for consideration for funding pursuant to the Act. Additionally, the amendments would bring 20.7.5 NMAC into compliance with changed criteria for zero-percent loans through the CWSRF.

The proposed amendments may be reviewed during regular business hours at the NMED Hearing Office

located in the Harold Runnels Building, 1190 South St. Francis Drive, Room S-2102 Santa Fe, NM, 87505. The full text of the proposed amendments is also available online at <http://www.env.nm.gov/general/wqcc-18-01-r/>.

The hearing will be conducted in accordance with the WQCC Rulemaking Procedures (20.1.6 NMAC); the Water Quality Act, Section 74-6-6 NMSA 1978; the State Rules Act, Section 14-4-5.3 NMSA 1978 and other applicable procedures.

All interested persons will be given reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally or in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such statement prior to the close of the hearing.

Pursuant to the WQCC Rulemaking Procedures, those wishing to present technical testimony must file a written notice of intent to do so with the Commission on or before 5:00 p.m. on July 25, 2018. The notice of intent shall:

- identify the person or entity for whom the witness(es) will testify;
- identify each technical witness that the person intends to present and state the qualifications of the witness, including a description of his or her education and work background;
- include a copy of the direct testimony of each technical witness in narrative form, and state the estimated duration of the direct oral testimony of that witness;
- include the text of any recommended modifications to the proposed regulatory change; and
- list and attach all exhibits anticipated to be offered by that person at the hearing.

Notices of intent for the hearing must be received in the Hearing Office no later than 5:00 p.m. on July 25, 2018, and should reference the name of the regulation, the date of the hearing, and docket number WQCC 18-01(R). Notices of intent to present technical testimony should be submitted to:

Pam Castaneda, Administrator of  
Boards and Commissions  
Office of the Water Quality Control  
Commission  
Harold Runnels Building  
P.O. Box 5469  
Santa Fe, NM 87502

Those wishing to do so may offer non-technical public comment at the hearing or submit a non-technical written statement in lieu of oral testimony at or before the hearing. Written comments regarding the proposed revisions may be addressed to Ms. Pam Castaneda, Administrator of Boards and Commissions, at the above address, and should reference docket number WQCC 18-01(R).

If any person requires assistance, an interpreter or auxiliary aid to participate in this process, please contact Pam Castaneda, WQCC Administrator by July 31, 2018, at P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, telephone (505) 827-2425 or email [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

The Commission may make a decision on the proposed regulatory change at the conclusion of the hearing or may convene a meeting after the hearing to consider action on the proposal.

Notice of Non-Discrimination  
NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of

compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kristine Pintado, Non-Discrimination Coordinator New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us). If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at <https://www.env.nm.gov/NMED/EJ/index.html> to learn how and where to file a complaint of discrimination.

**This is an amendment to 20.7.5 NMAC, Sections 6, 7, 10, 11, 12, 13, and 14, effective XX/XX/2018.**

**20.7.5.6 OBJECTIVE:** The objective of this part is to establish a program to provide financial assistance to state agencies, local authorities, interstate agencies, and other qualified borrowers for the acquisition, construction, or modification of wastewater facilities or other eligible projects or activities pursuant to the act.  
[20.7.5.6 NMAC - Rp, 20.7.5.6 NMAC, 12/16/2015; A, XX/XX/2018]

**20.7.5.7 DEFINITIONS:** as used in this part.

**A.** "Act" means the Wastewater Facility Construction Loan Act.

**B.** "Administrative fee" means a fee assessed and collected by the department from the ~~[local authority]~~ qualified

borrower on each loan and expressed as a percentage per year on the outstanding principal amount of the loan, payable by the borrower on the same date that principal and interest on the loan are due, for deposit in the clean water administrative fund.

**C.** "Clean Water Act" means the federal Clean Water Act of 1977 and its subsequent amendments or successor provisions.

**D.** "Clean water state revolving loan administrative fund" means a separate fund created outside the wastewater facility construction loan fund/clean water state revolving fund designated solely for the costs of administering the clean water state revolving loan fund, in accordance with the Clean Water Act. Money remaining in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the loan administrative fund and shall be used explicitly for the purpose above.

**E.** "Commission" means the water quality control commission.

**F.** "Department" means the New Mexico environment department.

**G.** "Eligible project" means any project or activity that is eligible for funding assistance under Section 603(c) of the Clean Water Act, Section 1383 of Title 33 of the United States Code, as of January 1, 2018, including a wastewater facility project, a nonpoint source water pollution control project, and a watershed project that meet the criteria of the Clean Water Act.

~~[G:]~~ **H.** "Final loan agreement" means an agreement executed by the ~~[local authority]~~ qualified borrower and the department upon completion of the project in order to ~~[evidenece]~~ document the permanent financing of the final loan amount.

~~[H:]~~ **I.** "Final loan amount" means the aggregate amount of the principal disbursed by the department to the ~~[local authority]~~ qualified borrower during the construction of the ~~[wastewater facility]~~ eligible project, together with accrued and unpaid interest on the aggregate

principal thereof.

~~[H:]~~ **J.** "Financial assistance" means loans, combination loan/grants, the purchase or refinancing of existing state agency or local political subdivision obligations, loan guarantees, credit enhancement techniques to reduce interest on loans and bonds, bond insurance and bond guarantees, or any combination of these purposes.

~~[H:]~~ **K.** "Force account construction" means construction performed by the employees of a ~~[local authority]~~ qualified borrower rather than through a contractor.

~~[K:]~~ **L.** "Fund" means the wastewater facility construction loan fund established in Section 74-6A-4 NMSA 1978 of the Wastewater Facility Construction Loan Act.

~~[H:]~~ **M.** ~~["Local authority" means any municipality, county, water and sanitation district or any similar district, recognized Indian tribe, mutual domestic water consumers association as defined by the Sanitary Projects Act, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.]~~ "Local authority" means a municipality, intermunicipal agency, county, incorporated county, mutual domestic water consumers association as defined by the Sanitary Projects Act, sanitation district, water and sanitation district or any similar district, recognized Indian tribe, or other issuing agency created pursuant to a joint powers agreement acting on behalf of any entity listed in this subsection.

~~[M:]~~ **N.** "Payment" means a disbursement from the fund directly to the ~~[local authority]~~ qualified borrower.

~~[N:]~~ **O.** "Priority list" means the list of eligible projects ranked according to the priority system pursuant to the Wastewater Facility Construction Loan Act.

~~[O:]~~ **P.** "Priority system" means the system approved by the commission for ranking eligible projects for which financial assistance applications have been received pursuant to the act.



**Q.** “Qualified borrower” means a creditworthy borrower with an identified and verifiable repayment source that is eligible for funding pursuant to the Clean Water Act, as of January 1, 2018, including a state agency, an interstate agency, and a local authority.

**R.** “State agency” means an agency or department of the executive branch of government.

**S.** “Wastewater facility” means a publicly owned system for treating or disposing of sewage or wastes either by surface or underground methods, including any equipment, plant, treatment works, structure, machinery, apparatus or land in any combination, that is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, such as pumping and ventilating stations, facilities, plants and works, outfall sewers, interceptor sewers and collector sewers, and other real or personal property and appurtenances incidental to their use or operation. “Wastewater facility” also includes a nonpoint source water pollution control or Brownfield redevelopment project as eligible under the Clean Water Act.

**T.** Other terms will retain their definition as given in the act.

[20.7.5.7 NMAC - Rp, 20.7.5.7 NMAC, 12/16/2015; A, XX/XX/2018]

#### 20.7.5.10 ELIGIBILITY REQUIREMENTS FOR FINANCIAL ASSISTANCE:

**A.** Only ~~local authorities~~ qualified borrowers will be eligible for financial assistance from the fund.

**B.** The project must appear on the current priority list at the time of the financial assistance award.

**C.** To be eligible for financial assistance from the fund,

~~local authorities~~ qualified borrowers shall:

(1) meet the requirements of financial capability set by the department to assure sufficient revenue to operate and maintain the facility for its useful life, if applicable, and to repay the financial assistance;

(2) agree to operate and maintain the ~~wastewater~~ eligible project facility so that the project facility will function properly over its structural and material design life, if applicable;

(3) agree to maintain separate project accounts, to maintain project accounts properly in accordance with generally accepted accounting principles and to conduct an audit of the project’s financial records;

(4) agree to provide a written assurance prior to construction, signed by an attorney, or other authorized representative, that the ~~local authority~~ qualified borrower has or will acquire proper title, easements and rights-of-way to the property upon or through which the ~~wastewater~~ eligible project facility proposed for funding is to be constructed or extended;

(5) require the contractor of the ~~construction~~ eligible project to post a performance and payment bond in accordance with the requirements of Section 13-4-18 NMSA 1978 and its subsequent amendments and successor provisions;

(6) provide a written notice of project completion ~~[and start of operation of the wastewater facility]~~; and

(7) provide such information to the department as required ~~[by the commission]~~ in order to comply with the provisions of the Clean Water Act and state law.

**D.** Financial assistance shall be made only to ~~local authorities~~ qualified borrowers that establish one or more dedicated sources of revenue to repay the money received from the commission and to provide for operation, maintenance, and equipment replacement expenses.

[20.7.5.10 NMAC - Rp, 20.7.5.10 NMAC, 12/16/2015; A, XX/XX/2018]

#### 20.7.5.11 APPLICATION PROCEDURES FOR PRIORITY LIST PLACEMENT:

**A.** Applications for financial assistance shall be made by the ~~local authority~~ qualified borrower on a form specified by the department.

**B.** Applicants for financial assistance shall provide the department with:

(1) a description of the scope of work of the project;

(2) a cost estimate of the project; and

(3) a target date for initiation of construction.

**C.** The department will review the application for eligibility, and technical merits. The department will notify the ~~local authority~~ qualified borrower of any inadequacies in the submittal. The ~~local authority~~ qualified borrower may correct any inadequacies and resubmit the application.

**D.** Upon determination by the department that an application is eligible and complete, the application will be ranked utilizing the priority system and will be placed on the priority list.

[20.7.5.11 NMAC - Rp, 20.7.5.11 NMAC, 12/16/2015; A, XX/XX/2018]

#### 20.7.5.12 PRIORITY SYSTEM AND PRIORITY LIST:

**A.** Financial assistance shall only be made to ~~local authorities~~ qualified borrowers on the project priority list developed in accordance with the priority system as adopted by the commission.

**B.** The commission shall adopt a system for the ranking of projects for financial assistance.

**C.** The department shall prepare a priority list of applicants for financial assistance based on the priority system approved by the commission.

[20.7.5.12 NMAC - Rp, 20.7.5.12

NMAC, 12/16/2015; A, XX/  
XX/2018]

**20.7.5.13 ELIGIBLE  
AND INELIGIBLE FINANCIAL  
ASSISTANCE ITEMS:**

**A.** Eligible items for financial assistance made from state only funds include but are not limited to the costs of engineering [~~feasibility~~] reports, contracted engineering design, inspection of construction, special engineering services, start-up services, contracted construction, materials purchased or equipment leased for force account construction, land, or acquisition of existing facilities. For financial assistance made from federal funds, eligible items are those identified pursuant to the Clean Water Act.

**B.** Financial assistance shall be made only to [~~local authorities~~] qualified borrowers that employ or contract with a [~~registered~~] New Mexico licensed professional engineer to provide and be responsible for engineering services on the project. Such services include, but are not limited to [~~an engineering report~~] engineering reports, construction contract documents, supervision of construction, and start-up services.

**C.** Ineligible for financial assistance made with state only funds items include:

(1) the costs of water rights;

(2) local authority administrative costs;

(3) fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act;

(4) force account construction; and

(5) administrative [~~fee~~] fees.  
[20.7.5.13 NMAC - Rp, 20.7.5.13  
NMAC, 12/16/2015; A, XX/  
XX/2018]

**20.7.5.14 ADMINISTRATION  
OF THE LOAN PROGRAM AND  
FUND:**

**A.** The loan program and fund is administered by the department as agent for the commission. Pursuant to Section 74-6A-9.A (10) of the Wastewater Facility Construction Loan Act, the department shall develop new, and implement existing, policies, procedures, and guidelines necessary and appropriate to implement the provisions of the act and the Clean Water Act.

**B.** The necessary administrative expenses required of the board, the commission, and the department to implement the provisions of the act will be appropriated from the fund.

**C.** The department may impose and collect a fee from each [~~local authority~~] qualified borrower that receives financial assistance from the fund, which fee shall be deposited into the clean water state revolving loan administrative fund, and used solely for the costs of administering the fund as follows:

(1) an administrative fee may be assessed on all financial assistance provided after January 1, 1996, and will be assessed on the refinancing of financial assistance after October 1, 1993;

(2) if an administrative fee is assessed pursuant to Paragraph (1) of Subsection C of 20.7.5.14 NMAC above, the total administrative fee assessed shall not exceed five percent of the total loan amount; the fee will be assessed on the outstanding principal balance of the loan payable; these fees are due on the same dates the payment of principal and interest on the loans are due, and shall be charged to each borrower, unless waived from the requirement by the department; the department may determine, establish and revise from time to time, the precise amount of the administrative fee to be charged, based on the projected costs of administering the program and other revenue available to pay such costs; the administrative fee payments must be deposited in the clean water state revolving loan administrative fund as they are received; interest on the clean water

state revolving loan administrative fund shall be transferred to the administrative fund as it is received; and

(3) an administrative fee of two percent of the unpaid principal balance of the refinanced loan will be assessed against the [~~local authority~~] qualified borrower and shall be paid into the clean water state revolving loan administrative fund at the time of closing of the refinancing.

**D.** Financial assistance agreements will be prepared by the department and executed by the [~~local authority~~] qualified borrower for the project which can be financed with available balances in the fund.

**E.** Repayment of the loan portion of the financial assistance shall begin no later than one year after completion of the project for which the loan was executed and shall be repaid in full no later than 30 years after completion of the project. All principal and interest on loan payments shall be deposited in the fund.

**F.** The interest rate for the loan portion of the financial assistance shall be the rate in effect when the final loan agreement is executed. The interest rate shall not change during the term of the financial assistance unless refinanced in accordance with Subsection I of 20.7.5.14 NMAC. The interest rate shall be the base rate provided in Subsection G of 20.7.5.14 NMAC unless the local authority qualifies for a hardship rate provided in Subsection H of 20.7.5.14 NMAC.

**G.** At the beginning of each state fiscal year, the commission may determine a base rate for the state fiscal year which is less than or greater than the current base rate.

**H.** Hardship rates shall be approved by the department when a local authority meets the associated conditions at the time the financial assistance agreement is executed:

(1) When the local authority's per capita income is less than the statewide per capita income based on the most current United States (U.S.) bureau of census

statistics.

(2) The local authority’s per capita income is less than three-fourths of the statewide per capita income based upon the most current U.S. bureau of census statistics.

(3) A combination of loan and grant funds in those years when grant funding is available for assistance to rural communities.

(4) An interest rate of zero percent when:

(a) the local authority’s average user cost is at least fifteen dollars per month or a higher amount as determined by the commission. The calculation of average user cost shall be consistent with a statewide methodology established by the department; and

(b) the local authority’s ~~[median household income]~~ per capita income is less than three-fourths of the statewide non-metropolitan ~~[median household income]~~ per capita income based upon the most current U.S. bureau of census statistics.

Interest Rate	Local Authority Criteria
2.375%	Per capita income equal to or above statewide average; base interest rate. (G.)
1.2%	Per capita income less than that statewide average. (H.)(1)
0.6%	Per capita income less than ¾ of the statewide average. (H.)(2)
0%	<del>[Median household income]</del> <u>Per capita income</u> less than ¾ if the statewide <del>[median household income]</del> <u>per capita income</u> and the average user cost is equal to or greater than \$15.00 per month. (H.)(4)(a)(b)

**I.** The interest rate for a state agency shall be the lowest interest rate available above zero percent in 20.7.5.14 H.

**[F.] J.** A local authority may refinance the loan portion of the financial assistance if the local authority later qualifies for a reduced rate. The refinancing may only occur at or after the execution of a final loan agreement.

**[F.] K.** Financial assistance recipients shall comply with all applicable federal, state, and local laws and regulations, including but not limited to:

- (1) procurement;
- (2) record keeping;
- (3) accounting;
- (4) audit and inspection;
- (5) occupational health and safety;
- (6) environmental review; and
- (7) non-discrimination.

**[K.] L.** In the event of default by the ~~[local authority]~~ qualified borrower, the department as agent for the commission may enforce its rights by suit or mandamus or may utilize all other available remedies under state law. [20.7.5.14 NMAC - Rp, 20.7.5.14 NMAC, 12/16/2015; A, 05/30/2017; A, XX/XX/2018]

**WATER QUALITY CONTROL COMMISSION**

**AVISO DE AUDIENCIA PÚBLICA PARA ENMENDAR 20.7.5 NMAC, PRÉSTAMOS PARA LA CONSTRUCCIÓN DE INSTALACIONES DE AGUAS RESIDUALES**

La Comisión de Control de Calidad del Agua de Nuevo México (“Comisión” o “WQCC”, por su sigla en inglés) llevará a cabo una audiencia pública a las 9:00 de la mañana, el martes 14 de agosto de 2018 que continuará según sea necesario en la Sala 307 en el Capitolio del Estado, ubicado en 490

Old Santa Fe Trail, Santa Fe, New Mexico. La ubicación de la audiencia puede cambiar antes de la fecha de la audiencia, y los interesados en asistir deben visitar el sitio web de WQCC: <http://www.env.nm.gov/wqcc> antes de la audiencia. El objetivo de la audiencia es considerar enmiendas a las normas sobre préstamos para la construcción de instalaciones de aguas residuales, 20.7.5 NMAC (“Reglamento”) propuestas por el Departamento de Medio Ambiente de Nuevo México (“NMED” por su sigla en inglés).

Las enmiendas pondrían el Reglamento en conformidad con los cambios recientes en la Ley de

Préstamos para la Construcción de Instalaciones de Aguas Residuales (Secciones 74-6A-1 a 74-6A-15 NMSA 1978) (“Ley”, por su sigla en inglés). La Ley rige la administración del Fondo Rotatorio Estatal de Agua Limpia de Nuevo México (“CWSRF” por su sigla en inglés) que otorga préstamos a bajo interés y paquetes de subvenciones/préstamos a entidades elegibles para proyectos de aguas residuales y aguas pluviales. En primer lugar, estas enmiendas ampliarían el alcance de los proyectos y los prestatarios elegibles para la consideración de fondos de conformidad con la Ley. Además, las enmiendas pondrían el 20.7.5 NMAC en conformidad con los criterios

modificados para préstamos del cero por ciento a través de CWSRF.

Las enmiendas propuestas se pueden revisar durante el horario normal de atención al público en la Oficina de Audiencias de NMED ubicada en el edificio Harold Runnels, 1190 South St. Francis Drive, Sala S-2102 Santa Fe, NM, 87505. El texto completo de las enmiendas propuestas también está disponible en línea en <http://www.env.nm.gov/general/wqcc-18-01-r/>.

La audiencia se llevará a cabo de acuerdo con los Procedimientos de Reglamentación de WQCC (20.1.6 NMAC); la Ley de Calidad del Agua, Sección 74-6-6 NMSA 1978; la Ley de Reglas del Estado, Sección 14-4-5.3 NMSA 1978 y otros procedimientos aplicables.

A todas las personas interesadas se les dará una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, oralmente o por escrito; para presentar exhibiciones; y para examinar a los testigos. Cualquier persona que desee presentar una declaración escrita que no sea de carácter técnico para que conste en actas en lugar de un testimonio oral debe presentar dicha declaración antes del cierre de la audiencia.

De conformidad con los Procedimientos de Reglamentación de WQCC, aquellos interesados en presentar un testimonio de carácter técnico, deberán presentar ante la Comisión un aviso por escrito de su intención presentar dicho testimonio antes de las 5:00 p.m. del día 25 de julio de 2018. El aviso de intención deberá:

- identificar a la persona o entidad para la cual testificará/n el/os testigo/s;

- identificar a cada testigo técnico que la persona tiene la intención de presentar y establecer las calificaciones del testigo, incluida una descripción de sus antecedentes

educativos y laborales;

- incluir una copia del testimonio directo de cada testigo técnico en forma narrativa, e indicar la duración estimada del testimonio oral directo de ese testigo;

- incluir el texto de cualquier modificación recomendada al cambio regulatorio propuesto; y

- hacer una lista y adjuntar todo los documentos y objetos de pruebas que se anticipa que van a ser presentadas por esa persona en la audiencia.

Las notificaciones de intenciones para la audiencia deberán recibirse en la Oficina de Audiencias antes o hasta las 5:00 p.m. del día 25 de julio de 2018, y deben incluir como referencia el nombre del reglamento, la fecha de la audiencia y el número de expediente WQCC 18-01 (R).

Las notificaciones de intención de presentar un testimonio técnico deben enviarse a:

Pam Castaneda, Administrator of  
Boards and Commissions  
Office of the Water Quality Control  
Commission  
Harold Runnels Building  
P.O. Box 5469  
Santa Fe, NM 87502

Los interesados podrán ofrecer comentarios públicos que no sean de carácter técnico durante la audiencia o presentar declaraciones escritas que no sean de carácter técnico en lugar de testimonio oral durante o antes de la audiencia. Los comentarios escritos relativos a las revisiones propuestas pueden enviarse a la Sra. Pam Castaneda, Administradora de Juntas y Comisiones, a la dirección antes indicada, y deben incluir como referencia el número de expediente WQCC 18-01 (R).

Si alguna persona necesita asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso deberá comunicarse con Pam Castaneda, Administradora de la WQCC antes

o hasta el día 31 de julio de 2018, en P.O. Box 5469, 1190 St. Francis Drive, Santa Fe, New Mexico, 87502, o por teléfono al (505) 827-2425 o por correo electrónico a [pam.castaneda@state.nm.us](mailto:pam.castaneda@state.nm.us). (Los usuarios de TDD o TTY podrán acceder a ese número a través de la Red de retransmisión de Nuevo México: 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

La Comisión podrá tomar una decisión sobre el cambio normativo propuesto al final de la audiencia o podrá convocar una reunión después de la audiencia para considerar que acción tomar con respecto a la propuesta.

#### **Aviso de no discriminación**

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, tal como lo exigen las leyes y regulaciones aplicables. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relacionadas con los requisitos de no discriminación implementados por 40 C.F.R. Parte 7, incluido el Título VI de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, Título IX de las Enmiendas Educativas de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de NMED contra la discriminación, puede comunicarse con: Kristine Pintado, Coordinadora de No Discriminación Departamento de Medio Ambiente de Nuevo México, 1190 St. Francis Dr., Suite N4050, PO Box 5469, Santa Fe, NM 87502, (505) 827-2855, [nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us). Si cree que ha sido discriminado con respecto a un programa o actividad de NMED, puede comunicarse con el Coordinador de No Discriminación

identificado anteriormente o visitar nuestro sitio web en <https://www.env.nm.gov/NMED/EJ/index.html> para aprender cómo y dónde presentar una queja de discriminación.

**Aviso de no Discriminación**

NMED no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y los reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos para el cumplimiento de las reglas y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Parte 7, que incluye el Título VI de la Ley de Derechos Civiles de 1964, según enmendado; la Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; el Título IX de las Enmiendas de Educación de 1972; y la Sección 13 de las Enmiendas a la Ley Federal de Control de la Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa de no discriminación, norma o procedimiento de NMED, usted puede comunicarse con la Coordinadora de No Discriminación: Kristine Pintado, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM, 87502, (505) 827-2855. [nd.coordinator@state.nm.us](mailto:nd.coordinator@state.nm.us). Si usted piensa que ha sido discriminado con respecto a un programa o actividad de NMED, usted puede comunicarse con la Coordinadora de No Discriminación antes indicada o visitar nuestro sitio web en <https://www.env.nm.gov/NMED/EJ/index.html> para saber cómo y dónde puede presentar una queja por discriminación.

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**End of Notices of  
Rulemaking and  
Proposed Rules**

## Adopted Rules

### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

### ARCHITECTS, BOARD OF EXAMINERS FOR

**This is an amendment to 16.30.2 NMAC, Section 13 effective 6/10/2018.**

#### 16.30.2.13 BOARD RESPONSIBILITIES:

**A.** The board is responsible for providing oversight for all board functions.

**B.** The board shall appoint the director.

**C.** Publications:  
**(1)** Roster: A roster showing the number and addresses of all registered architects shall be prepared by the board and made available or sold to the public in accordance with the Architectural Act, Subsection E of Section 61-15-5 NMSA 1978.

**(2)** Annual report: The chair shall submit an annual report to the governor and shall make that report available to all registrants and the public, through the board office, pursuant to Section 61-15-5 NMSA 1978.

**(3)** Architectural Act, rules and regulations: The board shall maintain current editions of the act that will be published as often as the board deems necessary. These shall be made available to all architects registered in the state of New Mexico and to all applicants applying for registration. In addition, notice shall be made to all registered architects when changes occur in the statutes or rules and regulation.

**D.** Upon the recommendation of the architectural education board member, the board may appoint a student observer to a one-year term to observe board meetings and act as a liaison to the student observer's college of

architecture and other educational institutions. The student observer must be a full-time student in good standing who is studying architecture at an accredited college of architecture in New Mexico.

[16.30.2.13 NMAC - Rp, 16 NMAC 30.2.9.3, 9/6/2001; A, 9/16/2004; A, 9/15/2016; A, 6/10/2018]

### ARCHITECTS, BOARD OF EXAMINERS FOR

**This is an amendment to 16.30.4 NMAC, Section 12 effective 6/10/2018.**

#### 16.30.4.12 PROFESSIONAL CONDUCT:

**A.** Each office maintained for the preparation of architectural drawings, specifications, reports or other professional work shall have an architect regularly employed having direct knowledge and supervisory control of such work.

**B.** In providing architectural services, an architect shall confer with the client to assure that the client's program needs are met.

**C.** An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by the architect or under his or her responsible charge as defined in [Subsection M of 16.30.1.7 NMAC] Subsection N of 16.30.1.7 NMAC. Responsible charge may be exercised through a third party who is not a registered architect, but the architect must maintain and make available to the board upon request for at least five years following sealing or signing, adequate and complete records demonstrating the extent of the architect's control over and detailed knowledge of such technical submissions throughout their

preparation.

**D.** An architect shall neither offer nor make any gifts, other than gifts of nominal value, which may include reasonable entertainment and hospitality, with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

**E.** An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

**F.** A registered architect shall not associate in a business venture offering architectural services with a person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating board rules and regulations or statutes. A registered architect with such knowledge shall report such occasions to the board, and shall cooperate with any resulting investigations.

[16.30.4.12 NMAC - Rp, 16 NMAC 30.4.8.5, 9/6/2001; A, 9/16/2004; A, 6/10/2018]

### ARCHITECTS, BOARD OF EXAMINERS FOR

**This is an amendment to 16.30.5 NMAC, Section 8 effective 6/10/2018.**

#### 16.30.5.8 COMPLAINTS:

**A.** Disciplinary proceedings against a registered New Mexico architect, applicant, or unlicensed individual may be initiated by a sworn complaint of any person, including members of the board. Complaint forms shall be obtained from the board office or the board's web site and shall be reviewed by the enforcement subcommittee of

the rules and regulations committee. ~~[Complaint forms shall be confidential pursuant to Subsection D of Section 61-15-5 NMSA 1978. The enforcement subcommittee shall have the authority to initiate investigations and determine whether sufficient evidence exists to support the recommendation for the issuance of a notice of contemplated action to the full board for a vote. If the enforcement subcommittee deems the alleged action did not amount to a violation or was a minor violation, it may close the matter with an advisory letter.]~~

**B.** Complaint forms shall be confidential pursuant to Subsection D of Section 61-15-5 NMSA 1978. Complaints admitted as evidence during a formal disciplinary hearing are no longer confidential pursuant to Subsection D of Section 61-15.5 NMSA 1978, and may be subject to public inspection.

**C.** The enforcement subcommittee shall have the authority to initiate investigations and determine whether sufficient evidence exists to support the recommendation for the issuance of a notice of contemplated action to the full board for a vote. If the enforcement subcommittee deems the alleged action did not amount to a violation or was a minor violation, it may close the matter with an advisory letter.

**D.** a report of all complaints filed shall be provided to the board at each regular board meeting. [16.30.5.8 NMAC - Rp, 16 NMAC 30.5.8, 9/6/2001; A, 9/15/2016; A, 6/10/2018]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.400, Section 11, effective 06/01/2018.**

**8.139.400.11 SPECIAL MEMBERS:**

**A. Students:**  
**(1) Eligibility:**  
An individual who is enrolled at

least half-time in an institution of higher education will be ineligible to participate in SNAP unless the individual qualifies for one of the exemptions contained in Paragraph (3) ) of Subsection A of 8.139.400.11 NMAC. Half-time enrollment status is determined by the definition of the institution in which the individual is enrolled or attending.

**(2)**

**Enrollment:**

**(a)**

Students enrolled in an institution of higher education less than half time are not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP.

**(b)**

~~[Students who are enrolled in an institution of higher education in a program that is not in the regular curriculum are not considered students for purposes of SNAP eligibility, and do not have to meet an exemption at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP. The following programs are not in the “regular curriculum.”] Students who are enrolled at least half-time in an institution of higher education in a program that normally requires a high school diploma or equivalency certificate for enrollment in a “regular curriculum,” are students and have to meet an exemption at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP. The following programs are not in the “regular curriculum,” and if enrolled in one of these programs, the student would not be considered a student for purposes of SNAP eligibility:~~

**(i)**

Career or technical certificate programs. Career and technical certificate programs are programs which offer a sequence of courses that provide individuals with coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in

current or emerging professions; provide technical skill proficiency, an industry- recognized credential, a certificate, or an associate degree; and may include prerequisite courses that meet the requirements of this subparagraph; and include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, and occupation-specific skills, and knowledge of all aspects of an industry, including entrepreneurship, of an individual.

**(ii)**

English as a second language;

**(iii)**

adult basic education;

**(iv)**

literacy; or

**(v)**

community education courses

**(c)**

~~[Students who are enrolled at least half-time in a regular curriculum at a college or university that offers degree programs regardless of whether a high school diploma is required are students for SNAP purposes and are ineligible to receive SNAP unless they meet an exemption found at Paragraph (3) of Subsection A of 8.139.400.11 NMAC. Regular curriculum programs are: a program that requires a high school diploma or equivalent to enroll; an associate’s degree program that is not career or technical as defined above; a bachelor’s degree program; or an advanced degree program.] Students who are enrolled at least half-time in a “regular curriculum,” at a college or university that offers degree programs regardless of whether a high school diploma is required are considered students for purposes of SNAP eligibility, and have to meet an exemption found at Paragraph (3) of Subsection A of 8.139.400.11 NMAC to be eligible for SNAP.~~

**(d)**

The enrollment status of a student shall begin on the first day of the school term. Such enrollment shall be deemed to continue through normal periods of class attendance, vacation

and semester breaks. Enrollment status shall terminate when the student graduates, is expelled, does not re-enroll or is suspended for a period in excess of 30 calendar days

(e)

Students who reside on campus as defined at 34 CFR 668.46(a) and who have opted to or are required to purchase a meal plan which provides fifty percent or more of their meals are ineligible for SNAP in accordance with 7 CFR 273.1(b)(7)(vi).

**(3) Student**

**exemptions:** To be eligible, a student must meet at least one of the following exemptions:

(a)

**Age:** Be age 17 or younger or age 50 or older.

(b)

**Physical or mental unfitness:** For exemption purposes, physical or mental unfitness per Paragraph (3) of Subsection A of 8.139.400.11 NMAC and 7 CFR 273.5(b)(2) is defined as follows: An individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves. Unfitness can be obvious to the department and documented in the case file; or not obvious to the department, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist, or social worker as being unfit to work; the claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

(i)

If an individual claims to be physically or mentally unfit for purposes of the student exemption, and the unfitness is not evident to ISD, verification may be required.

(ii)

Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by government or private sources, or of a statement from a physician or licensed

or certified psychologist.

(c)

**Education/training program:**

Assigned to or placed in an institution of higher education through or in compliance with the requirements of:

(i)

a program under the Job Training Partnership Act of 1974 (JTPA);

(ii)

an employment and training program under ~~[the Food Stamp Act]~~ 7 CFR 273.7;

(iii)

a program under Section 236 of the Trade Act of 1974 [19 U.S.C. 2296]; or

(iv)

an employment and training program for low-income households that is operated by a state or local government where one or more of the components of such program is at least the equivalent to an acceptable SNAP employment and training program component.

(d)

**Employment:** Employed a minimum of 20 hours per week and paid for such employment, or, if self-employed, working a minimum of 20 hours per week, and receiving weekly earnings at least equal to the federal minimum wage multiplied by 20 hours. Students whose employment hours fluctuate week to week will be considered to have met the minimum work hour requirement, as long as they maintain an average of 20 hours per week or 80 hours per month.

(e)

**Work study:** Be participating in a state or federally financed work study program during the regular school year.

(i)

The student must be approved for work study at the time of application for SNAP benefits, the work study must be approved for the school term, and the student must anticipate actually working during that time.

(ii)

The exemption will begin with the month in which the school term begins or the month work study is approved, whichever is later.

(iii)

Once begun, the exemption will continue until the end of the month in which the school term ends, or it becomes known that the student has refused an assignment.

(iv)

The exemption will not continue between terms when there is a break of a full month or longer, unless the student is participating in work study during the break.

(f)

**Children:** Responsible for a dependent household member who:

(i)

is under age 6; or

(ii)

has reached the age of 6 but is under age 12 when ~~[the ISS]~~ ISD has determined that adequate child care is not available to enable the student to attend class and comply with the 20-hour work requirement in ~~[(4)]~~ (d) or the work study requirement in ~~[(5)]~~ (e) above.

(g)

**Single parents:** ~~[Full-time students of higher education who are single parents with the responsibility for the care of a dependent child under age 12.]~~ Enrolled in an institution of higher education on a full-time basis (as determined by the institution) and be responsible for the care of a dependent child under age 12.

(i)

This provision applies when only one natural, adoptive or stepparent (single, widow/ widower, separated, divorced) is in the same SNAP household as the child.

(ii)

If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.

~~[(h)]~~ **Two-**

**parents:** ~~In a two parent household, if both parents are responsible for the care of the dependent child then they both can be eligible for SNAP benefits. If only one is responsible for the care of the dependent child then~~



only one can be eligible for SNAP benefits:

~~(i)~~ This provision applies when only natural, adoptive or stepparent (single, widow/er, separated, divorced) is in the same SNAP household as the child:

~~(ii)~~ If there is no natural, adoptive or stepparent in the same SNAP household as the child, another full-time student in the same SNAP household as the child may qualify for eligible student status under this provision if he/she has parental control over the child and is not living with his/her spouse.]

~~(i)~~ **(h)**

**Title IV-A:** Receiving Title IV-A cash assistance.

~~(i)~~ **(i)**

**Work incentive program:**

Participation in the job opportunities and basic skills program under Title IV of the Social Security Act or its successor programs.

~~(i)~~ **(i)**

**On-the-job training:** Be

participating in an on-the-job training program. An individual is considered to be participating in an on-the-job training program only during the period of time the individual is being trained by the employer.

**B. Strikers:**

Households with members on strike are ineligible to participate in the SNAP, unless the household was eligible for benefits the day before the strike began and is otherwise eligible at the time of application. A striker is anyone involved in a strike or concerted stoppage of work by employees, including a stoppage because of the expiration of a collective bargaining agreement, and any concerted slowdown or other concerted interruption of operations by employees. Employees participating in a sympathy strike will be considered strikers. The household will not receive an increased SNAP benefit amount as a result of the decrease in income of the striking member(s) of the household.

**(1)**

**Nonstrikers:** The following

individuals are not considered strikers and are eligible for program participation:

**(a)**

any employee affected by a lockout;

**(b)**

an individual who goes on strike who is exempt from work registration (Subsection B of 8.139.410.12 NMAC) the day before the strike, except those who were exempt because of employment;

**(c)**

employees whose workplace is closed by an employer in order to resist demands of employees (i.e., a lockout);

**(d)**

employees unable to work as a result of other striking employees (e.g., truck drivers who are not working because striking newspaper pressmen prevent newspapers from being printed;

**(e)**

employees who are not part of the bargaining unit on strike but who do not want to cross a picket line for fear of personal injury or death;

**(f)**

employees who are fired or laid off, or who are permanently replaced or officially resign; and

**(g)**

employees who will not be permitted to return to their old jobs but are offered different ones.

**(2) Striker**

**eligibility:**

**(a)**

Striker eligibility is determined by considering the day before the strike as the day of application and assuming the strike did not occur.

**(b)**

Eligibility at the time of application is determined by comparing the striking member's income before the strike to the striker's current income and adding the higher of the two to the current income of the nonstriking household members during the month of application.

**(c)**

To determine benefits (and eligibility for households subject to the net income eligibility standard), deductions will be calculated for the

month of application as for any other household. Whether the striker's prestrike earnings are used or the current income is used, the earnings deduction is allowed if appropriate.

**(d)**

Strikers whose households are eligible to participate in the SNAP will be required to register for work unless otherwise exempt.

**C. Boarders:**

Boarders are defined as individuals or groups of individuals residing with others and paying reasonable compensation to those others for lodging and meals. An individual furnished both lodging and meals by a household, but paying less than reasonable compensation to the household for such services, will be considered a household member. Foster care children placed in the home of relatives or other individuals or families will be considered boarders. Foster care payments made to the household will not be counted as income, unless the household chooses to include the foster child. Payment to a household for lodging and meals will be treated as self-employment income to the household.

**(1)**

**Reasonable compensation:** To determine if an individual is paying reasonable compensation for meals and lodging in making a determination of boarder status, only the amount paid for meals will be used, provided that the amount paid for meals can be distinguished from the amount paid for lodging. A reasonable monthly payment will be either of the following:

**(a)**

A boarder whose board arrangement is for more than two meals a day must pay an amount which equals or exceeds the maximum SNAP benefit amount for the appropriate size of the boarder household.

**(b) A**

boarder whose board arrangement is for two meals or less per day must pay an amount which equals or exceeds two-thirds of the maximum SNAP benefit amount for the appropriate size of the boarder household.

**(2) Included**

**boarders:** A household which provides boarding services may request that the boarder be included as a member of the household. Boarders are not eligible to participate in the SNAP separately from the household providing the board. All the income and resources of included boarders will be counted in determining the eligibility and SNAP benefit amount of the household.

**(3) Excluded**

**boarders:** The income and resources of boarders who are not included as household members will not be considered available to the household. [02/01/95, 10/01/95, 02/15/96, 05/15/97, 07/01/97/ 06/01/99; 8.139.400.11 NMAC - Rn, 8 NMAC 3.FSP.403, 05/15/2001; A, 07/15/2013; A, 09/01/2017; A, 06/01/2018]

**HUMAN SERVICES  
DEPARTMENT  
INCOME SUPPORT DIVISION**

**This is an amendment to 8.139.410 NMAC, Section 9, effective 06/01/2018.**

**8.139.410.9 CITIZENSHIP AND IMMIGRATION STATUS FOR ELIGIBILITY:** Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. The department will determine eligibility for non-citizens in accordance with 7 CFR 273.2 and 7 CFR 273.4. No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

- A. A U.S. citizen;
- B. A U.S. non-citizen national;
- C. An individual who is:
  - (1) a member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; (including a spouse, surviving spouse, or child of tribe member) who are lawfully present in the U.S.;
  - (2) an

American Indian born in Canada who possesses at least fifty percent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act apply; or a member of an Indian tribe as defined at section 4(e) of 25 U.S.C. 450b(e) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; or

(3) a victim of human trafficking and their derivative beneficiaries, in accordance with 7 CFR 273.4(a)(5); or

D. A qualified immigrant meeting the criteria in Subsection D, Paragraph (2) below:

(1) A qualified immigrant is a:

- (a) lawful permanent resident;
- (b) refugee;
- (c) asylee;
- (d) person granted withholding of deportation or removal;
- (e) conditional entrants, (in effect prior to April 1, 1980);
- (f) person paroled into the U.S. for at least one year;

(g) Cuban/Haitian entrants;

(h) battered spouses and children with a pending or approved self-petition for an immigrant visa and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same), or battered spouses and children with an application for cancellation of removal or suspension of deportation, and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same).

(2) Qualified immigrants are eligible only if they:
 

- (a) were 65 or older and were lawfully residing in the U.S. on August 22,

- 1996, or
- (b) are under age 18, or
- (c) have been in "qualified" immigrant status for at least five years, or
- (d) are lawful permanent residents who have worked or can be credited with 40 qualifying quarters of employment, or
- (e) were granted refugee or asylum status or withholding of deportation/removal; or
- (f) are a Cuban/Haitian entrant, or Amerasian immigrant, or
- (g) are receiving blindness or disability-related assistance or
- (h) are a veteran, active duty military; or the spouse, or the surviving spouse who has not married, or the child.
- (i) are in Iraqi or Afghan special immigrant status.

E. Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

F. Reporting undocumented aliens:

(1) HSD shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

- (a) the undocumented alien's unlawful presence is a finding of fact or conclusion of law that is made by HSD as part of a formal determination about the individual's eligibility; and
- (b) HSD's finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A  
systematic alien verification for  
entitlements (SAVE) response  
showing no service record on an  
individual or an immigration status  
making the individual ineligible for  
a benefit is not a finding of fact or  
conclusion of law that the individual  
is not lawfully present.

(3)  
Undocumented immigrant status is  
considered reported when ISD enters  
the information about the non-citizen  
into the household's computer file.

(4) When  
a household indicates inability  
or unwillingness to provide  
documentation of immigrant status for  
any household member, HSD must  
classify that member as an ineligible  
immigrant. When a person indicates  
inability or unwillingness to provide  
documentation of immigrant status,  
HSD must classify that person as an  
ineligible immigrant. In such cases  
HSD must not continue efforts to  
obtain that documentation.  
 [02/01/95, 07/01/98, 02/01/99;  
 8.139.410.9 NMAC - Rn, 8  
 NMAC 3.SNAP PROGRAM.412,  
 05/15/2001; A, 02/14/2002; A,  
 10/01/2002; A, 04/01/2003; A,  
 10/01/2003; A, 06/01/2011; A,  
 03/01/2017; A, 07/01/2017; A,  
 06/01/2018]

**HUMAN SERVICES  
 DEPARTMENT  
 MEDICAL ASSISTANCE  
 DIVISION**

**This is an amendment to 8.200.520  
 NMAC, Sections 11-13, 15, 16, and  
 20, effective 5/17/2018.**

**8.200.520.11 FEDERAL  
 POVERTY INCOME  
 GUIDELINES:**

**A.** One hundred  
 percent federal poverty limits (FPL):  
 Size of budget group

	FPL per month
1	[\$1,005] \$1,012
2	[\$1,354] \$1,372
3	[\$1,702] \$1,732
4	[\$2,050] \$2,092
5	[\$2,399] \$2,452

6	[\$2,747] \$2,812
7	[\$3,095] \$3,172
8	[\$3,444] \$3,532

Add [\$349] \$360 for each additional  
 person in the budget group.  
 \*Use only these two standards for the  
 qualified medicare beneficiary (QMB)  
 program.

**B.** One hundred twenty  
 percent FPL: This income level is  
 used only in the determination of the  
 maximum income limit for specified  
 low income medicare beneficiaries  
 (SLIMB) applicants or eligible  
 recipients.

	Applicant or eligible recipient	Amount
1.	Individual	At least [\$1,005] \$1,012 per month but no more than [\$1,206] \$1,214 per month.
2.	Couple	At least [\$1,354] \$1,372 per month but no more than [\$1,624] \$1,646 per month.

For purposes of this eligibility  
 calculation, "couple" means an  
 applicant couple or an applicant with  
 an ineligible spouse when income is  
 deemed.

**C.** One hundred thirty-  
 three percent FPL:

	FPL per month
1	[\$1,337] \$1,346
2	[\$1,800] \$1,825
3	[\$2,264] \$2,304
4	[\$2,727] \$2,782
5	[\$3,190] \$3,261
6	[\$3,654] \$3,740
7	[\$4,117] \$4,219
8	[\$4,580] \$4,698

Add [\$463] \$479 for each additional  
 person in the budget group.

**D.** One hundred thirty-  
 five percent FPL: This income level  
 is used only in the determination  
 of the maximum income limit for a  
 qualified individual 1 (QI1) applicant  
 or eligible recipient. For purposes of  
 this eligibility calculation, "couple"  
 means an applicant couple or an  
 applicant with an ineligible spouse  
 when income is deemed. The  
 following income levels apply:

	Applicant or eligible recipient	Amount
1.	Individual	

At least [\$1,206] \$1,214 per month  
 but no more than [\$1,357] \$1,366 per  
 month.

**2. Couple**  
 At least [\$1,624] \$1,646 per month  
 but no more than [\$1,827] \$1,852 per  
 month.

**E.** One hundred  
 eighty-five percent FPL:

	Size of budget group	FPL per month
1		[\$1,860] \$1,872
2		[\$2,504] \$2,538
3		[\$3,149] \$3,204
4		[\$3,793] \$3,870
5		[\$4,437] \$4,536
6		[\$5,082] \$5,202
7		[\$5,726] \$5,868
8		[\$6,371] \$6,534

Add [\$645] \$666 for each additional  
 person in the budget group.

**F.** Two hundred  
 percent FPL:

	Size of budget group	FPL per month
1		[\$2,010] \$2,024
2		[\$2,707] \$2,744
3		[\$3,404] \$3,464
4		[\$4,100] \$4,184
5		[\$4,797] \$4,904
6		[\$5,494] \$5,624
7		[\$6,190] \$6,344
8		[\$6,887] \$7,064

Add [\$697] \$720 for each additional  
 person in the budget group.

**G.** Two hundred thirty-  
 five percent FPL:

	Size of budget group	FPL per month
1		[\$2,362] \$2,378
2		[\$3,181] \$3,224
3		[\$3,999] \$4,070
4		[\$4,818] \$4,916
5		[\$5,637] \$5,762
6		[\$6,455] \$6,608
7		[\$7,274] \$7,454
8		[\$8,092] \$8,300

Add [\$818] \$846 for each additional  
 person in the budget group.

**H.** Two hundred fifty  
 percent FPL:

	Size of budget group	FPL per month
1		[\$2,513] \$2,530
2		[\$3,384] \$3,430
3		[\$4,255] \$4,330
4		[\$5,125] \$5,230
5		[\$5,996] \$6,130

6	[\$6,867]	\$7,030
7	[\$7,738]	\$7,930
8	[\$8,609]	\$8,830

Add [~~\$874~~] \$900 for each additional person in the budget group.

[8.200.520.11 NMAC - Rp,  
8.200.520.11 NMAC, 8/28/2015;  
A/E, 4/1/2016; A/E, 9/14/2017; A,  
2/1/2018; A/E, 5/17/2018]

**8.200.520.12 COST OF  
LIVING ADJUSTMENT (COLA)  
DISREGARD COMPUTATION:**

The countable social security benefit without the COLA is calculated using the COLA increase table as follows:

**A.** divide the current gross social security benefit by the COLA increase in the most current year; the result is the social security benefit before the COLA increase;

**B.** divide the result from Subsection A above by the COLA increase from the previous period or year; the result is the social security benefit before the increase for that period or year; and

**C.** repeat Subsection B above for each year, through the year that the applicant or eligible recipient received both social security benefits and supplemental security income (SSI); the final result is the countable social security benefit.

**Continued on the  
following page**

COLA Increase and disregard table			
	Period and year	COLA increase	= benefit before
<u>1</u>	2018 Jan - Dec	<u>2.0</u>	<u>Jan 18</u>
<del>[1]</del> <u>2</u>	2017 Jan - Dec	0.3	Jan 17
<del>[2]</del> <u>3</u>	2016 Jan - Dec	0	Jan 16
<del>[3]</del> <u>4</u>	2015 Jan - Dec	1.017	Jan 15
<del>[4]</del> <u>5</u>	2014 Jan - Dec	1.015	Jan 14
<del>[5]</del> <u>6</u>	2013 Jan - Dec	1.017	Jan 13
<del>[6]</del> <u>7</u>	2012 Jan - Dec	1.037	Jan 12
<del>[7]</del> <u>8</u>	2011 Jan - Dec	0	Jan 11
<del>[8]</del> <u>9</u>	2010 Jan - Dec	1	Jan 10
<del>[9]</del> <u>10</u>	2009 Jan - Dec	1	Jan 09
<del>[10]</del> <u>11</u>	2008 Jan - Dec	1.058	Jan 08
<del>[11]</del> - <u>12</u>	2007 Jan - Dec	1.023	Jan 07
<del>[12]</del> - <u>13</u>	2006 Jan - Dec	1.033	Jan 06
<del>[13]</del> - <u>14</u>	2005 Jan - Dec	1.041	Jan 05
<del>[14]</del> - <u>15</u>	2004 Jan - Dec	1.027	Jan 04
<del>[15]</del> - <u>16</u>	2003 Jan - Dec	1.021	Jan 03
<del>[16]</del> - <u>17</u>	2002 Jan - Dec	1.014	Jan 02
<del>[17]</del> - <u>18</u>	2001 Jan - Dec	1.026	Jan 01
<del>[18]</del> - <u>19</u>	2000 Jan - Dec	1.035	Jan 00
<del>[19]</del> - <u>20</u>	1999 Jan - Dec	1.025	Jan 99
<del>[20]</del> - <u>21</u>	1998 Jan - Dec	1.013	Jan 98
<del>[21]</del> - <u>22</u>	1997 Jan - Dec	1.021	Jan 97
<del>[22]</del> - <u>23</u>	1996 Jan - Dec	1.029	Jan 96
<del>[23]</del> - <u>24</u>	1995 Jan - Dec	1.026	Jan 95
<del>[24]</del> - <u>25</u>	1994 Jan - Dec	1.028	Jan 94
<del>[25]</del> - <u>26</u>	1993 Jan - Dec	1.026	Jan 93
<del>[26]</del> - <u>27</u>	1992 Jan - Dec	1.03	Jan 92

<del>[27]</del> <u>28</u>	1991 Jan - Dec	1.037	Jan 91
<del>[28]</del> <u>29</u>	1990 Jan - Dec	1.054	Jan 90
<del>[29]</del> <u>30</u>	1989 Jan - Dec	1.047	Jan 89
<del>[30]</del> <u>31</u>	1988 Jan - Dec	1.04	Jan 88
<del>[31]</del> <u>32</u>	1987 Jan - Dec	1.042	Jan 87
<del>[32]</del> <u>33</u>	1986 Jan - Dec	1.013	Jan 86
<del>[33]</del> <u>34</u>	1985 Jan - Dec	1.031	Jan 85
<del>[34]</del> <u>35</u>	1984 Jan - Dec	1.035	Jan 84
<del>[35]</del> <u>36</u>	1982 Jul - 1983 Dec	1.035	Jul 82
<del>[36]</del> <u>37</u>	1981 Jul - 1982 Jun	1.074	Jul 81
<del>[37]</del> <u>38</u>	1980 Jul - 1981 Jun	1.112	Jul 80
<del>[38]</del> <u>39</u>	1979 Jul - 1980 Jun	1.143	Jul 79
<del>[39]</del> <u>40</u>	1978 Jul - 1979 Jun	1.099	Jul 78
<del>[40]</del> <u>41</u>	1977 Jul - 1978 Jun	1.065	Jul 77
<del>[41]</del> <u>42</u>	1977 Apr - 1977 Jun	1.059	Apr 77

[8.200.520.12 NMAC - Rp, 8.200.520.12 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018]

**8.200.520.13 FEDERAL BENEFIT RATES (FBR) AND VALUE OF ONE-THIRD REDUCTION (VTR):**

Year	Individual FBR	Institution FBR	Individual VTR	Couple FBR	Institution FBR	Couple VTR
1/89 to 1/90	\$368	\$30	\$122.66	\$553	\$60	\$184.33
1/90 to 1/91	\$386	\$30	\$128.66	\$579	\$60	\$193.00
1/91 to 1/92	\$407	\$30	\$135.66	\$610	\$60	\$203.33
1/92 to 1/93	\$422	\$30	\$140.66	\$633	\$60	\$211.00
1/93 to 1/94	\$434	\$30	\$144.66	\$652	\$60	\$217.33
1/94 to 1/95	\$446	\$30	\$148.66	\$669	\$60	\$223.00
1/95 to 1/96	\$458	\$30	\$152.66	\$687	\$60	\$229.00
1/96 to 1/97	\$470	\$30	\$156.66	\$705	\$60	\$235.00
1/97 to 1/98	\$484	\$30	\$161.33	\$726	\$60	\$242.00
1/98 to 1/99	\$494	\$30	\$164.66	\$741	\$60	\$247.00
1/99 to 1/00	\$500	\$30	\$166.66	\$751	\$60	\$250.33
1/00 to 1/01	\$512	\$30	\$170.66	\$769	\$60	\$256.33
1/01 to 1/02	\$530	\$30	\$176.66	\$796	\$60	\$265.33

1/02 to 1/03	\$545	\$30	\$181.66	\$817	\$60	\$272.33
1/03 to 1/04	\$552	\$30	\$184.00	\$829	\$60	\$276.33
1/04 to 1/05	\$564	\$30	\$188	\$846	\$60	\$282.00
1/05 to 1/06	\$579	\$30	\$193	\$869	\$60	\$289.66
1/06 to 1/07	\$603	\$30	\$201	\$904	\$60	\$301.33
1/07 to 1/08	\$623	\$30	\$207.66	\$934	\$60	\$311.33
1/08 to 1/09	\$637	\$30	\$212.33	\$956	\$60	\$318.66
1/09 to 1/10	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/10 to 1/11	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/11 to 1/12	\$674	\$30	\$224.66	\$1,011	\$60	\$337
1/12 to 1/13	\$698	\$30	\$232.66	\$1,048	\$60	\$349.33
1/13 to 1/14	\$710	\$30	\$237	\$1,066	\$60	\$355
1/14 to 1/15	\$721	\$30	\$240	\$1082	\$60	\$361
1/15 to 12/15	\$733	\$30	\$244	\$1,100	\$60	\$367
1/16 to 12/16	\$733	\$30	\$244	\$1,100	\$60	\$367
1/17 to 12/17	\$735	\$30	\$245	\$1,103	\$60	\$368
1/18 to 12/18	<u>\$750</u>	<u>\$30</u>	<u>\$250</u>	<u>\$1,125</u>	<u>\$60</u>	<u>\$375</u>

A. Ineligible child deeming allocation is \$350.00.

B. Part B premium is \$134.00 per month.

C. VTR (value of one third reduction) is used when an individual or a couple lives in the household of another and receives food and shelter from the household or when the individual or the couple is living on his or her own household but receiving support and maintenance from others.

D. The SSI resource standard is \$2000 for an individual and \$3000 for a couple.

[8.200.520.13 NMAC - Rp, 8.200.520.13 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 3/1/2017; A/E, 5/17/2018]

#### 8.200.520.15 SUPPLEMENTAL SECURITY INCOME (SSI) LIVING ARRANGEMENTS:

A. Individual living in his or her own household who own or rent:

Payment amount: ~~[\$735]~~ \$750 Individual  
~~[\$1,103]~~ \$1,125 Couple

B. Individual receiving support and maintenance payments: For an individual or couple living in his or her own household, but receiving support and maintenance from others (such as food, shelter or clothing), subtract the value of one third reduction (VTR).

Payment amount: ~~[\$735]~~ \$750 - ~~[\$245]~~ \$250 = ~~[\$490]~~ \$500 Individual  
~~[\$1,103]~~ \$1,125 - ~~[\$368]~~ \$375 = ~~[\$735]~~ \$750 Couple

C. Individual or couple living household of another: For an individual or couple living in another person's household and not contributing his or her pro-rata share of household expenses, subtract the VTR.

Payment amount: ~~[\$735]~~ \$750 - ~~[\$245]~~ \$250 = ~~[\$490]~~ \$500 Individual  
~~[\$1,103]~~ \$1,125 - ~~[\$368]~~ \$375 = ~~[\$735]~~ \$750 Couple

D. Child living in home with his or her parent:

Payment amount: ~~[\$735]~~ \$750

E. Individual in institution:

Payment amount: \$30.00

[8.200.520.15 NMAC - Rp, 8.200.520.15 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018]

**8.200.520.16 MAXIMUM COUNTABLE INCOME FOR INSTITUTIONAL CARE MEDICAID AND HOME AND COMMUNITY BASED WAIVER SERVICES (HCBS) CATEGORIES:** Effective January 1, 2017, the maximum countable monthly income standard for institutional care medicaid and the home and community based waiver categories is ~~[\$2,205]~~ \$2,250.

[8.200.520.16 NMAC - Rp, 8.200.520.16 NMAC, 8/28/2015; A/E, 3/1/2017; A/E, 5/17/2018]

**8.200.520.20 COVERED QUARTER INCOME STANDARD:**

Date	Calendar Quarter Amount
Jan 2018 - Dec. 2018	\$1,320 per calendar quarter
Jan 2017 - Dec. 2017	\$1,300 per calendar quarter
Jan 2016 - Dec. 2016	\$1,260 per calendar quarter
Jan 2015 - Dec. 2015	\$1,220 per calendar quarter
Jan 2014 - Dec. 2014	\$1,200 per calendar quarter
Jan 2013 - Dec. 2013	\$1,160 per calendar quarter
Jan 2012 - Dec. 2012	\$1,130 per calendar quarter
Jan. 2011 - Dec. 2011	\$1,120 per calendar quarter
Jan. 2010 - Dec. 2010	\$1,120 per calendar quarter
Jan. 2009 - Dec. 2009	\$1,090 per calendar quarter
Jan. 2008 - Dec. 2008	\$1,050 per calendar quarter
Jan. 2007 - Dec. 2007	\$1,000 per calendar quarter
Jan. 2006 - Dec. 2006	\$970 per calendar quarter
Jan. 2005 - Dec. 2005	\$920 per calendar quarter
Jan. 2004 - Dec. 2004	\$900 per calendar quarter
Jan. 2003 - Dec. 2003	\$890 per calendar quarter
Jan. 2002 - Dec. 2002	\$870 per calendar quarter

[8.200.520.20 NMAC - Rp, 8.200.520.20 NMAC, 8/28/2015; A/E, 1/1/2016; A/E, 03/01/2017; A/E, 5/17/2018]

**HUMAN SERVICES DEPARTMENT  
MEDICAL ASSISTANCE DIVISION**

**This is an amendment to 8.291.430 NMAC, Section 10, effective 5/17/2018.**

**8.291.430.10 FEDERAL POVERTY LEVEL (FPL):** This part contains the monthly federal poverty level table for use in determining monthly income standards for MAP categories of eligibility outlined in 8.291.400.10 NMAC:

HOUSEHOLD SIZE	100%	133%	138%	190%	240%	250%	300%
1	[\$1,005]- \$1,012	[\$1,337]- \$1,346	[\$1,387]- \$1,397	[\$1,910]- \$1,923	[\$2,412]- \$2,428	[\$2,513]- \$2,530	[\$3,015]- \$3,035
2	[\$1,354]- \$1,372	[\$1,800]- \$1,825	[\$1,868]- \$1,893	[\$2,572]- \$2,607	[\$3,248]- \$3,292	[\$3,384]- \$3,430	[\$4,060]- \$4,115
3	[\$1,702]- \$1,732	[\$2,264]- \$2,304	[\$2,349]- \$2,390	[\$3,234]- \$3,291	[\$4,084]- \$4,156	[\$4,255]- \$4,330	[\$5,105]- \$5,195
4	[\$2,050]- \$2,092	[\$2,727]- \$2,782	[\$2,829]- \$2,887	[\$3,895]- \$3,975	[\$4,920]- \$5,020	[\$5,125]- \$5,230	[\$6,150]- \$6,275
5	[\$2,399]- \$2,452	[\$3,190]- \$3,261	[\$3,310]- \$3,384	[\$4,557]- \$4,659	[\$5,756]- \$5,884	[\$5,996]- \$6,130	[\$7,195]- \$7,355
6	[\$2,747]- \$2,812	[\$3,654]- \$3,740	[\$3,791]- \$3,881	[\$5,219]- \$5,343	[\$6,592]- \$6,748	[\$6,867]- \$7,030	[\$8,240]- \$8,435
7	[\$3,095]- \$3,172	[\$4,117]- \$4,219	[\$4,272]- \$4,377	[\$5,881]- \$6,027	[\$7,428]- \$7,612	[\$7,738]- \$7,930	[\$9,285]- \$9,515
8	[\$3,444]- \$3,532	[\$4,580]- \$4,698	[\$4,752]- \$4,874	[\$6,543]- \$6,711	[\$8,264]- \$8,476	[\$8,609]- \$8,830	[\$10,330]- \$10,595
+1	[\$349]- \$360	[\$463]- \$479	[\$480]- \$497	[\$662]- \$684	[\$836]- \$864	[\$871]- \$900	[\$1,045]- \$1,080

[8.291.430.10 NMAC - Rp, 8.291.430.10 NMAC, 11/16/2015; A/E, 4/1/2016; A/E, 9/14/2017; A, 2/1/2018; A/E, 5/17/2018]



**REGULATION AND  
LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES  
DIVISION**

After published notice with the State Register on February 13, 2018, and public hearing on March 16, 2018, the Construction Industries Commission of the Construction Industries Division of the Regulation & Licensing Department at its regularly scheduled meeting on May 16, 2018, voted unanimously to repeal 14.6.7 NMAC - Consumer Protection, filed July 1, 2009, and replace it with 14.6.7 NMAC - Modular Building Structures, effective July 1, 2018.

**REGULATION AND  
LICENSING DEPARTMENT  
CONSTRUCTION INDUSTRIES  
DIVISION**

**TITLE 14 HOUSING AND  
CONSTRUCTION  
CHAPTER 6 CONSTRUCTION  
INDUSTRIES LICENSING  
PART 7 MODULAR  
BUILDING STRUCTURES**

**14.6.7.1 ISSUING**

**AGENCY:** The Construction Industries Division (CID) of the Regulation and Licensing Department (RLD).

[14.6.7.1 NMAC - Rp, 14.12.3.1 NMAC, 7/1/2018]

**14.6.7.2 SCOPE:** The construction, alteration, repair, use and occupancy of modular structures in the state of New Mexico.

[14.6.7.2 NMAC - Rp 14.12.3.2 NMAC, 7/1/2018]

**14.6.7.3 STATUTORY AUTHORITY:** These standards are adopted pursuant to Subsections L and M of Section 60-13-2, Subsections F and K of Section 60-13-9, Section 60-13-10, Subsection H of 60-13-41, Subsection E of Section 60-13-42 and Subsections H and I of Section 60-13-44 of the Construction Industries Licensing Act, NMSA 1978.

[14.6.7.3 NMAC - Rp, 14.12.3.3

NMAC, 7/1/2018]

**14.6.7.4 DURATION:**

Permanent.  
[14.6.7.4 NMAC - Rp, 14.12.3.4 NMAC, 7/1/2018]

**14.6.7.5 EFFECTIVE DATE:** July 1, 2018, unless a later date is cited at the end of a section.  
[14.6.7.5 NMAC - Rp, 14.12.3.5 NMAC, 7/1/2018]

**14.6.7.6 OBJECTIVE:** The purpose of this rule is to promote the general welfare of the people of New Mexico by providing for the protection of life and property through construction codes, rules, and standards, the compliance with which will result in safer modular structure.  
[14.6.7.6 NMAC - Rp, 14.12.3.6 NMAC, 7/1/2018]

**14.6.7.7 DEFINITIONS:** The following terms shall have the meaning indicated when used in this rule.

**A. "Act"** means the Construction Industries Licensing Act, Sections 60-13-1 through 60-13-59 NMSA 1978 and the LP Gas Act, Sections 70-5-1 through 70-5-23 NMSA 1978.

**B. "Approved in-plant inspector list"** means a list of inspection agencies approved by and registered with the division.

**C. "Approved inspection agency list"** means a list of inspection agencies approved by and registered with the division.

**D. "Approved modular manufacturers list"** means a list of modular manufacturers approved by and registered with the division.

**E. "Authority having jurisdiction" (AHJ)** means the entity with permitting and enforcement authority over a construction project within its jurisdiction.

**F. "Code"** means the codes set forth in Title 14 Chapters 5 thru 10 NMAC.

**G. "Commercial use"** shall have the same meaning as that given it in the New Mexico

commercial building code.

**H. "Compliance decal"** attached to a modular structure by an in-plant inspector indicating code compliance.

**I. "Data plate"** attached to the rear exterior siding of each transportable section with identification of the edition dates of the codes or standards complied with and the compliance decal number.

**J. "Director"** means the administrative head of the division.

**K. "Division"** means the CID of RLD.

**L. "Dwelling"** means a building that contains one or two dwelling units, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes pursuant to the New Mexico Residential Code.

**M. "Dwelling unit"** means a single unit providing complete independent living facilities, for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**N. "Inspection" (1) "In-plant"** means an inspection performed pursuant to Paragraph (1) of Subsection B of 14.6.7.12 NMAC by an "in-plant inspector" employed by an inspection agency to perform in-plant inspections of modular structures or modular manufacturing inspections of modular components.

**(2) "Installation"** means an inspection performed by the division or an AHJ employed inspector after the installation and utility set-up of the structure pursuant to Subsections A through G of 14.6.7.13 NMAC.

**O. "Inspection agency"** means a company approved by the director and registered with the division as an in-plant inspection agency for modular components or modular structures.

**P. "Inspector" (1) "Division or AHJ inspector"** means an inspector employed by the division or an AHJ to conduct required code

inspections.

(2) **In-plant inspector**” means an inspector approved by the division to perform in-plant inspections of modular components or modular structures and employed by an approved inspection agency.

**Q. “Manufacturer”** means any person engaged in the manufacture or construction of modular structures or modular components.

**R. “Modular manufacturer certificate of code compliance”** issued by the in-plant inspector certifying that the structure is in compliance with all New Mexico codes prior to leaving the manufacturing facility. The manufacturer shall submit the modular manufacturer certificate of code compliance and all in-plant inspection reports, including the final in-plant inspection report, to the division.

**S. “Modular building certificate of occupancy”** issued by the division or the AHJ after all permits and inspections for installation are completed and approved.

**T. “Modular components”** means non-assembled constructed components of a residential or commercial building, built off site but to be assembled on site.

**U. “Modular structure”** means any structure built off site for use or occupancy by persons or property, whether or not designed to be placed on a permanent foundation. Modular structures include factory-built buildings. Modular structure does not include modular components, modular component structures or manufactured housing structures that are subject to federal regulation.

**V. “Park model RV” (PMRV)** is a unique trailer-type RV that is designed to provide temporary accommodation for recreation, camping or seasonal use. PMRV’s are built on single chassis, mounted on wheels and have a gross trailer area not exceeding 400 square feet in

the set-up mode. They are certified by their manufacturers as complying with the ANSI A119.5 standard for recreational trailers.

**W. “Plans”** means those design documents and related specifications required for the manufacture of any given modular structure or modular component as required by code.

**X. “Residential use”** shall have the same meaning as that given it in the currently adopted New Mexico residential building code.

**Y. “Recreational vehicle industry association” (RVIA)** means the national trade association representing recreation vehicle (RV) manufacturers.

**Z. “Storage shed”** means any accessory structure that is not classified for human habitation or occupancy and is intended to be used for storage. Sheds can be either free-standing or attached to another structure.

**AA. “Temporary worker housing” (TWH)** means any out-of-state manufactured or constructed modular housing unit that contains one or more sleeping units or areas used, intended, engineered or designed for temporary employer-provided workers and is not intended to be permanently installed in the State of New Mexico and that may be set-up, used, rented, leased, let or hired out for the sole purpose of providing temporary employee housing approved on a case by case basis. TWH does not include manufactured homes constructed under the Federal Construction and Safety Standards.

**BB. “Tiny house”** means a dwelling that is 400 square feet (37 m<sup>2</sup>) or less in floor area excluding lofts, that must meet minimum building code requirements and comply with all requirements herein and regulation 14.7.3.28 NMAC, appendix Q. Tiny houses; does not include recreational vehicles. [14.6.7.7 NMAC - N, 7/1/2018]

**14.6.7.8 APPLICABLE CODES AND STANDARDS:** The codes set forth in Title 14 Chapters 5

through 10 NMAC are the standards applicable to the construction, alteration, repair, use, occupancy and installation of modular structures and modular components.

[14.6.7.8 NMAC - N, 7/1/2018]

#### **14.6.7.9 REGISTRATION FOR MODULAR MANUFACTURERS:**

All manufacturers of modular products must be registered with the division.

**A.** Applicants for registration pursuant to this part shall submit the following:

(1) A division approved registration application.

(2) A Fee of \$300.00 per three year licensing cycle.

(3) Proof of the responsible individual’s experience, who either owns or is employed by the modular manufacturer, to include:

(a) Commercial - four years of experience, within the last 10 years, in general building or modular building.

(b) Residential - two years of experience, within the last 10 years, in general building or modular building.

(4) Proof of authorization to conduct business in the state of New Mexico, if applicable.

(5) Proof of registration with the New Mexico taxation and revenue department.

(6) Proof of compliance with worker’s compensation, if applicable.

(7) Proof of compliance with parental responsibility, if applicable.

**B.** In-state manufacturers must be licensed as a GB-02 or a GB-98 general builder as applicable, or a GS-29, “Modular Manufacturer” and registered by the division for manufacture of modular structures or modular components for commercial or residential use subject to Section 60-13-12 NMSA 1978. A manufacturer’s registration is also required. A contractor’s license is not an exemption from registration

requirements. The manufacturer's registration fee is waived for in-state manufacturers.

(1) Must submit and maintain proof of association with an inspection agency approved by the division.

(2) A licensee must maintain their CID license in good standing in order to remain registered.

C. Out-of-state manufacturers must submit proof of compliance with all applicable licensing requirements of the jurisdiction where the modular structures are manufactured.

(1) A letter of good standing must be submitted from the manufacturer's home jurisdiction.

(2) Proof of association with an inspection agency approved by the division.

(3) A manufacturer may alternatively be licensed with a classification of either a GB-02, a GB-98 or a GS-29, "Modular Manufacturer". The registration fee for a licensee is waived in this case.

D. In addition to the above, all manufacturers shall comply with the following:

(1) Maintain continuing compliance with all registration requirements.

(2) Manufacturers registration issued by the division are not transferable and the registration fee is not refundable.

(3) Any change in the information submitted by an applicant for a modular registration or renewal thereof must be reported, in writing, to the division immediately but no later than 30 days after such change occurs.

(4) Any modular registration issued by the division shall expire on the last day of the month three years from the date of issuance.

(5) A manufacturer may renew by submitting a completed renewal application and meeting all other requirements prior to expiration with a three year renewal fee of \$300.00.

(6) Any modification to bring an imported or installed unit into code compliance is the responsibility of the manufacturer utilizing their W-2 employees and an inspection agency approved inspector to ensure verification that all corrections are completed and code compliant.

E. Any registered manufacturer may be removed from the approved list at any time for cause by the director. Any manufacturer removed from the approved list will not be eligible for compliance decals.

F. All modular manufacturing registrants must utilize an approved third party inspection agency. [14.6.7.9 NMAC - N, 7/1/2018]

**14.6.7.10 REGISTRATION FOR IN-PLANT INSPECTION AGENCIES:**

A. Applicant for registration pursuant to this part shall submit the following:

(1) A completed and approved registration application.

(2) A fee of \$300.00.

(3) Proof of authorization to conduct business in the state of New Mexico if performing work within the state.

(4) Proof of registration with New Mexico taxation and revenue department if performing work within the state.

B. Submit and maintain a list of all division approved and currently employed inspectors who have national certification and state approval of inspection of building, mechanical/plumbing and electrical systems.

C. Any approved inspection agency may be removed from the approved list for cause by the director.

D. Any change in the information submitted by an applicant for a registration or renewal thereof, including all changes in employee inspector status, must be reported, in writing, to the division immediately but no later than 30 days after such

change occurs.

E. A registration issued by the division shall expire on the last day of the month three years from the date of issuance.

F. An inspection agency may renew their registration by submitting the renewal application, an updated list of inspector employees who have national certification and state approval for inspection of building, mechanical/plumbing and electrical systems, a renewal fee of \$300.00 and any other requirements. [14.6.7.10 NMAC - N, 7/1/2018]

**14.6.7.11 IN-PLANT INSPECTOR:** All in-plant inspectors for modular production whether modular structure or modular component production for use in New Mexico must be approved by the division. An inspector shall be approved by the division trade bureau chief for the trade to be inspected.

Any approved in-plant inspector may be removed from the division approved list at any time for cause by the director.

A. Qualification: all required experience must be within the 10 years preceding application.

(1) A qualified candidate for building, mechanical, plumbing or electrical inspector shall meet the minimum qualifications set forth below:

(a) general building: three years of foreman level experience or as determined by the trade bureau;

(b) mechanical trades, plumbing and gas fitting, electrical trades: three years of journeyman or foreman level experience or as determined by the trade bureau;

(c) candidates may substitute technical, university, or college training for up to two years of the three years journeyman or foreman level experience requirement as determined appropriate by the trade bureau chief. The equivalency shall be calculated such that one year of education shall equal one-half year of journeyman or foreman level experience.

(2) Applicants must be certified by a national code organization recognized by the division and remain current by such certifying organization to maintain state inspection approval.

(3) Inspectors shall meet the minimum continuing education requirements as prescribed by the nationally recognized code organization for each trade bureau jurisdiction and provide proof of such credits to the division upon application for or renewal of approval.

**B.** Inspectors approved for inspections in multiple disciplines: Inspectors may inspect in multiple disciplines if nationally certified and approved by the division trade bureau chief for the trade responsible for the trade to be inspected.

**C.** The general building in-plant inspector is responsible for ensuring compliance with all codes and ensuring all other required inspections have been satisfactorily completed.  
[14.6.7.11 NMAC - N, 7/1/2018]

**14.6.7.12 MODULAR PROCEDURES:** Any modular structure manufactured in New Mexico, or to be shipped into New Mexico for installation, must comply with the following provisions. A manufacturer can be removed as an approved manufacturer for cause by the director.

**A.** Plan review:

(1) Two sets of modular structure design plans must be submitted by registered manufacturers and reviewed and approved for code compliance by the division. Plans must include a recommended method of anchoring the modular structure to a foundation. All plan review fees must be paid.

(2) Plans that are non-compliant with currently adopted New Mexico state codes or application requirements shall be rejected by the division.

(3) All deviations from approved plans require written pre-approval from the division and may require the submission of additional design

information including revised plans as deemed necessary to make a determination on the approval or rejection.

**B.** In-plant inspection.

A compliance decal shall only be issued to the modular structure in compliance with all codes and rules and as certified by the in-plant inspector and shall be placed by the in-plant general building inspector upon verification of completed code compliance prior to the unit leaving the plant.

(1) Each modular structure must receive the following mandatory in-plant inspections during construction/assembly by the manufacturer:

(a)

General construction: framing, energy efficiency, weather resistive barrier, pre-final and final in-plant inspection report:

(b)

mechanical: rough-in, top-out, pre-final and final in-plant inspection report;

(c)

plumbing: rough-in, top-out, pre-final and final in-plant inspection report; and

(d)

electrical: rough-in, top-out, pre-final and final in-plant inspection report.

(e)

All work required to be inspected must be uncovered and accessible by the inspector at the time of the inspection. Any work covered prior to inspection shall be uncovered as required by the inspector to allow a full assessment of code compliance of the work. The manufacturer must keep for reference, and make available to the inspector upon required, an original set of approved plans for each modular structure to be inspected.

(f)

If any inspection reveals a code violation, the inspector shall immediately issue a written correction notice and the manufacturer shall make the indicated correction(s) within a reasonable time unless a time is otherwise specified. Thereafter, the inspector shall re-inspect to confirm

the correction has been made. If corrective action is not taken as to the noted code violations, the in-plant inspector shall not issue a compliance decal and the modular or modular component shall not be approved for shipment into or in New Mexico. All such records shall be included as an integral part of the submitted in-plant inspection report.

(g)

Upon a satisfactory final inspection the inspection shall issue a final in-plant inspection report and the Modular Manufacturer Certificate of Code Compliance. This report shall document all inspections and the modular structure serial number.

(2)

Compliance decal and data plate.

(a)

No modular structure may be imported, sold or permanently placed in New Mexico unless a compliance decal and data plate have been affixed to it by a division approved inspector after satisfactory completion of all in-plant inspections.

(b) A

compliance decal and data plate shall be affixed to the modular structure after certification of the modular unit by the in-plant inspector, and the certificate and final inspection report are both received by the division.

(c)

The inspector shall affix the decal to the inside of the door of the electrical panel or inside the mechanical room of the inspected modular structure.

(d)

Compliance decals remain the property of the state of New Mexico. Each decal is unique to the modular structure to which it is assigned and affixed. Compliance decals are not transferable among manufacturers, inspectors or modular structures.

(e)

All modular structures must have a compliance decal to be allowed into or permanently placed within the state.

[14.6.7.12 NMAC - N, 7/1/2018]

**14.6.7.13 INSTALLATION OF MODULAR STRUCTURES:**

**A.** The division or the

AHJ shall verify that the unit has both the compliance decal and the data plate properly attached.

**B.** Each modular structure to be permanently installed within the state of New Mexico shall be installed in accordance with all applicable statutes, codes, rules, regulations and local ordinances governing construction in the locale where the structure is installed. This includes, but is not limited to, the following licensing, plan review, permitting and inspection requirements.

**(1)** All permanent foundations to which a modular structure is to be attached shall include plan review, permitting and inspections by the division or the AHJ.

**(a)** Commercial modular foundations will require either a New Mexico registered engineer's or architect's seal.

**(b)** Residential modular foundations do not require a New Mexico registered engineer's or architect's seal but are subject to Subsection B of 14.5.2.10 NMAC. The division or AHJ or the plan review official may require submittal documents to be prepared and sealed by an architect, registered in accordance with the New Mexico Architectural Act, and the rules promulgated pursuant thereto, or by a professional structural engineer, registered in accordance with the New Mexico Engineering and Surveying Practice Act, and the rules promulgated pursuant thereto.

**(2)** All permanent foundations to which a modular structure is to be attached shall be constructed by a licensed GS-4, GB-02 or GB-98 contractor for residential units or a GS-4 or GB-98 contractor for all commercial units.

**(3)** The installation of a modular unit shall be performed by a GB-02, GB-98 or MHD 1, 2, or 3 for residential units only or a GB-98 for residential or commercial units, who shall be the licensed contractor of record and shall be responsible for the installation of

the structure. All electrical work shall be performed by properly licensed electrical contractors and journeyman and all mechanical/plumbing work shall be performed by properly licensed mechanical/plumbing contractors and journeymen. The physical placement of the unit on the foundation by the delivering company is not installation and is therefore not subject to licensing requirements.

**(4)** The proper trade licensee (general, MHD, mechanical/plumbing, electrical and LP Gas) shall permit and request all required inspections including but not limited to:

- (a)** foundation;
- (b)** anchoring;
- (c)** grounding system;
- (d)** electrical pre-final;
- (e)** electrical final;
- (f)** plumbing final;
- (g)** mechanical final;
- (h)** LP Gas;
- (i)** accessibility; or
- (j)** building final and certificate of occupancy.

**C.** Building plans, if applicable, shall be available at the installation site and the positioning of the modular structure shall allow for anchoring inspections.

**D.** The division or the AHJ may require access to covered work when there is reasonable cause to believe that a code violation is concealed.

**E.** Failure to obtain required inspections shall result in the denial of the certificate of occupancy and utility services to the modular structure.

**F.** Before the building final inspection is conducted all required inspections must be successfully completed.

**G.** The certificate of

occupancy issued by the division or the AHJ, shall verify placement of the compliance decal and the data plate and shall clearly indicate the compliance decal number.

[14.6.7.13 NMAC - N, 7/1/2018]

#### **14.6.7.14 EXCEPTIONS TO MODULAR REQUIREMENTS:**

**A.** A modular structure that carries a UL, ANSI or other approved testing laboratory's label as a rated assembly shall be exempt from the provisions of 14.6.7 NMAC when recommended by the appropriate trade bureau chiefs and approved by the director. However there shall be mandatory compliance with 14.6.7.13 NMAC.

**B.** One story detached accessory structures, not for habitation and used as tool or storage sheds, playhouses, and similar uses are exempt from the provisions of the modular building code provided the floor area does not exceed 120 square feet. This exemption shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the currently adopted building or administrative codes. All work must be done in a manner that will comply with all licensing and code requirements.

**C.** PMRV complying with the ANSI A119.5 standard for recreational park trailers are exempt from these requirements.

**D.** The director may grant exceptions to modular minimum requirements for temporary worker housing.

**E.** The division or the AHJ is authorized to issue a permit for the installation of temporary structures and temporary uses. Such permits shall specify an expiration date not to exceed three years from the date of the issuance. The division or the AHJ is authorized to grant extensions for good cause that are supported by credible evidence.

[14.6.7.14 NMAC - N, 7/1/2018]

#### **14.6.7.15 PROHIBITED USES AND OCCUPANCY OF CONVERTED STRUCTURES:**

**A.** If not covered by Subsection A of 14.6.7.14 NMAC, storage sheds and similar structures shall not be used as a dwelling unless the structure has been subject to plan review, permitting, inspection(s) and constructed or altered in a manner that is compliant with all code requirements so it may be safely used as a dwelling for human habitation and occupancy including issuance of a certificate of occupancy. Any storage shed or similar structure safely converted or use as a dwelling for human habitation and occupancy shall be issued a certificate of occupancy prior to human habitation and occupancy and prior to installation or connection of a fuel gas source.

**B.** A new storage shed or similar structure offered for sale shall not be advertised or represented to be safe for human habitation or occupancy unless converted in accordance with 14.6.7.8 NMAC.

**C.** Any storage shed or similar structure safely converted for use as a dwelling for human habitation and occupancy shall have a permanent foundation and be subject to all requirements as provided in 14.6.7.13 NMAC.

[14.6.7.15 NMAC - N, 7/1/2018]

**14.6.7.16 DISCIPLINE:**  
Each violation of the modular building regulations or of the CID Licensing Act is subject to discipline. [14.6.7.16 NMAC - N, 7/1/2018]

**14.6.7.17 TEMPORARY INSTALLATION:**

**A.** Modular units may be installed on a temporary foundation for a period of up to one year. Units installed as temporary and remaining in place after the one-year period must be placed on a permanent foundation and comply with all modular requirements.

**B.** Modular units installed as a temporary unit shall meet all currently adopted building codes and accessibility requirements. [14.6.7.17 NMAC - N, 7/1/2018]

**14.6.7.18 MODULAR ASSEMBLED COMPONENTS:**

**A.** Modular non-assembled component panels shall meet all the requirements of this rule with the exception of Paragraph (2) of Subsection B of 14.6.7.12 NMAC and 14.6.7.13 NMAC.

**B.** Assembly of component panels on site are subject to all building permitting and inspection requirements for site built construction. [14.6.7.18 NMAC - N, 7/1/2018]

**History of 14.6.7 NMAC:**  
14.6.7 NMAC - Consumer Protection, filed 7/1/2009 was repealed and replaced with 14.6.7 NMAC - Modular Building Structures, effective 7/1/2018.  
New Mexico Modular Building Structures was formerly 14.12.3 NMAC, filed 9/1/2013, was repealed and incorporated into 14.6.7 NMAC, effective 7/1/2018 where indicated.

**History of Repealed Material:**  
14.6.7 NMAC - Consumer Protection, filed 7/1/2009 was repealed, effective 7/1/2018.

**REGULATION AND LICENSING DEPARTMENT CONSTRUCTION INDUSTRIES DIVISION**

**This is an amendment to 19.15.40 NMAC, Part title, Sections 14, 15, 20 , 21 and 24, effective 7/1/2018.**

**TITLE 19 NATURAL RESOURCES AND WILDLIFE CHAPTER 15 OIL AND GAS PART 40 NEW MEXICO [LIQUEFIED] LIQUEFIED PETROLEUM GAS STANDARD**

**19.15.40.14 PRINTED FORMS, AND FEES:**

**A.** Printed forms as prescribed by the division shall be used for application for license, licenses, receipts, approvals, disapproval's, installation records, inspection reports and any other purposes for which the bureau may consider standardized forms necessary for expediency.

**B.** An administrative penalty may be assessed to anyone found to be making intentional false reports or for failure to file any written report or form as required by law.

**C.** Printed forms listed below by number or name are hereby adopted and their use for the purpose stated.

**(1) FORM 1. Records of Installation, Test or Modification. \$20.00.** To be used to record the following.

- (a)** Installation of LP gas containers. Containers of 239#WC or less shall be exempt from this requirement.
- (b)** Installation of piping and appliances. Form 1 shall be prepared at time work is performed and ~~held at licensee's location until called for by bureau inspector~~ shall be submitted to the LP gas bureau by close of business the following business day.

**(2) Retail Cylinder Exchange Installation Registration Form. \$20.00.** Fee shall be submitted with required plans for proposed location of retail cylinder exchange installation. Reinspection of cylinder exchange installations \$20.00

**(3) LP Gas Installations at Special Events Registration Form. \$15.00.** To be used for installations at special events with containers of 239#WC or less.

**(4) LP Gas Visual Cargo Tank and Equipment Inspection Form. \$45.00.**

**(a)** (Shall not be assessed more than one time in each 12 month period).

**(b)** Re-inspection of cargo tank and equipment and additional charge for re-inspection. \$45.00.

**(c)** Licensee must obtain form prior to inspection of vehicle or placing a new vehicle in service. Bureau inspector will complete form upon inspection. Corrections after inspection will require a correction form and may require re-inspection. To expedite inspections, vehicle licensee will

be notified by the LP gas bureau that vehicle annual inspection is due during the first month of the inspection quarter.

**(5) Plant/Dispenser Inspection Form. \$45.00.**

**(a)** (Shall not be assessed more than one time in each 12 month period).

**(b)** Re-inspection of bulk storage and additional charge for re-inspection. \$45.00.

**(c)** Licensee must obtain form prior to inspection of plant or placing a new dispenser in service. LP gas bureau inspector will complete form upon inspection. Corrections after inspection will require a correction form and may require re-inspection. To expedite inspections, dispenser licensee will be notified by the bureau that dispenser annual inspection is due during the first month of the inspection quarter.

**(6) Correction Inspection Form.** LP gas bureau inspector will issue form when correction is needed and note the code, statute or rule and regulation section number that was in violation. Bureau inspector may lock and seal filler valve until correction is completed. After correction, licensee will sign correction form, attach appropriate new inspection form (listed above), and return forms, seal and filler valve lock to inspector for re-inspection.

**(7) Certificate of Insurance.** To be submitted by all licensees to the LP gas bureau.

**(8) Form 1 first re-inspection fee shall be \$20.00.**

**(9) Form 1 second re-inspection fee shall be \$75.00.**

[19.15.40.14 NMAC - Rp, 19.15.40.14 NMAC, 2/1/2006; A, 7/1/2018]

**19.15.40.15 LICENSE CLASSIFICATIONS, SCOPES**

**AND FEES:** License classifications are defined and annual license fees are set as follows.

**A.** LP-1 wholesale sale or delivery of LP gas \$125.00. A licensee under this classification is authorized to wholesale, transport and deliver LP gas in vehicular units into or out of any location except that of an ultimate consumer. This classification will allow delivery to the ultimate consumer whose facilities require a bulkhead.

**B.** LP-3S retail sale of LP gas \$65.00. A licensee under this classification is authorized to deliver, transfer and transport LP gas in a liquid state to the ultimate consumer, both intrastate and interstate. The company employing the LP-3S licensee must also hold an LP-5 license in order to hold a LP-3S license. A person holding this classification is authorized to perform all work as described in classifications LP-1 and LP-9; and may perform an out of gas leak test for an existing customer of his employer so long as the employer is responsible for the delivery of the propane.

**C.** LP-4 limited installation, service and repair \$125.00. A licensee under this classification is authorized to install, service and repair appliances, equipment, and piping for use with LP gas in residences and commercial buildings except mobile homes (as defined by the Manufactured Housing Act) recreational vehicles and similar units. The scope of the work for the LP piping is from (point of delivery) to the final connection of the appliances. In order to qualify for this classification, a licensee must hold mechanical license classification MM2 or MM98.

**D.** LP-5 installation, service and repair \$125.00. A licensee under this classification is authorized to install or erect liquid transfer facilities; install or repair piping and equipment attached to cargo containers; and to install, service and repair appliances, equipment and piping for use with LP gas in residences and commercial buildings including mobile homes (as defined by the Manufactured Housing Act), recreational vehicles and similar units. The scope of the work for the

LP gas appliances in this classification does not include the HVAC ductwork or hydronic piping systems connected to any appliance. Those specialties fall under the mechanical license classifications.

**E.** LP-6 installation, service and repair of mobile units only \$75.00. A licensee under this classification is authorized to install, service and repair LP gas appliances, equipment and piping in manufactured housing, travel trailers, recreational vehicles, campers and similar units.

**F.** LP-7 wholesale or manufacture of appliances, equipment or containers \$50.00. A licensee under this classification is authorized to wholesale or manufacture appliances, equipment or containers for use with LP gas.

**G.** LP-8 installation, service and repair of cylinder exchange cabinets \$35.00. A licensee under this classification is authorized to install, service and repair LP gas cylinder exchange cabinets and to deliver portable containers (maximum water capacity 239#).

**H.** LP-9 station for dispensing LP gas \$35.00. A licensee under this classification is authorized to dispense LP gas into fuel containers on vehicles or to fill and/or deliver portable containers (maximum water capacity 239#).

**I.** LP-10 LP gas carburetion sales, service and installation, including repair \$35.00. A licensee under this classification is authorized for LP gas carburetion sale, service and installation, including repair.

**J.** CNG-1 CNG carburetion sale, service and installation \$35.00. A licensee under this classification is authorized for CNG gas carburetion sale, service and installation, including repair.

**K.** LNG-1 LNG carburetion sale, service and installation \$35.00.

**L.** Qualifying party identification card \$15.00.

**M.** Annual renewal fee per qualifying party identification card \$10.00.

- N. Licensing examination fee \$25.00.
  - O. Licensing re-examination fee \$25.00.
  - P. The total license fee charged any one licensee for a combination of LP gas activities at any one operating location is set at: \$300.00.
- [19.15.40.15 NMAC - Rp, 19.15.40.15 NMAC, 2/1/2006; A, 04/01/2013; A, 01/01/2015; A, 7/1/2018]

**19.15.40.20 CONTAINERS AND INSTALLATIONS:**

- A. **Safe installation.** No LP gas container shall be filled or LP gas system used that does not meet the requirements of NFPA 58, NFPA 54 or this document.
- B. **Filling of Containers.** Transfer of LP Gas to or from any LP Gas container shall be only by the owner or upon the owners authorization.
- C. **Chart 1** (all services except cargo tanks). ASME 1949 and earlier and U-68 and U-69 Codes are approved for all LP gas service, except cargo tank, regardless of installation date, with the following working pressures and relief valve settings, when using propane grade 5 or higher.

Working Pressure	100	125	150	175	200	225	250	251+
Approved	No	No	No	No	Yes	Yes	Yes	Yes
Relief Valve Setting (%)	100 to 125	137 to 156	165 to 187	192 to 218	220 to 250	247 to 281	275 to 317	110% to 125%

- D. **Chart 2** (bulk service). API-ASME Code, ASME U-201, 1950 and 1952 or later ASME Codes are approved for bulk plant use\*, and for all other container use if manufactured after June 30, 1959, in accordance with ASME Code, at the time of manufacture with the following working pressures and relief settings, when using propane of grade 5 or higher. **\*Cargo containers shall have a minimum working pressure of 250 PSI.**

Working Pressure	100	125	150	175	200	225	250	251+
Approved	No	No	No	No	No	No	Yes	Yes
Relief Valve Setting (%)	100 to 125	220 to 250	88% to 100%					

- E. **Chart 3** (domestic tank service). API-ASME Code, ASME U-200, U-201, 1950 and 1952 or later ASME Codes, if installed in New Mexico before June 30, 1959, may be moved from one place to another within the state, but not brought into the state, are approved for domestic tank service with the following working pressures and relief settings, when using propane of grade 5 or higher.

Working Pressure	100	125	150	175	200	225	250	251+
Approved	No	No	No	No	No	No	Yes	Yes
Relief Valve Setting (%)	110 to 125	132 to 150	154 to 175	176 to 200	198 to 225	220 to 250	88% to 100%	

- F. **Container protection.** Where physical damage to LP gas containers, or systems of which they are a part, from vehicles is a possibility, precautions shall be taken against such damage.

- (1) Container protection shall be crash post or other protection acceptable to the LP gas bureau.
- (2) When crash post are used they shall be a minimum of two and seven-eighths inch outside diameter, with three feet above ground, two feet below ground, embedded in concrete, filled with concrete, and spaced four feet apart. The spacing may be extended to eight feet between post if a minimum two-inch welded top rail is installed; excepting all dispensing system installations which shall comply with all requirements described in the currently adopted NFPA 58.

- G. **Container markings.** All LP gas tanks owned by LP gas dealers must be marked with the name and phone number of the LP gas dealer. This regulation does not apply to customer owned tanks.

- H. **Container screening.** Screens for all LP gas above ground containers shall be installed in the following manner.

- (1) Screening material shall be non-combustible if container is screened on three sides. If solid screening is used, each wall up to 20 feet in length shall be provided with at least one opening, with an additional opening for each 20 feet of length or fraction thereof. Each opening shall have a minimum size of 50 square inches, the bottom of which shall not be more than six inches above the ground.
- (2) If the screen encloses two sides or no more than fifty percent a wood fence may be used.
- (3) The screen shall enclose no more than three sides of the container.



(4) There shall be a minimum clearance of three feet from the container to the screen.

(5) The screen shall not exceed the height of the container by more than one foot.

(6) Covers or tops shall not be installed over containers.

(7) All tanks on school grounds, church grounds, playgrounds, etc. shall be fenced. Any request for exemption to, or deviation from, the fencing requirement shall be made in writing to the bureau. If, upon investigation of a particular proposed tank installation, the inspector and bureau chief determine it is not necessary, a fence shall not be required. [19.15.40.20 NMAC - Rp, 19.15.40.22 NMAC, 2/1/2006; A, 7/1/2018]

#### 19.15.40.21 LP GAS CYLINDER EXCHANGE INSTALLATIONS:

A. A cylinder exchange installation registration form and approved plans shall be required prior to installation.

B. Installation shall meet the requirements of NFPA 58.

C. Cylinder exchange cabinets shall be approved, ~~anchored~~ and meet the requirements of NFPA 58; excepting cylinder exchange cabinet installations shall comply with Subsection D if installed greater than five feet from a building or approved in writing by the LP gas bureau chief.

D. Protection against vehicle impact shall be crash post or other protection acceptable to the LP gas bureau.

(1) Crash post shall be installed as required elsewhere in this document.

(2) A minimum six inch high concrete raised sidewalks or six inch high wheel stops can be used.

(a) The minimum distance from the raised sidewalks or wheel stops to the cabinet shall be 48 inches.

(b) The wheel stops shall be anchored

and secured with at least-five eighths inch by 18 inch steel rods.

E. Cylinder exchange installations in excess of 720 lb propane stored shall be provided with at least one approved portable fire extinguisher having a minimum capacity of 18 lb dry chemical with B:C rating.

[19.15.40.21 NMAC - N, 2/1/2006; A, 7/1/2018]

#### 19.15.40.24 STANDARDS.

This rule adopts by reference the following standards, as amended herein:

A. ~~[2012]~~ 2015 national fuel gas code, referred to as NFPA 54;

B. ~~[2014]~~ 2017 liquefied petroleum gas code, referred to as NFPA 58;

~~C. 2008 guide for fire and explosion investigations, referred to as NFPA 921;~~

~~D.] C.~~ 2011 standard on recreational vehicles, referred to as NFPA 1192;

~~E.] D.~~ 2010 vehicle gaseous fuel systems code, referred to as NFPA 52.

[19.15.40.24 NMAC - N, 11/25/2008; A, 7/1/2009; A, 1/1/2012; A, 1/1/2015; A, 7/1/2018]

### REGULATION AND LICENSING DEPARTMENT OSTEOPATHIC MEDICINE, BOARD OF

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.1 NMAC, Osteopathic Medicine and Surgery Practitioners, General Provisions, and replace it with 16.17.1 NMAC, Osteopathic Medicine, General Provisions, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.2 NMAC, Osteopathic Medicine and Surgery Practitioners, Application for Licensure, and replace it with 16.17.2 NMAC, Osteopathic Medicine, Application for Licensure,

Qualifications and Fees, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.3 NMAC, Osteopathic Medicine and Surgery Practitioners, Examination, Endorsement and Temporary License Requirements, and replace it with 16.17.3 NMAC, Osteopathic Medicine, Renewal and Continuing Education Requirements, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.4 NMAC, Osteopathic Medicine and Surgery Practitioners, Renewal and Continuing Education Requirements, and replace it with 16.17.4 NMAC, Osteopathic Medicine, Prescribing and Distribution of Controlled Substances, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.5 NMAC, Osteopathic Medicine and Surgery Practitioners, Prescribing and Distribution of Controlled Substances, and replace it with 16.17.5 NMAC, Osteopathic Medicine, Revocation or Refusal of Licensure, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.6 NMAC, Osteopathic Medicine and Surgery Practitioners, Revocation or Refusal of Licensure, and replace it with 16.17.6 NMAC, Osteopathic Medicine, Reinstatement, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.7 NMAC, Osteopathic Medicine and Surgery Practitioners, Reinstatement, and replace it with 16.17.7 NMAC, Osteopathic Medicine, Licensure for Military Service Members, Spouses and Veterans, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.8 NMAC, Osteopathic Medicine and Surgery Practitioners, Licensure for Military Service Members, Spouses and Veterans, and replace it with 16.17.8 NMAC, Osteopathic Medicine, Physicians Supervising Pharmacist Clinicians, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine at its 5/4/2018 hearing voted to repeal its rule 16.17.9 NMAC, Osteopathic Medicine and Surgery Practitioners, Physicians Supervising Pharmacist Clinicians, and replace it with 16.17.9 NMAC, Osteopathic Medicine, Physician Assistants: Licensure and Practice Requirements, adopted 5/4/2018 and effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.1 NMAC, General Provisions, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.2 NMAC, Application Procedure, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.3 NMAC, Renewal of Certification, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.4 NMAC, Change of Employment Registration, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.6 NMAC, Supervision of Physician Assistants, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine,

at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.7 NMAC, Prescribing and Distribution of Controlled Substances, filed 12/31/2001, effective 6/11/2018.

The Board of Osteopathic Medicine, at its rule hearing conducted on 5/4/2018, voted to repeal its rule 16.18.9 NMAC, Student Physician Assistants, filed 12/31/2001, effective 6/11/2018.

## REGULATION AND LICENSING DEPARTMENT OSTEOPATHIC MEDICINE, BOARD OF

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 17 OSTEOPATHIC MEDICINE PART 1 GENERAL PROVISIONS

**16.17.1.1 ISSUING**  
**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.  
[16.17.1.1 NMAC - Rp, 6-11-2018]

**16.17.1.2 SCOPE:** All licensed osteopathic physicians.  
[16.17.1.2 NMAC - Rp, 6-11-2018]

**16.17.1.3 STATUTORY AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978.  
[16.17.1.3 NMAC - Rp, 6-11-2018]

**16.17.1.4 DURATION:** Permanent.  
[16.17.1.4 NMAC - Rp, 6-11-2018]

**16.17.1.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.  
[16.17.1.5 NMAC - Rp, 6-11-2018]

**16.17.1.6 OBJECTIVE:** To provide definitions and general

information.  
[16.17.1.6 NMAC - Rp, 6-11-2018]

**16.17.1.7 DEFINITIONS:**

**A.** "AACOM" means American association of colleges of osteopathic medicine.

**B.** "AAFP" means American academy of family physicians.

**C.** "AAPS" means American association of physician specialists.

**D.** "ACCME" means accreditation council for continuing medical education.

**E.** "ACGME" means accreditation council for graduate medical education.

**F.** "AMA" means the American medical association.

**G.** "AOA" means the American osteopathic association.

**H.** "Board approved school" means a college of osteopathic medicine accredited by the American osteopathic association.

**I.** "Board approved training program" means a program accredited by the American osteopathic association bureau of osteopathic specialists (AOA-BOS), or accrediting council on graduate medical education (ACGME).

**J.** "Board approved credential verification service" means a credential verification service certified by the national commission on quality assurance (NCQA) and approved by the board.

**K.** "CCME" means council on continuing medical education of the AOA.

**L.** "COCA" means commission on osteopathic college accreditation.

**M.** "COMLEX" means comprehensive osteopathic medical licensing examination.

**N.** "COMVEX" means comprehensive osteopathic medical variable-purpose examination.

**O.** "HSC" means the hospital services corporation, a credential verification organization certified by the national commission on quality assurance (NCQA).

**P.** "Major disaster

declaration” means the declaration of a disaster by the federal emergency management agency (FEMA) that may provide for emergency licensure.

**Q.** “NBOE”

means national board osteopathic examination.

**R.** “Osteopathic physician profile report” means the credentialing verification service of the American osteopathic association.

**S.** “SPEX” means special purpose examination.

**T.** “Telemedicine” means the practice of medicine across state lines using electronic communications, information technology or other means between a licensed osteopathic physician out of state and a patient in New Mexico. Telemedicine involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the traditional interaction of the in-person encounters between a provider and a patient.

**U.** “USMLE” means the United States medical licensing examination sponsored by the federation of state medical boards and the national board of medical examiners.

[16.17.1.7 NMAC - Rp, 6-11-2018]

**16.17.1.8 PUBLIC RECORDS:**

**A.** Inspection. Any person may examine public records in the board’s custody. The board shall provide copies of public records upon request and may charge a reasonable copying fee. No person shall remove board documents from the board office.

**B.** Non-public records. Pursuant to Section 61-10-5.1 NMSA 1978, any report regarding actual or potential disciplinary action, including a complaint, shall be confidential communication and is not a public record for purposes of the Inspection of Public Records Act.

**C.** Public records are available on the board’s website and may include any of the following:

(1)

demographic information: name, self-

identified gender, business address and business telephone;

(2)

professional information: license, name of medical school, date of graduation, self-reported specialties, continuing education courses, board certification(s); and

(3) licensing

information: number, current status, date of initial licensure, last renewal date, expiration date, and if applicable, disciplinary actions, including any settlements.

[16.17.1.8 NMAC - Rp, 6-11-2018]

**16.17.1.9 INFORMATION SHARING:**

Any and all information in the board files regarding actual or potential disciplinary actions is confidential but shall be disclosed as necessary to law enforcement agencies, and the national database clearinghouse and other licensing boards, as required to carry out the duties of the board.

[16.17.1.9 NMAC - N, 6-11-2018]

**16.17.1.10 BOARD ELECTION OF OFFICERS:**

**A.** The board chair, vice chair, and secretary-treasurer are elected annually at the second quarterly meeting.

**B.** The terms of office of the board officers shall run from July 1st of the year of the election through June 30th of the subsequent year.

[16.17.1.10 NMAC - N, 6-11-2018]

**16.17.1.11 TELEPHONIC APPEARANCE AT BOARD MEETINGS:**

Pursuant to Subsection C of Section 10-15-1 NMSA

1978 of the Open Meetings Act, a board member may participate in a meeting of the board by means of a conference telephone or other similar communications equipment only when it is otherwise difficult or impossible for the board member to attend the meeting in person, provided:

**A.** each member participating by conference telephone can be identified when speaking;

**B.** all participants are

able to hear each other at the same time; and

**C.** members of the public attending the meeting are able to hear any board member who speaks during the meeting.

[16.17.1.11 NMAC - N, 6-11-2018]

**16.17.1.12 CHANGE OF ADDRESS:**

**A.** It is the responsibility of the licensee to provide the board with a current email and mailing address. Any correspondence from the board office will be emailed to the licensee’s email address of record. The board assumes no responsibility for failure by the licensee to receive renewal notification or any other correspondence because of a wrong email address.

**B.** Every licensee must notify the board office of all addresses for current practices. Any change of address or email for a practice must be reported within 30 days of the change to the board office in writing; notification by U.S. mail, email or facsimile is acceptable.

[16.17.1.12 NMAC - Rp, 16.17.1.9, 6-11-2018]

**HISTORY OF 16.17.1 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives under:

BOSE 69-1, Practice Guide For Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69; Rule 1, Qualifications For Licensure, filed 12-07-88; Rule 9, Change of Address, filed 12-07-88; Rule 12, Osteopathic Fees, filed 09-22-89.

**History of Repealed Material:**

Rule 1, Qualifications For Licensure (filed 12-07-88); Rule 9, Change of Address (filed 12-07-88); Rule 12, Osteopathic Fees (filed 09-22-89) all repealed 10-29-2004. 16.17.1 NMAC, General Provisions, filed 10-29-2004, repealed effective 6-11-2018.

**Other History:**

Rule 1, Qualifications for Licensure (filed 12-07-1988); Rule 9, Change of Address (filed 12-07-1988); and Rule 12, Osteopathic Fees (filed 9-22-1989) all replaced by 16.17.1 NMAC, General Provisions, effective 10-29-2004.

**REGULATION AND LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 17 OSTEOPATHIC MEDICINE  
PART 2 APPLICATION FOR LICENSURE, QUALIFICATIONS AND FEES**

**16.17.2.1 ISSUING**

**AGENCY:** Regulation and Licensing Department, New Mexico Board of Osteopathic Medicine.  
[16.17.2.1 NMAC - Rp, 6-11-2018]

**16.17.2.2 SCOPE:** This part applies to all osteopathic physicians and physician assistants applying for licensure.  
[16.17.2.2 NMAC - Rp, 6-11-2018]

**16.17.2.3 STATUTORY AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10- 5, 61-10-6, 61-10-6.1, 61-10-12, 61-10-15.1 NMSA 1978 and Sections 12-12A-1 through 12-12A-13 NMSA 1978.  
[16.17.2.3 NMAC - Rp, 6-11-2018]

**16.17.2.4 DURATION:** Permanent.  
[16.17.2.4 NMAC - Rp, 6-11-2018]

**16.17.2.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.  
[16.17.2.5 NMAC - Rp, 6-11-2018]

**16.17.2.6 OBJECTIVE:**  
To establish the qualifications and procedures and outline the documents and information necessary to complete the application process for licensure, and to establish fees to generate revenue adequate to fund the cost for the board's administration and carry out the duties promulgated thereunto.  
[16.17.2.6 NMAC - Rp, 6-11-2018]

**16.17.2.7 DEFINITIONS:**  
**Categories of licenses.** Individuals holding one of the following categories of medical license are eligible to practice medicine and surgery in New Mexico.

**A. Osteopathic medical:** An unrestricted license to practice osteopathic medicine and surgery.  
**B. Telemedicine:** A limited medical license that allows an osteopathic physician located outside New Mexico to practice osteopathic medicine on patients located in New Mexico.

**C. Post-graduate:** A limited training license issued by the board to osteopathic physicians who are enrolled in an AOA or ACGME or AACOM approved training program.

**D. Temporary:** A limited license that allows a osteopathic physician to practice osteopathic medicine for a limited time up to three months from the date of issuance that meets certain specific conditions in accordance with Osteopathic Medicine Act, Section 61-10-7 NMSA 1978.

**E. Federal emergency:** An unrestricted license to practice osteopathic medicine and surgery issued without receipt of all documentation required for an osteopathic medical license because of a major disaster.  
[16.17.2.7 NMAC - Rp, 6-11-2018]

**16.17.2.8 FEES: All fees are non-refundable**

**A.** Initial application for licensure:  
Osteopathic physician \$400.00  
(2) Post

graduate osteopathic physician \$50.00  
(3)  
Osteopathic physician assistants \$150.00  
(4)  
Telemedicine \$100.00  
(5) Temporary, teaching, research, specialized diagnostic and treatment \$100.00  
(6) Federal emergency \$ 0.00  
**B. Renewal application fee for licensure:**  
(1) Triennial for osteopathic physician \$600.00  
(2) Biennial for osteopathic physician assistant \$150.00  
(3) Biennial for osteopathic physicians supervising pharmacist clinicians \$100.00  
**C. Late Fees:**  
(1) Osteopathic physician renewal between July 2nd & September 29th the year of the renewal \$200.00  
(2) Osteopathic physician renewal after September 29th the year of the renewal \$400.00  
(3) Osteopathic physician assistant renewal after July 1st the year of the biennial renewal \$25.00  
(4) Reinstatement of osteopathic physician license \$500.00  
(5) Reinstatement of osteopathic physician assistant license \$500.00  
(6) Osteopathic physicians supervising pharmacist clinician renewal after July 1st the year of the renewal \$25.00  
**D. Miscellaneous Fees:**  
(1) Verification of license \$25.00  
(2) Change of supervising physician fee for physicians supervising pharmacist clinicians \$25.00  
(3) List of licensees \$55.00  
(4) Duplicate license \$25.00

(5) Copy fee  
per page \$0.25

(6)  
Osteopathic physician on inactive  
status \$75.00

(7)  
Osteopathic physician assistant  
license on inactive status \$75.00

(8)  
Registration of an osteopathic  
physician assistant with a new  
supervising osteopathic physician  
\$25.00  
[16.17.2.8 NMAC - N, 6-11-2018]

**16.17.2.9 APPLICATION FOR LICENSURE:**

**A.** Application: An applicant for licensure under the Osteopathic Medicine Act shall submit a completed and signed application on forms provided by the board with the appropriate fee. The applicant must have graduated from a board approved school of osteopathic medicine and must successfully pass all levels of the COMLEX or USMLE licensing examination or its predecessor, passing the final level of the examination within seven years of having passed the first level. The applicant shall attach or make provisions for the following documents to be provided to the board office:

- (1) official college transcript from a school of osteopathic medicine accredited by COCA and recognized by the AOA sent by the school directly to the board;
- (2) certification of dean of osteopathic school with school seal affixed;
- (3) certification of two years of post-graduate training; otherwise, if previously licensed by this or another state before July 1, 2016 one year of post-graduate training;
- (4) two letters of reference from physicians who have known the applicant in a professional and personal capacity for at least one year;
- (5) a passport-type photograph two inches by two inches, taken within the preceding six

months attached to the application;

(6) copies of medical diploma; and residency certificate, or certificate of attendance of residency program.

(7) if licensed in another state, a certificate of good standing from the state board sent directly to the board office;

(8) primary verification from the AOA and the federation of state medical boards of the United States;

(9) NBOE, COMLEX, USMLE or COMVEX scores must be sent directly to the board.

(10) applicants who are not United States citizens must provide proof that they are in compliance with the immigration laws of the United States.

**B.** Interview: After fulfilling all application requirements, any applicant for licensure with prior, current, or pending disciplinary action, must appear before the board, at the next scheduled meeting, for an interview with the board members or provide the board with a criminal background check from the department of public safety.  
[16.17.2.9 NMAC - Rp, 16.17.2.8 NMAC, 6-11-2018]

**16.17.2.10 QUALIFICATIONS FOR LICENSURE:**

**A.** Each applicant for a license to practice as an osteopathic physician in New Mexico must possess the following qualifications:

- (1) graduated and received a diploma from a college of osteopathic medicine and surgery accredited by the American osteopathic association or commission on osteopathic college accreditation;
- (2) successfully passed the examination defined in Paragraph (2) of Subsection A of Section 61-10-6 NMSA 1978.
- (3) completed two years of an AOA or ACGME accredited postgraduate training program or be approved by the board, in accordance with the provisions of, Section 61-10-6 NMSA 1978;

(4) shall be of the age of majority;

(5) shall be of good moral character;

(6) shall not have been convicted of a felony;

(7) shall not have committed or been engaged in any of the activities listed in, Section 61-10-15 NMSA 1978;

(8) shall submit an application and examination fee as determined by the board pursuant to Section 61-10-6.1 NMSA 1978;

(9) when the board has reason to believe that an applicant for licensure is not competent to practice medicine it may require the applicant to complete a special competency examination or to be evaluated for competence by other means that have been approved by the board; and

(10) a qualified applicant who has not been actively and continuously in practice for more than two years prior to application may be required to successfully complete a special examination or evaluation such as, but not limited to COMVEX or specialty re-certification.  
[16.17.2.10 NMAC - N, 6-11-2018]

**16.17.2.11 EXAMINATION:**

In determining the fitness of an applicant for licensure by examination, the board adopts the following examinations: FLEX (federation of state medical boards of the United States) or the NBOE (national board of examiners of osteopathic physicians and surgeons) or COMLEX (comprehensive osteopathic medical licensing examination) or the USLME (United States medical licensing examination.) Each applicant must register with the national board of osteopathic medical examiners or the national board of medical examiners to take the exam at the most convenient testing site available. The board will not administer any of the aforementioned exams.

**A. FLEX**  
(1) Each

applicant must earn a passing score of seventy-five percent or higher on each of the two components of the exam.

The board will not accept overall or average scores. The board will accept passing component scores obtained at a single administration or at separate administrations of the exam.

(2) If an applicant fails either component of the FLEX examination he must repeat only the component failed. Upon failing one or both components, the applicant may repeat the component failed at the next administration of the exam. If the applicant fails a second examination, he must wait one year before taking the examination for a third time. If the applicant fails a third time, the applicant must acquire one additional year of AOA approved postgraduate training before being examined a fourth time.

(3) Both components of the FLEX examination must be passed within seven years of taking the initial examination.

**B. NBOE** - Each applicant must earn a passing score of seventy-five percent or higher on each of the three components of the examination.

**C. COMLEX** - Each applicant must earn a minimum total passing score or higher on each level of this examination.

**D. USMLE** - Each applicant must earn a minimum total passing score or higher on each level of this examination.

[16.17.2.11 NMAC - N, 6-11-2018]

**16.17.2.12 LICENSURE BY ENDORSEMENT:** Applicants for licensure by endorsement shall meet all requirements as set forth in Section 61-10-12 NMSA 1978. Additionally, the state of the applicant's primary license shall have requirements equal to or greater than the requirements of licensure in New Mexico.

**A. Prerequisites for licensure.** Each applicant for a license to practice as an osteopathic physician in New Mexico by endorsement must be of good moral character, hold a full and unrestricted license to practice medicine in another country, state,

territory or province and possess the following qualifications:

(1) be free of disciplinary history, license restrictions, or pending investigations in all jurisdictions where a medical license is or has been held; and

(2) current certification from a medical specialty board recognized by the American osteopathic association bureau of osteopathic specialists (AOA-BOS).

**B. Required documentation for all applicants.**

Each applicant for a license must submit the required fees as specified in 16.17.2.8 NMAC and the following documentation:

(1) a completed signed application with a passport-quality photo taken within the previous six months; applications are valid for one year from the date of receipt by the board;

(2) verification of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession; verification must be received directly from the other state board(s), and must attest to the status, issue date, license number, and other information requested and contained on the form;

(3) two recommendation letters from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physicians must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; this information will be provided by a board-approved credentials verification service for applicants using that service, or directly to the New Mexico board of osteopathic medicine for applicants using the osteopathic physician profile report;

(4) verification of all work experience and hospital affiliations in the last five years, if applicable, not to include

postgraduate training; this information will be provided by a board-approved credentials verification service for applicants using that service, or directly to the New Mexico board of osteopathic medicine for applicants using the osteopathic physician profile report;

(5) a copy of all AOA-BOS specialty board certifications, if applicable; this information will be provided by a board-approved credentials verification service for applicants using that service, or directly to the New Mexico board of osteopathic medicine for applicants using the osteopathic physician profile report; and

(6) the board may request that applicants be investigated by the biographical section of the American osteopathic association, the drug enforcement administration, the federation of state medical boards, the national practitioner data bank, and other sources as may be deemed appropriate by the board;

(7) applicants who are not U.S. citizens must provide proof that they are in compliance with the immigration laws of the United States.

[16.17.2.12 NMAC - N, 6-11-2018]

**16.17.2.13 TEMPORARY LICENSE AND INTIAL LICENSURE:**

The board will approve licenses during regular meetings only. In the interim between regular meetings, the board may issue a temporary license to applicants who have complied with all application requirements. The applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. Temporary licenses shall only be valid until the next regular board meeting at which time the license will be ratified by the board. Initial licenses shall be valid for no more than 35 months and be renewed, on or before July 1 of the third year after first-time licensure

[16.17.2.13 NMAC - N, 6-11-2018]

**16.17.2.14 TELEMEDICINE LICENSE:**

**A.** Prerequisites for licensure. Each applicant for a telemedicine license must be of good moral character and hold a full and unrestricted license to practice medicine in another state or territory of the United States.

**B.** Required documentation. Each applicant for a telemedicine license must submit the required fees as specified in 16.17.2.8 NMAC and the following documentation

(1) A completed signed application, with a passport quality photo taken within six months. Applications are valid for one year from the date of receipt.

(2) Verification of licensure in all states where the applicant holds or has held a license to practice medicine, or other health care profession. Verification must be received directly from the other state(s) board, and must attest to the status, issue date, license number, and other information requested and contained on the form.

(3) Applicants who have had previous disciplinary or other action against them may be required to meet with the entire board. The board may, in its discretion, issue a license to practice medicine across state lines if it finds that the previous disciplinary or other action does not indicate that the physician is a potential threat to the public.

**C.** Licensure process. Upon receipt of a completed application, including all required documentation and fees, board staff will request and review an AOA physician profile and federation of state medical board's action databank search. When the application is complete a member or agent of the board will review and may approve the application. A personal interview is not required unless there is a discrepancy in the application that cannot be resolved.

**D.** Initial license expiration. Telemedicine licenses shall be renewed on July 1 following the date of issue. Initial licenses are

valid for a period of not more than 13 months or less than one month [16.17.2.14 NMAC - N, 6-11-2018]

**16.17.2.15 POSTGRADUATE TRAINING LICENSE:**

A postgraduate training license is required for all interns, residents, and fellows enrolled in board approved training programs within the state.

**A.** Prerequisites for licensure. Each applicant for a postgraduate training license must possess the following qualifications:

(1) graduated from a college of osteopathic medicine accredited by the American osteopathic association;

(2) passed step 1 and 2 of USMLE or COMLEX-USA; and

(3) be of good moral character.

**B.** Required documentation. Each applicant shall submit the required fee as specified in 16.17.2.8 NMAC, a copy of the official examination results, and a completed application.

**C.** Licensure process. Upon receipt of a completed signed application and fee, a member or agent of the board will review the application and may approve the license. The applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board.

**D.** License expiration. Postgraduate training licenses are valid for no longer than one year, but may be renewed for a period not to exceed eight years or completion of the residency, whichever is shorter, and as long as the license holder is enrolled in a board approved training program. Postgraduate training licenses may be renewed prior to expiration.

[16.17.2.15 NMAC - N, 6-11-2018]

**16.17.2.16 TEMPORARY TEACHING, RESEARCH, AND SPECIALIZED DIAGNOSTIC AND TREATMENT LICENSES:**

The secretary-treasurer or board designee may issue a temporary

license to physicians licensed in other states or jurisdictions for the purpose of teaching, conducting research, performing specialized diagnostic and treatment procedures, implementing new technology, or for physician educational purposes in New Mexico on a temporary basis under the supervision of a New Mexico licensed physician. The following provisions apply:

**A.** Prerequisites for licensure. The applicant must:

(1) be otherwise qualified to practice medicine in New Mexico;

(2) hold an unrestricted license in another state or country;

(3) submit the name of the sponsoring or associating physician(s), who must be actively licensed in New Mexico.

**B.** Required documentation:

(1) specific program or protocol of work planned;

(2) address of sponsoring institution or organization where the work will be performed;

(3) an affidavit from the sponsoring physician attesting to the qualifications of the applicant and the purpose of the functions or medical procedures the applicant will perform;

(4) verification of licensure in state or jurisdiction where physician is practicing; and

(5) a license fee as set forth in 16.17.2.8 NMAC.

**C.** Licensure process: Upon receipt of a completed signed application, including all required documentation and fees, board staff will request and review an AOA physician profile and federation of state medical boards action databank search. When the application is complete, a member or agent of the board will review and may approve the application. A personal interview is not required unless there is a discrepancy in the application that cannot be resolved or if there are any actions or restrictions on any license held in another state or jurisdiction.

**D.** The applicant may

perform only those functions listed in the application. The supervising physician must notify the board and obtain approval prior to any change in the activities of the temporary license holder.

**E.** The duration of a temporary teaching, research, or specialized diagnostic and treatment license shall not exceed three months, provided however that the license may be renewed up to three times upon payment of appropriate fees and written justification for the plan remaining in effect. After the third renewal of a temporary license the physician shall re-apply under the provisions of this rule.  
[16.17.2.16 NMAC - N, 6-11-2018]

**16.17.2.17 YOUTH CAMP OR SCHOOL LICENSES:** The secretary-treasurer or board designee may approve a temporary license for physicians to provide temporary medical services to organized youth camps or schools. Youth camp or school licenses are issued for a period not to exceed three months. Practice under the temporary license shall be limited to enrollees, leaders and employees of the camp or school. Applicants must be qualified for licensure in New Mexico and shall submit the following documentation:

**A.** completed signed application with a passport-quality photograph, taken within the previous six months, attached;

**B.** verification of current unrestricted license from state or jurisdiction where applicant is currently practicing or licensed;

**C.** verification of D.E.A. permit; and,

**D.** a temporary license fee as set forth in 16.17.2.8 NMAC.

**E.** Licensure process. Upon receipt of a completed application, including all required documentation and fees, board staff will request and review an AOA physician profile and federation of state medical board's board action databank search. When the application is complete, a member or agent of the board will review and may approve the application. A

personal interview is not required unless there is a discrepancy in the application that cannot be resolved or if there are any actions or restrictions on any license held in another state or jurisdiction.

**F.** a youth camp or school license will not be valid for more than a period of six months.  
[16.17.2.17 NMAC - N, 6-11-2018]

**16.17.2.18 PROVISIONS FOR PHYSICIAN LICENSURE DURING A DECLARED**

**DISASTER:** The board will make accommodations for physicians who have been impacted by a major disaster. Based on the nature of the disaster, the extent of the damage, and the number of individuals and institutions that have been affected, the board may waive documentation requirements for any new or pending applications when the disaster delays or prohibits the procuring of the required documents. The board may also waive any required fees for applications submitted after the major disaster. The board will determine the length of time the emergency provisions will be in effect for each major disaster that results in applications for a federal emergency license.

**A. Federal emergency license by examination.** Physicians currently licensed in a state in which a major disaster has been declared may be issued a federal emergency license in New Mexico. The board may waive specific documentation required in 16.17.2.9 NMAC if the applicant is unable to obtain the documentation from individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.17.2.9 NMAC.

**B. Federal emergency license by endorsement.** Physicians currently licensed in a state in which a major disaster has been issued a federal emergency license in New Mexico. The board may waive specific requirements of 16.17.2.9 NMAC if the applicant is unable to obtain the documentation from

individuals or institutions located in the disaster area. Nothing in this provision shall constitute a waiver of the requirements for licensure contained in Subsection A of 16.17.2.9 NMAC. The following requirements will apply to applicants under this provision:

(1) a completed signed application, is required, accompanied by proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;

(2) the board will consider the required three years of practice experience to be met through any combination of postgraduate medical education and actual work experience;

(3) the board may waive any requirements for recommendation forms or verification of work experience forms;

(4) other required verification will be obtained online by board staff to include: current licensure status, national practitioners data bank, federation of state medical board disciplinary database, AOA records of education and postgraduate training, and the records of the bureau of osteopathic specialties to confirm board certification status.

**C. License expiration.** Initial federal emergency licenses shall be valid for not less than three months or more than 15 months. Licenses shall be renewed on July 1 following the date of issue pursuant to 16.17.4.8 NMAC. The board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license renewal. At the time a federal emergency license is approved for renewal it will be transferred to a full osteopathic medical license subject to all applicable fees.

[16.17.2.18 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.2 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that



previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-1969.  
Rule 2, Application for Licensure, filed 12-07-1988.

**History of Repealed Material:** Rule 2, Application for Licensure (filed 12-07-1988) repealed 10-29-2004.  
16.17.2 NMAC, Application for Licensure, repealed effective 6-11-2018

**Other History:**

Rule 2, Application for Licensure (filed 12-07-1988) replaced by 16.17.2 NMAC, Application for Licensure, effective 10-29-2004.

**REGULATION AND  
LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 17 OSTEOPATHIC  
MEDICINE  
PART 3 RENEWAL AND  
CONTINUING EDUCATION  
REQUIREMENTS**

**16.17.3.1 ISSUING**

**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.

[16.17.3.1 NMAC - N, 6-11-2018]

**16.17.3.2 SCOPE:** All

licensed osteopathic physicians.

[16.17.3.2 NMAC - N, 6-11-2018]

**16.17.3.3 STATUTORY**

**AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978.

[16.17.3.3 NMAC - N, 6-11-2018]

**16.17.3.4 DURATION:**

Permanent.

[16.17.3.4 NMAC - N, 6-11-2018]

**16.17.3.5 EFFECTIVE**

**DATE:** June 11, 2018, unless a later date is cited at the end of a section.

[16.17.3.5 NMAC - N, 6-11-2018]

**16.17.3.6 OBJECTIVE:** To

establish renewal procedures and continuing education requirements for licensees to renew their license.

[16.17.3.6 NMAC - N, 6-11-2018]

**16.17.3.7 DEFINITIONS:**

See 16.17.1.7 NMAC.

[16.17.3.7 NMAC - N, 6-11-2018]

**16.17.3.8 TRIENNIAL  
RENEWAL OF LICENSE:**

**A.** On or before July 1 of the triennial year, all physicians must submit an application for renewal form provided by the board.

Physicians who fail to renew their certificates as of July 1 will be subject to suspension of their license.

Effective July 1, 2019 all license renewals will begin a staggered renewal schedule until the board administrator determines that all licenses are on a triennial renewal cycle. Any fees associated with license renewals during this period will be adjusted.

**B.** The board will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be required to submit proof of compliance with the continuing education requirements.

Continuing education records may be audited by the board at any time.

**C.** Physicians must submit a triennial renewal fee.

[16.17.3.8 NMAC - N, 6-11-2018]

**16.17.3.9 CME CREDITS  
REQUIRED:**

**A.** The New Mexico board of osteopathic medicine will require proof of having attended and received 75 credits of continuing medical education over the triennial renewal cycle. Thirty credits shall be AOA category 1-A. Forty-five credits can be CCME, AMA, ACCME,

AAFP, AACOM, or AAPS.

**B.** One credit of required CME must be earned by reviewing the New Mexico Osteopathic Medical Practice Act and these board rules. Physicians must certify that they have completed this review at the time they submit their triennial renewal application. Review the rules and statutes by attestation upon initial licensure and renewal.

**C.** Continuing medical education is not required for federal emergency, telemedicine, postgraduate training, temporary teaching or youth camp or school licenses.

**D.** Six CME credits in pain management must be earned and may apply toward the 75 credits required in Subsection A of this section and may be included as part of the required CME credits in pain management in either the triennial cycle in which these credits are completed.

**E.** Those osteopathic physicians who are licensed in New Mexico, but not practicing in the state, or osteopathic physicians who do not possess a New Mexico controlled substance license are exempt from the requirements found in Subsection D.

[16.17.3.9 NMAC - N, 6-11-2018]

**16.17.3.10 ACCEPTABLE  
AS CME:**

**A.** The board will also accept active membership in the American osteopathic association as long as all other requirements for CME are met.

**B.** Certification or re-certification by a specialty board during the triennial cycle.

**C.** Passage of the COMVEX or SPEX during the triennial cycle.

[16.17.3.10 NMAC - N, 6-11-2018]

**16.17.3.11 CME Allowed  
courses and providers:**

**A. AOA or AMA.**  
Clinical courses approved for CCME, AOA or AMA, ACCME, AAFP, AACOM, or AAPS category 1-A, 1-B are approved.

**B. Post graduate**

**education.** Internship, residency or fellowship: 40 credits per year during service in post graduate educational programs approved by CCME, AMA, ACGME and AACOM.

**C. Advanced degrees.**

Education for an advanced degree in a medical field or medically related field: 40 credits are allowed for each full academic year of study.

**D. Self-assessment tests.** Self-assessment tests given by medical associations and other educational institutions approved by the board will be accepted for credit if the test is scored by an institution approved by the board. A total of not more than 35 credits will be granted for self-assessment tests completed during a triennial period.

**E. Teaching.** One credit is allowed for each clock hour of teaching of medical students or physicians in an approved accredited medical school or approved internship or residency program or in institutions or programs approved by the board.

**F. Physician preceptor.** Physicians, approved by an accredited medical school to act as preceptors for students, will be granted a maximum of 30 credits during a triennial period.

**G. Papers or publications.** Ten credits may be claimed for each scientific paper or publication. A paper must be presented to a recognized international, national, regional or state medical society or other organization whose membership is primarily composed of physicians. A publication must appear in a regularly recognized medical or medically related scientific journal. Scientific material used in the paper or publication may be credited only once. No more than 30 credits may be claimed in a triennial period.

**H. Cardio-pulmonary resuscitation.** Credit may be claimed during each triennial reporting period for successful completion of ACLS (advanced cardiac life support), PALS (pediatric advanced life support), ATLS (advanced trauma life support) and NALS (neonatal advanced life support) courses.

**I. Expert review.**

Credit may be claimed by physicians who provide expert services by reviewing investigation cases for the board. A maximum of 10 credits in any triennial reporting period are allowed for providing expert view. [16.17.3.11 NMAC - N, 6-11-2018]

**16.17.3.12 VERIFICATION OF CME:**

**A.** Each physician renewing a license shall attest that they have obtained the required credits of CME on the renewal form. The board will select renewal applications for audit to verify completion of acceptable CME. Audit requests will be included with the renewal notice and those selected physicians will be required to submit proof of compliance with the continuing education requirements. The board may audit CME records at any time. CME records must be maintained for one year following the renewal cycle in which they are earned.

**B.** The board, or a designee of the board, may offer any physician who is unable to provide required documentation upon request a settlement in lieu of initiating disciplinary action. Settlements may include a letter of reprimand and a \$500 fine, reportable to the healthcare integrity and protection data bank.

**C.** Any physician who fails to respond to a CME audit shall be considered in violation of Section 61-10-19 NMSA 1978 of the Osteopathic Medicine Act, failure to provide the board with information requested by the board. Potential sanctions include fines, letters of reprimand, or license suspension or revocation.

**D.** The auditor shall include CME credits earned six months prior of the current triennial cycle when assessing whether an osteopathic physician has earned the required 75 CME credits. [16.17.3.12 NMAC - N, 6-11-2018]

**16.17.3.13 ACCEPTABLE DOCUMENTATION OF CME INCLUDES:**

**A.** Photocopies of original certificates or official letters from course sponsors or online providers, the chief of service, the course director, or an equivalent authority.

**B.** Postgraduate CME credits must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

**C.** Advanced degree studies must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

**D.** Teaching credits must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

**E.** Preceptor credits must be documented and attested either by the dean of the medical school, the chief of service, the course director, or an equivalent authority.

**F.** Papers or publications must be documented with a copy. [16.17.3.13 NMAC - N, 6-11-2018]

**16.17.3.14 EMERGENCY DEFERRAL:** A physician unable to fulfill the CME requirements prior to the date of license expiration may apply to the board for an emergency deferral of the requirements. The chair or a designee of the board may grant deferrals of up to 90 days.

**A.** In case of illness or other documented circumstances, the board may grant an additional extension of time in which the necessary credits may be earned. The request must be made in writing at the time of renewal and approved by the board.

**B.** A licensee practicing or residing outside the United States (US) shall not be required to fulfill the CME requirements for the period of the absence. The board must be notified prior to license expiration that the licensee will be outside the US, including the period of the absence.

Upon return to the US, the licensee shall complete the CME required for the years of practice within the US during the renewal cycle, or apply for an emergency deferral.

[16.17.3.14 NMAC - N, 6-11-2018]

#### **HISTORY OF 16.17.3 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 6-5-1969.

Rule 3, Licensure by Examination, filed 12-7-1988.

Rule 4, Licensure by Endorsement, filed 12-7-1988.

Rule 5, Temporary License, filed 12-7-1988.

**History of Repealed Material:** Rule 3, Licensure by Examination (filed 12-7-1988); Rule 4, Licensure by Endorsement, (filed 12-7-1988); Rule 5, Temporary License, (filed 12-7-1988) repealed 10-29-2004. 16.17.3 NMAC, Examination, Endorsement and Temporary License Requirements, repealed effective 6-11-2018.

#### **Other History:**

Rule 3, Licensure by Examination (filed 12-7-1988); Rule 4, Licensure by Endorsement, (filed 12-7-1988); and Rule 5, Temporary License (filed 12-7-1988); all replaced by 16.17.3 NMAC, Examination, Endorsement and Temporary License Requirements, effective 10-29-2004.

### **REGULATION AND LICENSING DEPARTMENT OSTEOPATHIC MEDICINE, BOARD OF**

#### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 17 OSTEOPATHIC MEDICINE PART 4 PRESCRIBING AND DISTRIBUTION OF CONTROLLED SUBSTANCES**

#### **16.17.4.1 ISSUING**

**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.

[16.17.4.1 NMAC - N, 6-11-2018]

#### **16.17.4.2 SCOPE:** This part

applies to all licensed osteopathic physicians and osteopathic physician assistants.

[16.17.4.2 NMAC - N, 6-11-2018]

#### **16.17.4.3 STATUTORY**

**AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978 and the Pain Relief Act, Subsections D of Sections 24-2-1 thru 24-2-6 NMSA 1978.

[16.17.4.3 NMAC - N, 6-11-2018]

#### **16.17.4.4 DURATION:**

Permanent.

[16.17.4.4 NMAC - N, 6-11-2018]

#### **16.17.4.5 EFFECTIVE**

**DATE:** June 11, 2018, unless a later date is cited at the end of a section.

[16.17.4.5 NMAC - N, 6-11-2018]

#### **16.17.4.6 OBJECTIVE:** It

is the position of the board that osteopathic physicians and osteopathic physician assistants have an obligation to treat pain and that a wide variety of medicines including controlled substances and other drugs may be prescribed for that purpose. When such medicines and drugs are used they should be prescribed in adequate doses and for appropriate lengths of time after a thorough medical evaluation has been completed.

[16.17.4.6 NMAC - N, 6-11-2018]

#### **16.17.4.7 DEFINITIONS:**

##### **A. "Acute pain"**

means the normal predicted physiological response to a noxious chemical or thermal or mechanical stimulus typically associated with invasive procedures, trauma, or disease and is generally time limited.

##### **B. "Addiction" is**

a neurobehavioral syndrome with genetic and environmental influences that results in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and, craving. Physical dependence and tolerance are normal physiological consequences of extended opioid therapy for pain and should not by themselves be considered addiction.

##### **C. "Administer"**

means to apply a prepackaged drug directly to the body of a patient by any means.

##### **D. "Chronic pain"**

means a pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically for longer than three consecutive months. "Chronic pain" does not, for the purpose of the Pain Relief Act requirements, include pain associated with a terminal condition.

##### **E. "Clinical pain**

**expert"** means a person who by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.

##### **F. "Delegate" means**

a person designated by a practitioner for the purpose of requesting and receiving prescription monitoring program (PMP) reports for that practitioner.

##### **G. "Dispense" means**

to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container.

##### **H. "Distribute"**

means to administer or supply to a patient under the direct care of the distributing physician or physician assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container.

##### **I. "Drug abuser"**

means a person who takes a drug

or drugs for other than legitimate medical purposes.

**J. “Established practitioner-patient relationship”** means a relationship between a physician or a physician assistant and a patient that is for the purpose of maintaining the patient’s well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician or a physician assistant involving an appropriate history and physical or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or physician assistant or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

**K. “Formulary”** means any dangerous drugs; including schedule II-V controlled substances, physicians may use in the care of patients where there is an established physician-patient relationship.

**L. “Licensed osteopathic physician”** means an osteopathic physician licensed by the New Mexico board of osteopathic medicine in New Mexico.

**M. “Pain”** means acute or chronic pain or both.

**N. “Physical dependence”** means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

**O. “Practitioner”** means a New Mexico osteopathic physician or osteopathic physician assistant maintaining licensure pursuant to state law that allows that individual to prescribe, order, administer or dispense controlled substances to patients.

**P. “Prescribe”** means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a

written order signed by the prescriber bearing the name and address of the prescriber, license classification, the name and address of the patient, the name of the drug prescribed, direction for use and the date of issue.

**Q. “Prescription monitoring program”** means a centralized system to collect, monitor, and analyze electronically for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data are used to support efforts in education, research, enforcement and abuse prevention.

**R. “Tolerance”** means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time. [16.17.4.7 NMAC - N, 6-11-2018]

**16.17.4.8 GUIDELINES:** The following regulations shall be used by the board to determine whether an osteopathic physician’s or osteopathic physician assistant’s prescriptive practices are consistent with the appropriate treatment of pain.

**A.** The treatment of pain with various medicines or controlled substances is a legitimate medical practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

**B.** The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.

(1) A practitioner shall complete a physical examination and include an evaluation of the patient’s psychological and pain status. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential

for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication or contra-indication against the use of controlled substances.

(2) A practitioner shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The practitioner shall consider an integrative approach to pain management.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) The practitioner shall discuss the risks and benefits of using controlled substances with the patient, or surrogate, or guardian, and shall document this discussion in the record.

(5) Complete and accurate records of care provided and drugs prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized should be recorded. Prescriptions for opioids shall include indications for use. For chronic non-cancer pain patients treated with controlled substance and analgesic(s), the prescribing practitioner shall use a written agreement for treatment with the patient outlining patient responsibilities. As part of a written agreement, chronic non-cancer pain patients shall receive all chronic pain management prescriptions from one practitioner and one pharmacy whenever possible.

(6) The management of patients needing chronic pain control requires monitoring by the attending or the consulting practitioner. The

practitioner shall periodically review the course of treatment for chronic non-cancer pain, the patient's state of health, and any new information about the etiology of the chronic non-cancer pain at least every six months. In addition, a practitioner shall consult, when indicated by the patient's condition, with a clinical pain expert. Consultation should occur early in the course of long-term treatment and at reasonable intervals during continued long-term treatment for assessment of benefit and need a minimum of once every six months.

(7) If, in a practitioner's medical opinion, a patient is seeking pain medication for reasons that are not medically justified, the practitioner is not required to prescribe controlled substances for the patient.

C. Pain management for patients with substance abuse disorders shall include:

- (1) a contractual agreement;
- (2) appropriate consultation;
- (3) urine or hair or salivary or blood drug screening shall be considered when other factors suggest an elevated risk of misuse or diversion; and
- (4) a schedule for re-evaluation at appropriate time intervals at least every six months.

D. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate medical indication for the treatment prescribed; documented change or persistence of the recognized medical indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the practitioner's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work related factors.

E. The board will

review both over-prescription and under-prescription of pain medications using the same standard of patient protection as a guiding principle.

F. Any physician or physician assistant that prescribes opiate based pain medication, shall obtain at least six CME credits in pain management over a three year period.

G. Any physician or physician assistant that prescribes opiate based pain medication shall utilize the state based prescription monitoring program at the initial office visit which results in a prescription for an opiate based pain medication, and at least at every three months intervals and at critical turning points in patient care.

H. A practitioner who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Osteopathic Medicine Act or board rules.

[16.17.3.1 NMAC - N, 6-11-2018]

**16.17.4.9 PHYSICIANS OR PHYSICIAN ASSISTANTS TREATED WITH OPIATES:** Physicians or physician assistants who have chronic pain and are being treated with opiates shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on opiates while continuing to practice.

[16.17.4.9 NMAC - N, 6-11-2018]

**16.17.4.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:** The intent of the New Mexico board of osteopathic medicine in requiring participation in the PMP is to assist practitioners in balancing the safe use of controlled substances with the need to impede harmful and

illegal activities involving these pharmaceuticals.

A. Any practitioner who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. A practitioner may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While a practitioner's delegate may obtain a report from the state's prescription monitoring program, the practitioner is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of a report in the patient's medical record.

C. Before a practitioner prescribes or dispenses for the first time, a controlled substance in schedule II, III, IV, or V to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substance for 30 days or more, the practitioner shall review a prescription monitoring report for the patient for the preceding 12 months. When available, the practitioner shall review similar reports from adjacent states. The practitioner shall document the receipt and review of such reports in the patient's medical record.

D. A prescription monitoring report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in schedule II, III, IV or V for each patient. The practitioner shall document the review of these reports in the patient's medical record. Nothing in this section shall be construed as preventing a practitioner from reviewing prescription monitoring reports with greater frequency than that required by this section.

E. A practitioner does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in schedule II,

III, IV or V:

(1) for a period of four days or less; or  
 (2) to a patient in a nursing facility; or  
 (3) to a patient in hospice care.

**F.** Upon review of a prescription monitoring report for a patient, the practitioner shall identify and be aware of a patient currently:

(1) receiving opioids from multiple prescribers;  
 (2) receiving opioids and benzodiazepines concurrently;

(3) receiving opioids for more than 12 consecutive weeks;

(4) receiving more than one controlled substance analgesic;

(5) receiving opioids totaling more than 90 morphine milligram equivalents per day; or

(6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

**G.** Upon recognizing any of the above conditions described in Paragraph F, the practitioner, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems or risks that may result in opioid misuse, abuse, or overdose. These steps may involve counseling the patient on known risks and realistic benefits of opioid therapy, prescription and training for naloxone, consultation with or referral to a pain management specialist, or offering or arranging treatment for opioid or substance use disorder. The practitioner shall document actions taken to prevent, mitigate, or resolve the potential problems or risks.

[16.17.4.10 NMAC - N, 6-11-2018]

**16.17.4.11 NON-CANCER PAIN MANAGEMENT CONTINUING EDUCATION:**

This section applies to all New Mexico board of osteopathic medicine licensed physicians and osteopathic physician assistants who hold a federal drug enforcement administration registration and licensure to prescribe opioids.

Pursuant to the Pain Relief Act, in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

**A.** On or before July 1, 2014 all New Mexico board of osteopathic medicine licensees who hold a federal drug enforcement administration registration and licensure to prescribe opioids, shall complete no less than two continuing medical education hours in appropriate courses that include a review of 16.17.5 NMAC, management of the treatment of pain, an understanding of the pharmacology and risks of controlled substances, a basic awareness of the problems of abuse, addiction and diversion, and awareness of state and federal regulations for the prescription of controlled substances. All such courses are subject to board approval. Practitioners who have taken continuing education hours in these educational elements in the two years prior to July 1, 2014 may apply those hours toward the required two continuing education hours described in this subsection.

**B.** Beginning with the July 1, 2014 triennial renewal date, as part of the 75 continuing medical education hours required during each triennial renewal cycle, all New Mexico board of osteopathic medicine licensees, who hold a federal drug enforcement administration registration and license to prescribe opioids, shall be required to complete and submit six continuing education hours. Appropriate courses shall include all of the educational elements described in Subsection A of this section. All such courses are subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date.

The two continuing medical education

hours completed prior to July 1, 2014, as defined in Subsection A above, may be included as part of the required continuing medical education hours in pain management.

[16.17.4.11 NMAC - N, 6-11-2018]

**16.17.4.12 NOTIFICATION:**

In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 14, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 17 of the New Mexico board of osteopathic medicine rule;

**A.** health care practitioners under its jurisdiction; and

**B.** health care practitioners being investigated by the board in relation to the practitioner's pain management services.

[16.17.4.12 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.4 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69;  
 BOSE 72-1, Regulations for Continuing Medical Education of the New Mexico State Board of Osteopathic Examination and Registration, filed 06-27-72;

Rule 7, Annual Renewal of Certificate, filed 12-07-88;

Rule 11, Continuing Medical Education, filed 09-22-89.

**History of Repealed Material:** Rule 7, Annual Renewal of Certificate (filed 12-07-88) and Rule 11, Continuing Medical Education (filed 09-22-89) were both repealed 10-29-2004.

16.17.4 NMAC, Renewal and Continuing Education Requirements repealed effective 6-11-2018.

**Other History:**

Rule 7, Annual Renewal of Certificate (filed 12-07-88) and Rule 11, Continuing Medical Education (filed 09-22-89) replaced by 16.17.4 NMAC, Renewal and Continuing Education Requirements, effective 10-29-2004.

**REGULATION AND  
LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 17 OSTEOPATHIC  
MEDICINE  
PART 5 REVOCATION  
OR REFUSAL OF LICENSURE**

**16.17.5.1 ISSUING**

**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.

[16.17.5.1 NMAC - N, 6-11-2018]

**16.17.5.2 SCOPE:** All

licensed osteopathic physicians.

[16.17.5.2 NMAC - N, 6-11-2018]

**16.17.5.3 STATUTORY**

**AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978.

[16.17.5.3 NMAC - N, 6-11-2018]

**16.17.5.4 DURATION:**

Permanent.

[16.17.5.4 NMAC - N, 6-11-2018]

**16.17.5.5 EFFECTIVE**

**DATE:** June 11, 2018, unless a later date is cited at the end of a section.

[16.17.5.5 NMAC - N, 6-11-2018]

**16.17.5.6 OBJECTIVE:**

To establish causes for revoking, refusing, or suspending a license to practice osteopathic medicine in New Mexico.

[16.17.5.6 NMAC - N, 6-11-2018]

**16.17.5.7 DEFINITIONS:**

**[RESERVED]**

[16.17.5.7 NMAC - N, 6-11-2018]

**16.17.5.8 REVOCATION  
OR REFUSAL OF LICENSE:**

**A.** Causes for refusal or revocation of license. The board may either refuse to issue or may

suspend or revoke any license for any one or more of the following causes, whether committed in the state of New Mexico or elsewhere:

(1) conviction of a felony, as evidenced by a certified copy of the record of the court issuing conviction;

(2) obtaining or attempting to obtain a license by fraudulent misrepresentation, or practicing in the profession by fraudulent misrepresentation;

(3) gross malpractice which means gross and flagrantly improper treatment of a patient, or such culpable neglect of a patient as to indicate a willful act or injury to the patient; gross malpractice also means such incompetence on the part of the practitioner as to render him unfit to hold himself out to the public as a licensed osteopathic physician and surgeon; gross malpractice shall also consist of performing, aiding, or abetting the performance of any act or operation upon or on behalf of a patient expressly forbidden by state and federal penal laws, such as criminal operations, dispensing and prescribing of narcotics;

(4) advertising, practicing, or attempting to practice under a name other than one's own;

(5) habitual or excessive use or abuse of drugs or alcohol;

(6) immoral, dishonorable or unprofessional conduct.

**B.** Dishonorable and unprofessional conduct shall include but shall not be limited to the following:

(1) willful violation of the code of ethics of the American osteopathic association;

(2) aiding unlicensed persons to practice medicine and surgery in the state of New Mexico;

(3) violation of the law pertaining to dangerous drugs, narcotics, or intoxicating liquors;

(4) the

commission of any act involving moral turpitude; moral turpitude includes any act contrary to justice, honesty, modesty or good morals;

(5) incompetency to act as an osteopathic physician and surgeon; failure to possess and or exercise the requisite degree of skill, learning, and care commonly possessed by osteopathic physicians and surgeons in the state of New Mexico or the rendering of treatment to patients in a manner contrary to accepted rules;

(6) the performance of any act or omission which tends to degrade or place the physician and the osteopathic profession in bad public repute where the act or omission is contrary to the professional standards which an osteopathic physician and surgeon assumes;

(7) the unlawful use of the name "doctor of medicine" or its initials or emblems, either orally or otherwise;

(8) willful failure to comply with regulations of the department of health or the regulations of this board;

(9) continuing to practice while knowingly having an infectious or contagious disease;

[16.17.5.8 NMAC - N, 6-11-2018]

**16.17.5.9 SUMMARY**

**SUSPENSION:** This is a formal preliminary disciplinary action that immediately suspends a licensee's right to practice osteopathic medicine. The summary suspension remains in effect until a further order of the board is entered. The licensee has an opportunity for a full hearing before the board regarding the summary suspension.

**A.** The board may summarily suspend or restrict a license issued by the board without hearing, simultaneously with, or at any time after, the issuance of a notice of contemplated action and the initiation of proceedings for a hearing provided for under the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;

(2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction;

(3) has pled guilty to or been found guilty of any offense related to their practice or for any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction; or

(4) uses conversion therapy on a minor.

**B.** A licensee is not required to comply with a summary action until service of the action has been made personally or by certified mail, return receipt requested, to the licensee’s last known address as shown in the board’s records, or until the licensee has actual knowledge of the order of suspension or restriction, whichever occurs first. The board’s chair may sign a summary suspension order that the board has authorized.

**C.** A licensee whose license is summarily suspended is entitled to a hearing before the board on the summary suspension order, pursuant to the Uniform Licensing Act, within 15 days from the date the licensee requests a hearing. The hearing request shall be in writing, addressed to the board, and delivered by certified mail, return receipt requested.

[16.17.5.9 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.5 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.

Rule 8, Revocation or Refusal of License, filed 12-07-88.

**History of Repealed Material:** Rule 8, Revocation or Refusal of License (filed 12-07-88) repealed 10-29-2004. 16.17.5 NMAC, Prescribing and Distribution of Controlled Substances,

repealed effective 6-11-2018.

**Other History:**

Rule 8, Revocation or Refusal of License (filed 12-07-88) replaced by 16.17.6 NMAC, Revocation or Refusal of License, effective 10-29-2004.

**REGULATION AND LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 17 OSTEOPATHIC MEDICINE  
PART 6 REINSTATEMENT**

**16.17.6.1 ISSUING**

**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.

[16.17.6.1 NMAC - N, 6-11-2018]

**16.17.6.2 SCOPE:** All licensed osteopathic physicians.

[16.17.6.2 NMAC - N, 6-11-2018]

**16.17.6.3 STATUTORY AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978.

[16.17.6.3 NMAC - N, 6-11-2018]

**16.17.6.4 DURATION:**

Permanent

[16.17.6.4 NMAC - N, 6-11-2018]

**16.17.6.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.

[16.17.6.5 NMAC - N, 6-11-2018]

**16.17.6.6 OBJECTIVE:** To establish reinstate requirements for physicians who have allowed their license to lapse.

[16.17.6.6 NMAC - N, 6-11-2018]

**16.17.6.7 DEFINITIONS:**

[RESERVED]

**16.17.6.8**

**REINSTATEMENT OF LICENSE:**

**A. Lapsed license:** An applicant whose license has lapsed for failure to renew his license may apply for reinstatement of his license. An applicant who has allowed his license to lapse may reinstate his license without monetary penalty within 24 hours but will not be allowed to practice osteopathic medicine while the license is lapsed. An applicant who has allowed his license to lapse for a period greater than three years may not apply for reinstatement. Such an individual must re-apply for a license. All applications for reinstatement shall be accompanied by the following:

(1) proof of completion of 75 board approved continuing education hours obtained in the preceding three years; in the event an applicant has not completed the requisite number of continuing education credits, the board may require that the applicant successfully pass the SPEX examination or complete a course designated by the board;

(2) a chronology of medical activities during the entire period the license has been in a lapsed status. In the event an applicant has not actively engaged in the practice of medicine in New Mexico during the period of lapse, the board in its discretion may require the applicant to successfully pass the SPEX examination or complete a course designated by the board;

(3) three letters of recommendation from osteopathic physicians who have known the applicant professionally and personally for one year; all letters of recommendation must be mailed directly to the board from the recommending physician;

(4) a list of hospitals and their addresses where the applicant has worked during the five years immediately preceding application for reinstatement;



(5) a passport sized photograph taken within the preceding year; and  
 (6) payment of reinstatement fee and current renewal fee.

**B. Reinstatement of inactive license:** An applicant must request in writing to the board office a request for inactive license to be reactivated to a full unrestricted license.

**C. Disciplinary action:**

(1) An applicant whose license has been suspended or revoked pursuant to Section 61-10-15 NMSA 1978 may request reinstatement of his license. All requests must be in writing and must be accompanied by all required information. Additionally, the applicant must appear before the board and must demonstrate that he has been sufficiently rehabilitated from the offense that gave rise to his suspension or probation that he may engage in the practice of medicine as required by the Osteopathic Physician Practice Act, Sections 61-10-1 through 61-10-22 NMSA 1978.

(2) The board may require that the applicant successfully pass the SPEX examination or complete a course designated by the board.  
 [16.17.6.8 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.6 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.  
 Rule 8, Revocation or Refusal of License, filed 12-07-88.

**History of Repealed Material:** Rule 8, Revocation or Refusal of License (filed 12-07-88) repealed 10-29-2004. 16.17.6 NMAC, Revocation or Refusal of Licensure, repealed effective 6-11-2018.

**Other History:**

Rule 8, Revocation or Refusal of

License (filed 12-07-88) replaced by 16.17.6 NMAC, Revocation or Refusal of License, effective 10-29-2004.

**REGULATION AND LICENSING DEPARTMENT  
 OSTEOPATHIC MEDICINE,  
 BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
 CHAPTER 17 OSTEOPATHIC MEDICINE  
 PART 7 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS**

**16.17.7.1 ISSUING**

**AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.  
 [16.17.7.1 NMAC - N, 6-11-2018]

**16.17.7.2 SCOPE:** Part 7

of Chapter 17 sets for application procedures to expedite licensure for military service members, their spouses and veterans.  
 [16.17.7.2 NMAC - N, 6-11-2018]

**16.17.7.3 STATUTORY AUTHORITY:** Part 8 of Chapter 17 is promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 through 61-10-22 NMSA 1978,

(specific authority to promulgate rules is Paragraph (2) of Subsection D of Section 61-2-6 NMSA 1978, and Section 61-1-34 NMSA 1978.  
 [16.17.7.3 NMAC - N, 6-11-2018]

**16.17.7.4 DURATION:**

Permanent.  
 [16.17.7.4 NMAC - N, 6-11-2018]

**16.17.7.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.

[16.17.7.5 NMAC - N, 6-11-2018]

**16.17.7.6 OBJECTIVE:** The

objective of Part 8 of Chapter 17 is to expedite licensure for military service members, their spouses and veterans

pursuant to Section 61-1-34-NMSA 1978.

[16.17.7.6 NMAC - N, 6-11-2018]

**16.17.7.7 DEFINITIONS:**

**A. "Military service member"** means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.

**B. "Recent veteran"** means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.

[16.17.7.7 NMAC - N, 6-11-2018]

**16.17.7.8 APPLICATION REQUIREMENTS:**

**A.** Applications for registration shall be completed on a form provided by the board.

**B.** The information shall include:

(1) completed application and fee pursuant to 16.17.2.8 NMAC and 16.17.2.9 NMAC;

(2) satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for New Mexico osteopathic physicians; and

(3) proof of honorable discharge (DD214) or military ID card or accepted proof of military spouse status.

[16.17.7.8 NMAC - N, 6-11-2018]

**16.17.7.9 RENEWAL REQUIREMENTS:**

**A.** A license issued pursuant to this part shall not be renewed unless the license satisfies the requirements for issuance of a license pursuant to 16.17.2.9 NMAC and 16.17.2.12 NMAC and for the

renewal of a license pursuant to 16.17.3 NMAC.

**B.** A license issued pursuant to this part shall be valid for one year or until July 1, whichever comes first.

**C.** Prior to the expiration of the license, all licensed osteopaths shall apply for registration renewal and shall pay the renewal fee as set forth in 16.17.2.8 NMAC.

**D.** The board office mails license renewal notifications at least 45 days before the license expiration date. Failure to receive the renewal notification shall not relieve the licensee of the responsibility to timely renew the license by the expiration date.  
[16.17.7.9 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.7 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.  
Rule 6, Reinstatement of License, filed 12-07-88.

**History of Repealed Material:** Rule 6, Reinstatement of License (filed 12-07-1988) repealed 10-29-2004.  
16.17.7 NMAC, Reinstatement repealed effective 6-11-2018.

**Other History:**

Rule 6, Reinstatement of License (filed 12-07-1988) replaced by 16.17.7 NMAC, Reinstatement, effective 10-29-2004.

**REGULATION AND LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 17 OSTEOPATHIC MEDICINE  
PART 8 PHYSICIANS SUPERVISING PHARMACIST CLINICIANS**

**16.17.8.1 ISSUING AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.  
[16.17.8.1 NMAC - N, 6-11-2018]

**16.17.8.2 SCOPE:** The provisions in Part 9 of Chapter 17 apply to all osteopathic physicians who supervise pharmacist clinicians.  
[16.17.8.2 NMAC - N, 6-11-2018]

**16.17.8.3 STATUTORY AUTHORITY:** These rules of practice and procedure govern the practice of medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Section 61-10-5 1978 and the Pharmacist Prescriptive Authority Act, Subsection B of Sections 61-11-1 to 61-11-3 NMSA 1978.  
[16.17.8.3 NMAC - N, 6-11-2018]

**16.17.8.4 DURATION:** Permanent.  
[16.17.8.4 NMAC - N, 6-11-2018]

**16.17.8.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.  
[16.17.8.5 NMAC - N, 6-11-2018]

**16.17.8.6 OBJECTIVE:** The objective of Part 9 of Chapter 17 is to establish and adopt rules to carry out the board’s responsibilities set forth in Section 61-11B-1 thru 61-11B-3 NMSA 1978, the “Pharmacist Authority Act”.  
[16.17.8.6 NMAC - N, 6-11-2018]

**16.17.8.7 DEFINITIONS:**  
**A. “Consultation”** means in person, telephonically, by two-way radio, by e-mail or by other electronic means.

**B. “Alternate supervising physician”** means a physician who holds a current unrestricted license to practice medicine or osteopathic medicine, is a cosignatory on the notification of supervision, and agrees to act as the supervising physician in the supervising physician’s absence with no change to the scope of practice or

protocol of the pharmacist clinician. The alternate supervising physician must be approved by the board. The alternate supervising physician which should require the alternate supervising physician to register with the appropriate board and shall be exempt from fees associated with the supervising physician unless the alternate supervising physician becomes a supervising physician then the appropriate fees will be assessed.

**C. “Scope of practice”** means duties and limitations of duties placed upon a pharmacist clinician by their supervising physician or the alternate supervising physician(s) and the board; includes the limitations implied by the field of practice of the supervising physician or the alternate supervising physician(s) and the board.  
[16.17.8.7 NMAC - N, 6-11-2018]

**16.17.8.8 APPROVAL OF SUPERVISING PHYSICIANS:** A physician shall only be approved as a pharmacist clinician supervisor after the pharmacist clinician registers with the board by submitting an application for authority to practice under the supervision of a licensed physician. The application shall include:

**A.** the name, address, phone number of the applicant, and proof of current certification as a pharmacist clinician by the board of pharmacy;

**B.** the name, address, and phone number of the supervising physician;

**C.** a written protocol agreed to and signed by the pharmacist clinician and the supervising physician that shall include:

(1) a statement identifying the physician authorized to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive authority that the pharmacist clinician is authorized to make within his scope of practice which may include:

(a) a statement of the types of diseases,

dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(c) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication to and consultation with the supervising physician concerning specific decisions made; documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(d) a statement that describes appropriate mechanisms for reporting to the physician the pharmacist clinician's activities in monitoring the patients; and

(e) a statement that describes provisions for immediate communication or consultation between the pharmacist clinician and the supervising physician or alternate supervising physician.

**D.** The pharmacist clinician may be authorized in the protocol to monitor dangerous drug therapy as follows:

(1) collecting and reviewing patient dangerous drug histories;

(2) measuring and reviewing routine patient vital signs including pulse, temperature, blood pressure and respiration; and

(3) ordering and evaluating the results of laboratory tests relating to dangerous drug therapy, including blood chemistries and cell counts, controlled substance therapy levels, blood, urine, tissue or other body fluids, culture and sensitivity tests when performed in accordance with guidelines or protocols applicable to the practice setting.

**E.** A pharmacist

clinician may only prescribe controlled substances if she:

(1) has obtained a New Mexico controlled substances registration and a drug enforcement agency registration, and

(2) prescribes controlled substances within the parameters of written guidelines or protocols established under these regulations and Section 3.A of 62-11B NMSA 1978, the Pharmacist Prescriptive Authority Act.

**F.** The protocol for each pharmacist clinician shall be reviewed by the board as least every two years.

**G.** A pharmacist clinician shall perform only those services that are set forth in the protocol.

**H.** Pharmacist clinicians may prescribe only those drugs described in a board approved protocol.

**I.** A physician may supervise as many pharmacist clinicians as the physician can effectively supervise and communicate with in the circumstances of their particular practice setting.

**J.** Within 30 days after an employer terminates the employment of a pharmacist clinician, the supervising physician or the pharmacist clinician shall submit a written notice to the board providing the date of termination and reason for termination. The pharmacist clinician shall not work as a pharmacist clinician until the board approves another supervising physician.  
[16.17.8.8 NMAC - N, 6-11-2018]

#### **16.17.8.9 THE PHYSICIAN'S REQUIREMENTS OF SUPERVISION:**

**A.** Supervising physicians must provide direction to pharmacist clinicians to specify the pharmacotherapeutic services to be provided under the circumstances in each case. This may be done by written protocol or by oral consultation. It is the responsibility of the supervising physician to assure that the appropriate directions are

given and understood.

**B.** Supervising physicians must establish a quality assurance program for review of medical services provided by the pharmacist clinician.

**C.** If the supervising physician is of the opinion that circumstances warrant exceptions to the requirements set forth in Subsections A or B above, the supervising physician must specify the circumstances in writing and deliver the same to the board. The board will review, grant or deny requests for exceptions or waivers, at the board's discretion.

**D.** Documentation of the supervising physician reviews must be retained by the pharmacist clinician and be available for board inspection for a period of not less than five years from the date of such reviews.

**E.** The pharmacist clinician must have prompt access to the physician by telephone or other electronic means for advice and direction.

**F.** If the supervising physician plans to be or is absent from his or her practice for any reason, the supervising physician cannot designate a pharmacist clinician to take over those duties or cover the practice during such absence. The supervising physician may designate an alternate supervising physician, approved by the board, to cover the practice and perform the duties of supervising physician. The alternate supervising physician will then supervise the pharmacist clinician and will be responsible for the pharmacist clinician's actions or omissions in exercising prescriptive authority or other duties as a pharmacist clinician.

**G.** In order to change a supervising physician between biennial renewals of registration, without a change to the pharmacist clinician's scope of practice or protocol, a pharmacist clinician shall submit to the board a change of supervising physician form and the required fee, as specified in 16.10.9.11 NMAC. The new supervising physician may only act after the

application is approved by the board.  
[16.17.8.9 NMAC - N, 6-11-2018]

**16.17.8.10 REPORT AND COMMITTEE:** The chair of the board shall appoint two members of the board, or a member and an agent of the board to an oversight committee that shall also include two members appointed by the board of pharmacy. The oversight committee will make a report that may include non-binding recommendations to both the board of pharmacy and the board of osteopathic medical examiners regarding disciplinary action. Each board can accept or reject the recommendations.  
[16.17.8.10 NMAC - N, 6-11-2018]

**HISTORY of 16.17.8 NMAC:**  
**History of Repealed Material:**  
16.17.8 NMAC, Osteopathic Medicine and Surgery Practitioners, Licensure for Military Service Members, Spouses and Veterans, repealed effective 6/11/2018.

**REGULATION AND LICENSING DEPARTMENT  
OSTEOPATHIC MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING  
CHAPTER 17 OSTEOPATHIC MEDICINE  
PART 9 PHYSICIAN ASSISTANTS: LICENSURE AND PRACTICE REQUIREMENTS**

**16.17.9.1 ISSUING AGENCY:** Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.  
[16.17.9.1 NMAC - N, 6-11-2018]

**16.17.9.2 SCOPE:** All licensed osteopathic physician assistants.  
[16.17.9.2 NMAC - N, 6-11-2018]

**16.17.9.3 STATUTORY AUTHORITY:** These rules of practice and procedure govern the practice of osteopathic medicine in

New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Section 61-10-5 NMSA 1978.  
[16.17.9.3 NMAC - N, 6-11-2018]

**16.17.9.4 DURATION:** Permanent.  
[16.17.9.4 NMAC - N, 6-11-2018]

**16.17.9.5 EFFECTIVE DATE:** June 11, 2018, unless a later date is cited at the end of a section.  
[16.17.9.5 NMAC - N, 6-11-2018]

**16.17.9.6 OBJECTIVE:** This part regulates the licensing and practice of physician assistants and their supervision by licensed physicians.  
[16.17.9.6 NMAC - N, 6-11-2018]

**16.17.9.7 DEFINITIONS:**  
**A.** "AAPA" means American academy of physician assistants.

**B.** "Effective supervision" means the exercise of physician oversight, control, and direction of services rendered by a physician assistant. Elements of effective supervision include:  
(1) on-going availability of direct communication, either face-to-face, telephonically or by electronic means;  
(2) active, ongoing review of the physician assistant's services, as appropriate, for quality assurance and professional support;

(3) a predetermined plan for emergency situations; and

(4) identification of other supervising physicians, as appropriate to the practice setting.

**C.** "NCCPA" means national commission on certification of physician assistants.

**D.** "Direct communication" means communication between the supervising physician and physician assistant, in person, telephonically, by email or other electronic means.

**E.** "Scope of practice" means duties and limitations of duties placed upon a physician assistant

by their supervising physician and the board; includes the limitations implied by the field of practice of the supervising physician.

**F.** "Supervising physician" means a physician who holds a current unrestricted license, or a physician with a stipulated license with expressed board approval to supervise a physician assistant, and provides a notification of supervision, assumes legal responsibility for health care tasks performed by the physician assistant and is approved by the board.

**G.** "PANCE" means physician assistant national certifying exam.  
[16.17.9.7 NMAC - N, 6-11-2018]

**16.17.9.8 QUALIFICATIONS FOR LICENSURE AS A PHYSICIAN ASSISTANT:**

**A.** shall have successfully completed a physician assistant program accredited by the:  
(1) accreditation review commission on education for the physician assistant; or

(2) if prior to January 1, 2001, either the:  
(a) committee on accreditation of allied health education programs; or  
(b) committee on allied health education and accreditation;

(c) or its successor agency.

**B.** shall have successfully completed the physician assistant national certifying exam issued and administered by the national commission on certification of physician assistants (NCCPA).

**C.** be of good moral and professional character; and  
**D.** submit any other proof of competency as may be requested by the board.  
[16.17.9.8 NMAC - N, 6-11-2018]

**16.17.9.9 APPLICATION FOR LICENSURE:**

**A.** A completed application for which the applicant

has supplied all information and correspondence requested by the board on forms and in a manner acceptable to the board.

**B.** Two letters of recommendation from physicians licensed to practice medicine in the United States or physician assistant program directors, or the director's designee, who have personal knowledge of the applicant's moral character and competence to practice.

**C.** Verification of licensure in all states where the applicant holds or has held a license to practice as a physician assistant, or other health care profession. Verification must be sent directly to the board from the other state board(s).

**D.** Verification of all work experience in the last two years, if applicable, provided directly to the board.

**E.** All applicants may be scheduled for a personal interview before the board or the board's designee and must present original documents, as the board requires. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

**F.** License by endorsement from New Mexico medical board. Applicants who are currently licensed in good standing by the New Mexico medical board may be licensed by endorsement upon receipt of a verification of licensure directly from the New Mexico medical board, and a supervising physician form signed by the osteopathic physician who will serve as supervising physician.

**G.** All applicants for licensure who meet the requirements for licensure will be granted a temporary license and the license will be ratified at its next scheduled meeting.  
[16.17.9.9 NMAC - N, 6-11-2018]

**16.17.9.10 BIENNIAL LICENSURE RENEWAL REQUIREMENTS:**

**A.** Before July 1st, the year the license is due to expire, all

physician assistants must submit an application for renewal form provided by the board. Physician assistants who fail to renew their certificates as of July 1st, will be subject to suspension of their license.

**B.** Proof of CME upon request or audit.

**C.** Renewal fee set forth in 16.17.2.8 NMAC.

**D.** A renewal of licensure will be valid for a period of two years and the expiration date will be printed on the certificate of licensure.

[16.17.9.10 NMAC - N, 6-11-2018]

**16.17.9.11 APPROVAL OF SUPERVISING PHYSICIANS:**

**A.** A physician may supervise and collaborate with no more than three physician assistants and communicate within the circumstances of their particular practice setting.

**B.** All supervising physicians shall submit written notice of intent to supervise a physician assistant on forms prescribed by the board.

**C.** Within 30 days after an employer terminates the employment of a physician assistant, the supervising physician or the physician assistant shall submit a written notice to the board providing the date of termination and reason for termination.

**D.** A physician assistant who is employed by the United States government and who works on land or in facilities owned or operated by the United States government or a physician assistant who is a member of the reserve components of the United States and on official orders or performing official duties as outlined in the appropriate regulation of that branch may be licensed in New Mexico with proof that their supervising physician holds an active medical license in another state.

[16.17.9.11 NMAC - N, 6-11-2018]

**16.17.9.12 SUPERVISION OF PHYSICIAN ASSISTANT:**  
Supervision of a physician assistant

must be rendered by a licensed supervising physician.

**A.** Responsibility of supervising physician.

**(1)** Provide direction to the physician assistant to specify what medical services should be rendered. This may be done through a written utilization plan or by other direct communications.

**(2)** Provide a means for immediate communication between the physician assistant and the supervising physician.

**(3)** Temporarily delegating supervisory responsibilities to another supervising physician during the supervising physician's period of absence.

**B.** A quality assurance program for review of medical services provided by the physician assistant must be in place.

[16.17.9.12 NMAC - N, 6-11-2018]

**16.17.9.13 SCOPE OF PRACTICE:**

**A.** Unless otherwise provided by law, physician assistants may provide medical services delegated to them by the supervising physician when such services are within the physician assistant's skills and form a usual component of the physician's scope of practice.

**B.** A physician assistant may assist a designated supervising physician in an inpatient or surgical health care institution within the institution's bylaws or policies including act as a first surgical assistant in the performance of surgery, when permitted by the institution's bylaws or regulations.

[16.17.9.13 NMAC - N, 6-11-2018]

**16.17.9.14 CONTINUING EDUCATION REQUIREMENTS:**

**A.** If a licensee has been practicing for at least two years, and applying for a new license, or upon licensure renewal, 50 hours of continuing education are required in the preceding two years for licensure.

**(1)** Of the 50 hours, 34 hours must be category 1A.

**(2)** Of the 50 hours, 30 hours must be in the area

in which the physician assistant is currently practicing.

**B.** Applicants for licensure who have graduated from their physician assistant program in the previous two years are exempt from the continuing education requirements; or

**C.** Proof of current NCCPA certification will meet the continuing education requirements. [16.17.9.14 NMAC - N, 6-11-2018]

**HISTORY OF 16.17.9 NMAC:**

**History of Repealed Material:**

16.17.9 NMAC Physicians Supervising Pharmacist Clinicians, repealed effective 6-11-2018.

**SUPERINTENDENT OF INSURANCE, OFFICE OF**

**This is an amendment to 13.14.3 NMAC, Section 11, effective July 1, 2018.**

**13.14.3.11 PREMIUM DIVISION WITH AGENTS - OTHER FEES AND EXPENSES:**

**A.** All agency contracts, agency agreements and other contracts between licensed New Mexico title insurance agents and insurers admitted to write title insurance in New Mexico shall provide that agents shall retain the following amounts of all gross premiums on policies, and shall remit to the insurer the remainder of all gross premiums:

(1) for amounts of insurance up to two million dollars (\$2,000,000), agents shall retain eighty percent;

(2) for additional amounts of insurance over two million dollars (\$2,000,000) and up to five million dollars (\$5,000,000), agents shall retain seventy-five percent;

(3) for additional amounts of insurance over five million dollars (\$5,000,000) and up to ten million dollars (\$10,000,000), agents shall retain seventy percent;

(4) for

additional amounts of insurance over ten million dollars (\$10,000,000) and up to twenty-five million dollars (\$25,000,000), agents shall retain sixty-five percent;

(5) for additional amounts of insurance over twenty-five million dollars (\$25,000,000) and up to fifty million dollars (\$50,000,000), agents shall retain sixty percent; and

(6) for additional amounts of insurance over fifty million dollars (\$50,000,000), agents shall retain fifty percent.

**B.** Agents shall retain eighty percent of all gross premiums paid for the following coverages and shall remit to the insurer the remainder of the gross premiums:

(1) all title commitments and binders as provided for in Subsection A of 13.14.9.19 NMAC;

(2) deletion of standard exception 4 from the title commitment or binder for mechanics' lien coverage where there is no loss of insured priority over mechanics' liens as provided for in 13.14.6.15 NMAC and 13.14.10.9 NMAC for owner's policies or 13.14.7.14 NMAC and 13.14.9.40 NMAC for loan policies; and

(3) any endorsements providing for fixed premiums of one hundred dollars (\$100) or less.

**C.** Agents shall retain the amounts attributable to the pro-rata premium for each level of the amounts of insurance as set forth in Subsection A above for the following coverages and shall remit to the insurer the remainder of the gross premiums:

(1) premium for deletion of standard exception 3 from the title commitment or binder for survey coverage in owner's or leasehold owner's policies as provided for in 13.14.6.14 NMAC and 13.14.10.10 NMAC;

(2) extra-hazardous premium for deletion of standard exception 4 from the title commitment or binder for mechanics' lien coverage where there is a loss of

insured priority over mechanics' liens as provided for in 13.14.6.15 NMAC and 13.14.10.9 NMAC for owner's policies or 13.14.7.14 NMAC and 13.14.9.40 NMAC for loan policies; and,

(3) any endorsements providing for fixed premiums of more than one hundred dollars (\$100.00) or variable premiums based upon a percentage of the basic premium rate.

**D.** In addition, agents shall retain no part of the additional twenty-five cents (\$0.25) per one thousand dollars (\$1,000) collected on policy amounts in excess of ten million dollars (\$10,000,000) as provided for in 13.14.9.18 NMAC.

**E.** This premium division shall not apply to replacement policies in the case of insolvent insurers issued pursuant to 13.14.6.22 NMAC, 13.14.7.20 NMAC and 13.14.9.26 NMAC.

Agents shall retain forty-two and one-half percent of the gross premium collected for such replacement policies and shall remit to the insurer the remainder of said gross premium.

**F.** These premium divisions shall remain in effect until altered by the superintendent who shall review the same biennially at the title insurance hearing held in November of every odd numbered year or as otherwise specifically provided by these regulations.

**G.** Fees, which are not premium, such as inspection fees, cancellations fees, additional chain of title fees, unusual complexity fees, escrow fees and other charges (whether mentioned in these regulations or not) are not subject to division between agent and insurer.

**H.** No agent or insurer shall pay or receive any consideration for title insurance business (or referral of business) other than that division of premiums set forth herein. Insurers shall not reward or otherwise compensate agents (or vice versa) directly or indirectly for business other than as herein provided.

**I.** No agent shall be required to contribute or pay any amount to an insurer for reinsurance

or otherwise, and any contractual provision to the contrary shall be void and unenforceable.

**J.** Title insurers may pay on behalf of, or reimburse their agents for expenses associated with any instruction, lectures or seminars conducted by that title insurer for its agents, if such instruction, lectures or seminars have been approved in advance by the office of the superintendent of insurance for continuing education credit under Section 59A-12-26 NMSA 1978. An insurer conducting such instruction, lectures or seminars shall submit to the superintendent for approval, in advance, an agenda and detailed budget for such instruction, lectures or seminars. Such courses of instruction, lectures or seminars shall be offered by the title insurer to all of its agents on a non-discriminatory basis.

[6/16/1986...4/3/1995; 13.14.3.11 NMAC - Rn, 13 NMAC 14.4.11 & A, 5/15/2000; A, 7/1-/2005; A, 9/1/2007; A, 7/1/2008; A, 7/31/2014; A, 3/1/2016; A, 7/1/2018]

## **SUPERINTENDENT OF INSURANCE, OFFICE OF**

**This is an amendment to 13.14.5 NMAC, Section 8, effective July 1, 2018.**

### **13.14.5.8 ISSUANCE UPON REQUEST AND RECEIPT OF BONA FIDE ORDER:**

**A.** Upon receipt of a bona fide order for any type of title insurance policy or policies to be issued pursuant to 13.14.6 NMAC, an insurer or title insurance agent must deliver to the proposed insured, its authorized agent, other person in a fiduciary relationship with the proposed insured, or the proposed insured's attorney, and if none of the aforementioned persons are available after using the insurer's or title insurance agent's best efforts, then to the person designated by the person opening the order for insurance, a commitment showing the exceptions which will appear in the

proposed policy as of the date of the commitment and requirements to be met to insure the title in accordance with the order for insurance. Such commitment shall be delivered as soon as practicable, using the insurer's or title insurance agent's best efforts, allowing reasonably sufficient time for review prior to the completion of closing of the transaction. No commitment may be issued except upon receipt by the insurer or title insurance agent of a bona fide order for title insurance as set out above.

**B.** The term "binder" is defined in Subsection B of 13.14.1.8 NMAC as "a commitment for title insurance" and the use of the terms "binder" and "commitment" shall refer to the same thing. [~~The term "commitment" includes the NM form 6.1 plain language commitment. This regulation shall not apply if the bona fide order is placed after the transaction has been closed. A commitment or binder shall not be issued for the purpose of determining the state of the title of property subject to or to be subject in the future to a foreclosure action, quiet title suit or other litigation.~~]

**C.** When a commitment or binder for one to four family residential property is required to be produced and delivered in accordance with this regulation it shall be delivered with a notice to purchaser/insured NM form 35, 13.14.18.48 NMAC, as the cover page. However, the purchaser(s) need not be identified nor sign the notice until closing. The notice, when required, shall be signed by purchaser(s) at or before the time of closing and retained in the closing file. The notice to purchaser/insured is not required if, prior to the delivery of the commitment or binder, the proposed insured(s) sign a contract for sale of the insured land that includes substantially identical language to that included in NM form 35 and that is completed by checking all appropriate blanks.

**D.** When requested by a proposed insured lender the following language may be added to a

title commitment "note: according to the public records, there have been no deeds conveying the property in this commitment within a period of (six to 24) months prior to the date of this commitment, except as follows:"

**E.** When a to-be-determined title commitment is issued, an additional requirement to the commitment must be added as follows: "This title commitment is not effective until schedule A is completed and the company reserves the right to amend and supplement this commitment with additional information, requirements and exceptions based upon the provision of additional information." [6/16/1986...4/3/1995; 13.14.5.8 NMAC - Rn, 13 NMAC 14.5.8, 5/15/2000; A, 9/1/2007; A, 8/17/2009; A, 3/1/2016; A, 7/1/2018]

## **SUPERINTENDENT OF INSURANCE, OFFICE OF**

**This is an amendment to 13.14.6 NMAC, Section 11, effective July 1, 2018.**

**Explanatory statement: Stylistic changes throughout the rule were corrected to conform to correct legislative styles.**

**13.14.6.11 STANDARD EXCEPTIONS:** All owner's policies insuring New Mexico property shall contain in schedule B the standard exceptions numbered 1 through [8] 7 in 13.14.5.9 NMAC except as otherwise provided by these rules. Said standard exceptions may be preprinted in schedule B and, when specifically authorized, may be deleted by crossing out the words as specifically indicated in the rules immediately following, or by notation in schedule B or endorsement stating, "exceptions numbered \_\_\_\_\_ are hereby deleted" or "exception numbered 3 is hereby amended to read, "shortages in area". Standard exception number 5 shall refer to "spouse of the vestee" in all owner's policies and in all situations where the vestee and insured are not

the same.

[6/16/1986, 2/6/1987; 13.14.6.11 NMAC - Rn, 13 NMAC 14.6.11, 5/15/2000; A, 3/1/2016; A, 7/1/2018]

## SUPERINTENDENT OF INSURANCE, OFFICE OF

**This is an amendment to 13.14.7 NMAC, Sections 22 and 27, effective July 1, 2018.**

### 13.14.7.22 LIMITED PRE-FORECLOSURE TITLE INSURANCE POLICY: A

[foreclosure] limited pre-foreclosure title insurance policy (NM form 41) and, if desired, a limited pre-foreclosure title insurance policy down date endorsement (NM form 42) may be issued upon receipt of a bona fide order from an attorney, trustee, mortgagee or their agent in anticipation of the filing of an action to judicially foreclose a mortgage, deed of trust or other lien or security instrument encumbering title to real property in New Mexico, or to non-judicially foreclose a deed of trust. No binder shall be issued in connection with said policy. The amount of coverage shall be equal to the amount of the unpaid principal indebtedness due under the lien or note secured by the security instrument to be foreclosed. The policy shall be furnished solely for the purpose of facilitating the filing of the action referred to in schedule A of the policy. The promulgation of this form shall not preclude, nor affect, the issuance of a title search and report by an agent.

[4/3/1995; 13.14.7.22 NMAC - Rn, 13 NMAC 14.7.22, 5/15/2000; A, 7/1/2004; A, 9/15/2010; A, 3/1/2016; A, 7/1/2018]

### 13.14.7.27 RESIDENTIAL LIMITED COVERAGE MORTGAGE MODIFICATION POLICY:

A. Upon payment of the premium provided for in 13.14.9.42 NMAC, a residential limited coverage mortgage modification policy as described in

NM form 90 may be issued in the amount of the outstanding principal balance of the loan on the date of the policy. The policy may not be issued to increase coverage if an additional advance is included in the agreement for the modification of mortgage.

B. This policy shall only be issued on properties that are defined as “one to four family residential property.”

C. In order to issue a residential limited coverage modification policy, proof of the previous policy shall be in the possession of the company issuing the policy prior to the commencement of the title search for said policy. Proof, as used in this context, shall mean a copy of the previous policy, which shall include the following information: issuing company/underwriter, policy number, date of issue, policy amount, legal description of insured property, name of insured, as well as complete copies of schedules A and B (and C, if applicable), and any attached endorsements.

[13.14.7.27 NMAC - N, 3/1/2016; A, 7/1/2018]

## SUPERINTENDENT OF INSURANCE, OFFICE OF

**This is an amendment to 13.14.8 NMAC, Sections 13, 15, 16, 27 and 41, effective July 1, 2018.**

### 13.14.8.13 INSURING AROUND ENDORSEMENT:

A. An insuring around endorsement NM form 43 may be attached to an owner’s policy, leasehold owner’s policy, loan policy or leasehold loan policy for the purpose of insuring around a lien or other adverse matter excepted to in schedule B. This endorsement shall only be issued where one or more of the following circumstances exists at the time the policy is issued:

(1) where liens securing obligations which, though not released of record, have been discharged to the satisfaction of the underwriter, and the underwriter or

agent has evidence in this file that the lien has been paid in full; provided that the underwriter or agent has the duty to obtain a release within a reasonable time after closing if it is possible to do so;

(2) where an insurer has previously issued a policy, through error or mistake, or pursuant to an indemnity agreement or agreement to defend as provided under Paragraph (3) below, without taking exception to a specific lien or other adverse, and is called upon to issue a new policy and is already obligated under such prior policy;

(3) where an insurer has erred as in (2) above, or has accepted an indemnity or agreement to defend pursuant to this paragraph and another insurer discovers the error in preparing to issue a subsequent policy, the second insurer may rely upon an indemnity agreement or an agreement to defend by the first insurer, and attach the endorsement; or

(4) Where an insurer has otherwise determined that the lien or other adverse matter does not pose a material risk under the policy(ies).

B. In utilizing this insuring-around provision and in the discretion of the insurer, (1) the lien must appear as an exception in schedule B of any policy and the endorsement shall be attached thereto, or (2) [It shall not be permissible to insure around any] the lien or other adverse matter [by] may be intentionally [omitting it] omitted from any commitment or policy. This endorsement shall only be issued where the underwriter considers the risk acceptable.

[4/3/1995, 4/1/1996; 13.14.8.13 NMAC - Rn, 13 NMAC 14.8.13, 5/15/2000; A, 10/1/2012; A, 7/1/2018]

**13.14.8.15 [FRUTH-IN-LENDING ENDORSEMENT: A truth-in-lending endorsement, NM-form 48, may be attached to a New-Mexico loan policy or leasehold loan policy in those circumstances where the underwriter has determined that the loan to be insured is exempt from**



the provisions of Regulation Z (12-CFR 226), and the premium provided for in 13.14.10.31 NMAC is paid.]

**[RESERVED]**

[6/1/1997; 13.14.8.15 NMAC - Rn, 13 NMAC 14.8.15, 5/15/2000; A, 10/1/2012; Repealed, 7/1/2018]

**13.14.8.16 RESTRICTIONS, ENCROACHMENTS, AND MINERALS ENDORSEMENTS:**

**A.** Upon being furnished with a satisfactory survey, and where the underwriter determines the risk to be acceptable:

**(1)** NM form 50, restrictions, encroachments and minerals endorsement, and the NM form 50.1, restrictions, encroachments and minerals endorsement - lender improved land may be attached only to a loan policy but shall not be issued where the intended use of the property is 1-4 family residential;

**(2)** NM form 56, restrictions, encroachments and minerals endorsement - unimproved land, and the NM form 56.1 restrictions, encroachments and minerals endorsement - unimproved land may be attached only to an owner's policy covering unimproved land; and

**(3)** NM form 57, restrictions, encroachments and minerals endorsement - improved land, and the NM form 57.1, restrictions, encroachments and minerals endorsement - improved land may be attached only to an owner's policy covering improved land.

**B.** Each endorsement is to be issued only in conjunction with the issuance of survey coverage, as authorized by 13.14.6.14 NMAC or 13.14.7.13 NMAC.

**C.** The coverage relating to minerals provided under Paragraph (3)(b) of NM form 50, paragraph 4 of NM form 50.1, Paragraph (2) of NM form 56 and NM form 56.1, Paragraph (2)(b) of NM form 57, or Paragraph 3 of NM form 57.1, as appropriate shall not be issued where minerals have been severed, unless **(1)** there has been a waiver of the right of entry or surface

usage of the mineral reservation, or **(2)** the insurer deems the risk of such coverage to be acceptable in the insurer's discretion.

**D.** The coverage provided by any part of each endorsement may be deleted but may not be increased by:

**(1)** crossing out the part on the form of endorsement;

**(2)** retyping the form leaving out the part; or

**(3)** special endorsement.

**E.** Each endorsement may be issued only upon the written authorization of the underwriter. The issuing agent shall retain such written authorization of the underwriter for a period of not less than two years following issuance of the endorsement.

[6/1/1998; 13.14.8.16 NMAC - Rn, 13 NMAC 14.8.16, 5/15/2000; A, 3/1/2002; A, 8/17/2009; A, 7/31/2014; A, 7/1/2018]

**13.14.8.20 CONTIGUITY OF PARCELS ENDORSEMENTS:**

Upon being furnished with a satisfactory survey and the payment of the premium provided in 13.14.10.39 NMAC, the contiguity [of] single parcel endorsement, NM form 54, or the contiguity of multiple parcel endorsement, NM form 66 may be attached to an owners or leasehold owners policy, or to a loan or leasehold loan policy which insures any property that is not one to four family residential, subject to Subsections A and B below.

**A.** For owner's or leasehold owner's policies, the insured must already or at the time the policy is issued have an interest (in fee, leasehold, or easement) in both parcels referred to in NM form 54, or in all parcels referred to in NM form 66.

**B.** For loan or leasehold loan policies, the insured lender must already or at the time the policy is issued have a mortgage lien upon an interest (in fee, leasehold, or easement) in both parcels referred to in NM form 54, or in all parcels

referred to in NM form 66.

[13.14.8.20 NMAC - N, 5/15/2000; A, 7/1/2006; A, 10/1/2012; A, 7/1/2018]

**13.14.8.27 ZONING - COMPLETED STRUCTURE ENDORSEMENT, ZONING - LAND UNDER DEVELOPMENT ENDORSEMENT, AND ZONING - NO APPLICABLE ZONING ORDINANCES ENDORSEMENT:**

Upon being furnished with a satisfactory survey, payment of the premium provided for in 13.14.10.48 NMAC, and where the underwriter determines the risk to be acceptable:

**A.** NM form 65, [~~the~~] zoning - completed structure endorsement; NM form 65.1, [~~the~~] zoning - land under development endorsement; and NM form 65.2 the "zoning - completed structure - no applicable zoning ordinances endorsement" may be attached to a loan policy or owner's policy. These endorsements shall not be issued on properties that are defined as "one-to-four family residential."

**B.** The coverage provided by any part of each endorsement may not be increased but may be deleted by:

**(1)** crossing out the part on the form of endorsement;

**(2)** retyping the form leaving out the part; or

**(3)** special endorsement.

**C.** Each endorsement may be issued only upon the written authorization of the underwriter. The issuing agent shall retain such written authorization of the underwriter for a period of not less than two years following issuance of the endorsement.

[13.14.8.27 NMAC - N, 7/1/2005; A, 3/1/2016; A, 7/1/2018]

**SUPERINTENDENT OF INSURANCE, OFFICE OF**

**This is an amendment to 13.14.9 NMAC, Sections 10, 16, 19, 30, 39, 40, and 42, effective July 1, 2018.**

**13.14.9.10 PREMIUM RATES INCLUSIVE:** The policy premium rates established by these rules include all premiums for title insurance, examination of the title or titles to be insured, determining that each insured estate has been created, conveyed or modified as shown in the policy, and determining what exceptions, if any, to insert in or delete from the policies to be issued as provided in these rules. [6/16/1986; 13.14.9.10 NMAC - Rn, 13 NMAC 14.9.8.3, 5/15/2000; A, 7/1/2018]

**13.14.9.16 ADDITIONAL CHARGES:** In addition to the [~~other~~] premiums specified in these rate regulations, the following non-premium fees shall be charged whenever the search or examination conducted for the issuance of the policy involves either an extra chain of title or other unusual complexity (as those terms are defined in Subsection A of 13.14.1.11 NMAC and Subsection A of 13.14.1.27 NMAC): (1) for each additional chain of title, [~~the sum~~] of platted tracts, a charge of fifty dollars (\$50); and, (2) for each [~~unplatted~~] tract of unusual complexity of search and examination, a charge of fifteen percent of the full basic premium rate on each such tract. If the separate values for each tract are not apportioned in the policy, their values for the purposes of this regulation shall be in the same proportions as their areas bear to the entire area insured. [6/16/1986, 3/1/1992; 13.14.9.16 NMAC - Rn, 13 NMAC 14.9.8.9, 5/15/2000; A, 7/1/2018]

**13.14.9.19 NON-POLICY RATES:**

**A. Commitments to insure.** The premium for [~~any~~] each version of a commitment to insure (or an interim title insurance binder) is one hundred dollars (\$100) for the initial six months, and an additional one hundred dollars (\$100) for each additional six month (or portion thereof) renewal or extension. If a version of the commitment is issued

to correct an error by the issuing agent, the version shall be issued at no charge.

**B. Cancellation fee.** If the transaction fails to close and no policy is issued by the company issuing its commitment (or binder), the company may charge a cancellation fee that it determines reasonable and appropriate considering the nature and extent of the services rendered by it.

**C. Pro Forma Policies.** The premium for the issuance of any form of owner's or loan pro forma policy is one hundred dollars (\$100) for each pro forma policy, [~~including all revisions thereto;~~] issued pursuant to 13.14.5.13 NMAC. If a version of the pro forma is issued to correct an error by the issuing agent, the version shall be issued at no charge. [6/16/1986...3/1/1989; 6/1/1997, 6/1/1998; 13.14.9.19 NMAC - Rn, 13 NMAC 14.9.9, 5/15/2000; A, 10/1/2012; A, 3/1/2016; A, 7/1/2018]

**13.14.9.30 SIMULTANEOUS ISSUE OWNER'S AND MORTGAGEE POLICIES:**

**A.** When issuing an owner's and mortgagee (loan) policy or policies (or leasehold owner's and leasehold mortgagee policies) wherein the mortgagee policy or policies insure part or all of the land insured in the owner's policy the rate for the owner's policy bearing the same date as and specifically excepting to the liens insured in each mortgagee policy issued pursuant to this regulation shall be the applicable owner's rate determined by 13.14.9.20, 13.14.9.21, 13.14.9.23, 13.14.9.24, or 13.14.9.35 NMAC.

**B.** The rates for each loan policy so simultaneously issued and naming as vestee the same insured owner will be [~~thirty dollars (\$30.00)~~] one hundred dollars (\$100.00) for the aggregate amount of insurance not in excess of the owner's policy. The rate on the amount of each mortgagee policy exceeding the owner's policy in the aggregate is the difference between the original first mortgage rate for the owner's policy

amount and the original first mortgage rate for the owner's policy plus the amount of liability by which the mortgagee policy exceeds the owner's policy according to the schedule in effect as of the date of the policies. [6/16/1986, 2/16/1987; 13.14.9.30 NMAC - Rn, 13 NMAC 14.9.11.1, 5/15/2000; A, 7/1/2018]

**13.14.9.39 SUBSTITUTION RATE ON LOANS TO TAKE UP, RENEW, EXTEND OR SATISFY AN EXISTING INSURED LOAN:**

[~~A.~~—] On a mortgagee policy issued on a first mortgage loan to fully take up, renew, extend or satisfy an outstanding loan with a remaining balance already covered by a mortgagee policy, the new policy being in the amount of the new mortgage showing title vested in the same borrower and covering the same property, the premium for the new policy shall be as follows:

— ~~(1)~~ — forty percent of the current basic premium rate for the new policy amount but not to exceed the initial principal amount of any original indebtedness as shown on the recorded prior mortgage if renewed within three years from the date of the original indebtedness;

— ~~(2)~~ — fifty percent of the current basic premium rate for the new policy amount but not to exceed the initial principal amount of any original indebtedness as shown on the recorded prior mortgage if renewed more than three years but less than five years from the date of the original indebtedness;

— ~~(3)~~ — sixty percent of the current basic premium rate for the new policy amount but not to exceed the initial principal amount of any original indebtedness as shown on the recorded prior mortgage if renewed more than five years but less than 10 years from the date of the original indebtedness;

— ~~(4)~~ — eighty percent of the current basic premium rate for the new policy amount not to exceed the initial principal amount of any original indebtedness as shown on the recorded prior mortgage if renewed more than 10 years but less

than 20 years from the date of the original indebtedness; and

(5) After the lapse of 20 years from the date of original indebtedness, the applicable rate for original first mortgages shall apply:

**B.** The reduction in rate as herein prescribed shall not apply in any case where any additional property not covered by the original policy is included in the policy to be issued.

**C.** The premium for all liability above the initial principal amount of any original indebtedness as shown on the recorded prior mortgage shall be ninety percent of the current basic premium rates by brackets. In no event shall the premium collected be less than the regular minimum promulgated rate for a mortgagee policy.

**D.** This rule may not be applied in connection with the issuance of a series of mortgagee policies issued by reason of notes being apportioned to individual units in connection with a master policy covering the aggregate indebtedness, including improvements. Individual mortgagee policies must be issued at the original first mortgage rate.]

**A.** For purpose of the premium discount on refinanced property pursuant to Section 59A-30-6.0 NMSA 1978, the following discount shall apply:

(1) forty percent of the current basic premium rate applies to any amount up to the amount of the previous policy insuring the mortgage or deed of the trust being refinanced, if the new policy is issued within three years from the date of the prior policy;

(2) fifty percent of the basic premium rate applied to any amount up to the amount of the previous policy insuring the mortgage or deed of trust being refinanced, if any new policy is issued more than three years but less than five years from the date of the prior policy;

(3) sixty percent of the basic premium rate applied to any amount up to the

amount of the previous policy insuring the mortgage or deed of trust being refinanced, if any new policy is issued more than five years but less than 10 years from the date of the prior policy;

(4) eighty percent of the current basic premium rate applied to any amount up to the amount of the previous policy insuring the mortgage or deed of trust being refinanced, if the new policy is issued more than ten years but less than twenty years from the date of the prior policy; or

(5) the premium for insurance coverage above the amount of the previous policy shall be ninety percent of the current basic premium rate as set by rule. In no promulgated or approved rate for a loan policy.

**B.** The term "same borrower" in Section 59A-30-6.1 NMSA 1978 shall have the same meaning as "insured" as defined in paragraph 1 (D) of the conditions set forth in NM form 1.

**C.** The term "same property" in Section 59A-30-6.1 NMSA 1978 shall mean the identical property or any portion thereof. The reduction in rate pursuant to Section 59A-30-6.1 NMSA 1978 shall not apply in any case where any additional property not covered by the original policy or policies is included in the policy to be issued.

**D.** If two or more previous loan policies insuring different properties are presented to the title agent or insurer for a refinance discount pursuant to Section 59A-30-6.1 NMSA 1978, and provided that the new policy will contain the same properties as shown in said previous policies, the discount will be computed as follows: title agent or insurer shall base the discount on the date of issue of the oldest previous policy and upon a liability amount equal to the sum of the liability amounts of the previous policies. In no event shall the premium collected be less than the regular minimum promulgated rate for an owner's policy.

**E.** This rule, may

be applied in connection with the issuance of a series of mortgage policies issued by reason of notes being apportioned to individual units in connection with a master policy covering the aggregate indebtedness, including improvements. Individual mortgagee policies must be issued at the original first mortgage rate. [4/3/1995; 13.14.9.39 NMAC - Rn, 13 NMAC 14.9.12.5, 5/15/2000; A, 7/1/2005; A, 8/15/2014; A, 7/1/2018]

### 13.14.9.40 INSURING CONSTRUCTION LOANS AND DELETING STANDARD EXCEPTION 4 IN LOAN POLICIES:

**A. Loan policy with two-year claims made limitation.** A loan policy may be issued to insure a construction loan mortgage for a premium of thirty dollars (\$30.00) plus one dollar (\$1.00) per thousand calculated upon the face amount of the construction mortgage if the loan policy contains the following two-year claims made limitation: "Notwithstanding any other provisions of the policy, the company shall be liable only for such loss or damage insured against by the policy which is actually sustained by the insured and reported to the company as provided in the conditions and stipulations on or before two years after the recording of the mortgage described in schedule A. (Upon payment to the company of the required full loan policy premium prior to the expiration of said policy, the term limitation may be deleted from the policy)."

**B. Extension endorsement rate.** A construction loan policy or a loan policy containing the two-year claims made limitations pursuant to Subsection A of 13.14.9.40 NMAC may be extended beyond its initial two-year term pursuant to 13.14.7.18 NMAC for an additional premium of twenty-five dollars (\$25.00) per six-month endorsement.

**C. No subsequent credit on substitutions loan.** The issuance of a construction loan policy, or a standard loan policy with

a two-year claim made limitation, may not be used as the bases for claiming a credit or discount in a refinance property premium pursuant to Section 59A-30-6.1, NMSA 1978; a subsequent issue loan pursuant to 13.14.9.36 NMAC; or a substitution issue loan pursuant to 13.14.39 NMAC.

**D. Endorsement "A" rates.** An "A" endorsement may be issued at the same time and attached to a construction loan policy pursuant to 13.14.7.14 NMAC for an additional extra hazard risk premium of five dollars (\$5.00) per thousand of face amount of the policy. At the time of each subsequent disbursement and upon a date down of the title having been made to the date thereof, an additional endorsement "A" may be issued pursuant to 13.14.7.17 NMAC at an additional premium of twenty-five dollars (\$25.00) per endorsement.

**E. Mechanic's and materialmen's lien coverage in a loan policy.** The standard exception numbered 4 in 13.14.5.9 NMAC may be deleted from [a] any loan policy pursuant to 13.14.7.14 NMAC. The premium for deletion of the exception shall be [~~twenty-five dollars (\$25.00)~~] fifty dollars (\$50.00) when the insurer's underwriting requirements for evidence of priority have been met or five dollars (\$5.00) per thousand of the face amount of the policy if said requirements have not been met as provided in 13.14.7.14 NMAC. [6/16/1986...4/1/1994; 6/1/1997; 6/1/1998; 13.14.9.40 NMAC - Rn, 13 NMAC 14.9.13, 5/15/2000; A, 3/1/2002; A, 9/1/2007; A, 10/1/2012; A, 8/15/2014; A, 3/1/2016; A, 7/1/2018]

**13.14.9.42 RESIDENTIAL LIMITED COVERAGE MORTGAGE MODIFICATION POLICY:** When a residential limited coverage mortgage modification policy (NM form 90) is issued, the premium shall be [~~one hundred twenty-five dollars (\$125)~~] one hundred-seventy-five dollars (\$175.00) for each policy issued in an amount of \$0-\$1,000,000 and an additional [~~one hundred twenty-five~~

~~dollars (\$125)]~~ one hundred-seventy-five dollars (\$175.00) for each \$500,000 of policy amount above \$1,000,000 or part thereof up to \$20,000,000. [13.14.9.42 NMAC - N, 3/1/2016; A, 7/1/2018]

## SUPERINTENDENT OF INSURANCE, OFFICE OF

**This is an amendment to 13.14.10 NMAC, Sections 9, 10, 11, 14, 24, 31, 32, 39, 47, 48, 61 and 64, effective July 1, 2018.**

**13.14.10.9 MECHANICS' LIEN COVERAGE IN OWNER'S POLICY (PERIOD NOT EXPIRED):** Owner's policies may be issued with no exception to possible unfiled mechanics' or materialmen's liens upon compliance with 13.14.6.15 NMAC and payment of the following additional premium:

**A.** When all improvements have been fully completed and the statutory period for filing mechanics' or materialmen's liens has expired, this endorsement shall be issued for a premium of [~~twenty-five dollars (\$25)~~] fifty dollars (\$50.00) and,

**B.** When new construction is involved, construction of the improvements has been fully completed and accepted by the insured owner and the period for filing mechanics' or materialmen's liens has not expired, this endorsement shall be issued for an extra hazard premium of three dollars (\$3.00) per thousand calculated on the face amount of the owner's policy. [6/16/1986...4/1/1994; 6/1/1998; 13.14.10.9 NMAC - Rn, 13 NMAC 14.10.9, 5/15/2000; A, 5/31/2000; A, 7/31/2014; A, 8/15/2014; A, 7/1/2018]

**13.14.10.10 SURVEY COVERAGE [IN AN OWNER'S POLICY]:**

**A.** An owner's policy may be endorsed pursuant to 13.14.6.14 NMAC to provide survey coverage upon the payment of an additional premium equal to fifteen

percent of the full basic premium rate for the said policy according to the schedule in effect as of the date of the endorsement.

**B.** A loan policy may be endorsed pursuant to 13.14.7.13 NMAC to provide survey coverage upon the payment of a premium of fifty dollars (\$50.00). [6/16/1986; 13.14.10.10 NMAC - Rn, 13 NMAC 14.10.10, 5/15/2000; A, 7/1/2018]

**13.14.10.11 ADDITIONAL ADVANCES UNDER OPEN END MORTGAGES:** A loan policy may be endorsed to insure the validity and priority of the lien of the additional advance upon payment of an endorsement premium of twenty-five dollars (\$25) plus an additional premium calculated by determining the sum of: 1) the difference between the charge for a loan policy in the amount of the unpaid principal balance due to the lender before the advance is made and the charge for a loan policy in the amount of the principal balance due after the advance has been made utilizing the appropriate brackets in the schedule of basic premium rates in effect as of the date of the endorsement; and 2) for all endorsements for which the premium is calculated as a percentage of the policy premium or otherwise based on the policy amount, the difference between the charge for endorsements issued with the original loan policy in the amount of the unpaid principal balance due to the lender before the advance is made and the charge for such endorsements calculated on the principal balance due to the lender after the advance has been made, utilizing the appropriate rates identified in 13.14.10 NMAC in effect as of the date of the endorsements. The minimum combined charge for this endorsement is [~~fifty dollars (\$50)~~] one hundred dollars (\$100.00). [6/16/1986, 2/16/1987, 6/1/1998; 13.14.10.11 NMAC - Rn, 13 NMAC 14.10.11, 5/15/2000; A, 5/31/2000; A, 7/31/2014; A, 8/15/2014; A, 7/1/2018]

**13.14.10.14 CONDOMINIUM**

**ENDORSEMENT ALL**

**ASSESSMENTS:** A condominium endorsement [unpaid] all assessments, NM form [30] 12, may be issued at the same time as and attached to an owner's or a loan policy for a premium of twenty-five dollars (\$25). Paragraph (3) of [unpaid assessments] NM form [30] 12 may be deleted at the option of the insurer. Each insurer shall establish its written underwriting requirements for such deletion and shall furnish its agent(s) written instructions relating thereto.

[6/16/1986, 2/16/1987, 6/1/1998; 13.14.10.14 NMAC - Rn, 13 NMAC 14.10.14, 5/15/2000; A, 5/31/2000; A, 8/17/2009; A, 7/31/2014; A, 8/15/2014; A, 3/1/2016; A, 7/1/2018]

**13.14.10.24 CONDOMINIUM ENDORSEMENT ~~[TO OWNER'S POLICY]~~ UNPAID ASSESSMENTS:**

[Upon request, the insuring company or its agent may issue] A condominium endorsement unpaid assessments [to owner's policy], NM form 30, may be issued at the same time as and attached to an owner's or loan policy for a premium of twenty-five dollars (\$25). Paragraph (3) of NM form 30 may be deleted at the option of the insurer. Each insurer shall establish its written underwriting requirements for such deletion and shall furnish its agent(s) written instructions relating thereto.

[3/1/1989, 6/1/1998; 13.14.10.24 NMAC - Rn, 13 NMAC 14.10.24, 5/15/2000; A, 5/31/2000; A, 7/31/2014; A, 8/15/2014; A, 3/1/2016; A, 07/1/2018]

**13.14.10.31 ~~[TRUTH IN LENDING ENDORSEMENT]:~~** A truth in lending endorsement to a loan policy may be issued upon payment of a premium of nine percent of the full basic premium rate in effect as of the date of the loan policy.]

**[RESERVED]**

[6/1/1997; 13.14.10.31 NMAC - Rn, 13 NMAC 14.10.31, 5/15/2000; Repealed, 7/1/2018]

**13.14.10.32 DOWN DATE ENDORSEMENT TO RESIDENTIAL LIMITED COVERAGE JUNIOR LOAN POLICY JR 1:**

**A.** The down date endorsement to residential limited coverage junior loan policy JR1, NM form 46, may be issued one or more times after issuance of an ALTA residential limited coverage junior loan policy (NM form 45). The premium for the issuance of each NM form 46 endorsement is twenty-five dollars (\$25). NM form 46 may not be issued more than one year after the date of policy stated in the ALTA residential limited coverage junior loan policy (NM form 45).

**B.** Paragraph B of NM form 46 shall describe the insured mortgage setting forth the date of recording of the insured's mortgage. This endorsement may also be issued solely for update purposes, prior to recordation of the insured mortgage by inserting the word "None" at the end of Paragraph B and by deleting the phrase "date of endorsement is the date shown above or the date of recording of the insured's mortgage, whichever is later" (if it appears on the NM form 46 endorsement after "date of endorsement").

**C.** Upon request of the named insured and the proper recording of all necessary documents meeting insurer's underwriting standards, the amount of the loan secured by the insured's mortgage insurance previously stated in the ALTA residential limited coverage junior loan policy (NM form 45) may be increased by adding a Paragraph D. It shall read as follows: "D. The amount of insurance of the policy is hereby amended to be \$\_\_\_\_," subject to the payment of the applicable premium for the additional insurance. The additional premium (in addition to the premium for the NM form 46) shall be the difference between the premium from the amount of insurance stated in the ALTA residential limited coverage junior loan policy (NM form 45) and the amount of insurance stated in Paragraph D of NM form 46,

calculated pursuant to 13.14.9.29 NMAC. [6/1/1998; 13.14.10.32 NMAC - Rn, 13 NMAC 14.10.32, 5/15/2000; A, 5/31/2000; A, 7/31/2014; A, 8/15/2014; A, 3/1/2016; A, 7/1/2018]

**13.14.10.39 CONTIGUITY OF PARCELS ENDORSEMENTS:**

When a contiguity [of] single parcel endorsement, NM form 54, or a contiguity [of] multiple parcels endorsement, NM form 66, is issued pursuant to 13.14.8.20, the premium for each endorsement shall be one hundred dollars (\$100) in addition to the premium charged for the policy. [13.14.10.39 NMAC - N, 5/15/2000; A, 7/1/2006; A, 7/1/2018]

**13.14.10.47 ZONING, UNIMPROVED LAND**

**ENDORSEMENT:** When a NM form 64, zoning - unimproved land endorsement [~~(NM form 64)~~] or a NM form 64.1, zoning - unimproved land - no applicable zoning ordinances endorsement [~~(NM form 64.1)~~] is issued pursuant to 13.14.8.26 NMAC, the premium shall be fifteen percent of the full basic premium rate. Agents shall receive commissions pursuant to 13.14.3.11 NMAC for liabilities up to \$27,000,000; agents' retention shall be zero for liabilities greater than \$27,000,000. In no case shall the premium charge for the issuance of NM form 64 or NM form 64.1 be less than \$250. When issuing multiple zoning endorsements simultaneously on an owner's policy and a loan policy or loan policies in a single transaction, only one premium shall be charged calculated on the policy with the highest amount of insurance. [13.14.10.47 NMAC - N, 7/1/2005, A, 3/1/2016; A, 7/1/2018]

**13.14.10.48 ZONING-COMPLETED STRUCTURE ENDORSEMENT, ZONING - LAND UNDER DEVELOPMENT ENDORSEMENT, AND ZONING COMPLETED STRUCTURE - NO APPLICABLE ZONING ORDINANCES ENDORSEMENT:**

When a NM form 65, zoning - completed structure endorsement

~~[(NM form 65)],~~ a NM form 65.1, zoning - land under development endorsement [~~(NM form 65.1)~~] or a NM form 65.2, zoning - completed structure - no applicable zoning ordinances endorsement [~~(NM form 65.2)~~] is issued pursuant to 13.14.8.27 NMAC, the premium shall be twenty-three percent of the full basic premium rate. Agents shall receive commissions pursuant to 13.14.3.11 NMAC for liabilities up to \$27,000,000; agents' retention shall be zero for liabilities greater than \$27,000,000. In no case shall the premium charge for the issuance of NM form 65, NM form 65.1 or NM form 65.2, be less than \$250. When issuing multiple zoning endorsements simultaneously on an owner's policy and a loan policy in a single transaction, only one premium shall be charged calculated on the policy with the highest amount of insurance. [13.14.10.48 NMAC - N, 7/1/2005; A, 7/31/2014; A, 3/1/2016; A, 7/1/2018]

**13.14.10.61 MORTGAGE MODIFICATION ENDORSEMENTS:**

**A.** When a mortgage modification endorsement (NM form 80) or a modification with subordination endorsement (NM form 80.1) is issued, the premium shall be [~~sixty-five dollars (\$65)~~] one hundred twenty-five dollars (\$125.00) for each endorsement issued.

**B.** When a mortgage with additional amount of insurance endorsement (NM form 80.2) is issued, the premium shall be [~~sixty-five dollars (\$65.00)~~] one hundred twenty-five dollars (\$125.00) plus an additional premium calculated by determining the sum of: 1) the difference between the charge for a loan policy in the amount of the current amount of insurance before the amount of insurance is increased, and the charge for a loan policy in the amount of the increased insurance utilizing the appropriate brackets in the schedule of basic premium rates in effect as of the date of the endorsement; and 2) for all endorsements for which the premium is calculated as a percentage

of the policy premium, or otherwise based on the policy amount, the difference between the charge for the endorsements issued for a loan policy in the amount of the current amount of insurance before the amount of insurance is increased and the charge for such endorsements calculated on the amount of the loan policy in the amount of increased insurance, utilizing the appropriate brackets in the schedule of basic premium rates in effect as of the date of the endorsement. The minimum combined charge for the NM form 80.2 endorsement is [~~ninety dollars (\$90.00)~~] one hundred seventy-five dollars (\$175.00) for each endorsement issued.

[13.14.10.61 NMAC - N, 3/1/2016; A, 7/1/2018]

**13.14.10.64 PARTIAL COVERAGE ENDORSEMENT:**

When a partial coverage endorsement, NM form 26, is issued pursuant to 13.14.8.41 NMAC, the premium for each endorsement shall be twenty-five dollars (\$25.00)

[13.14.10.64 NMAC - N, 7/1/2018]

**Continued on the following page**

## SUPERINTENDENT OF INSURANCE, OFFICE OF

This is an amendment to 13.14.17 NMAC, Section 12, effective July 1, 2018.

## 13.14.17.12 FORM 3 - TRANSACTION REPORT:

NEW MEXICO TITLE INSURERS STATISTICAL REPORT FORM 3 - TRANSACTION REPORT For the Calendar Year Ending December 31, 20__ NEW MEXICO EXPERIENCE ONLY							
Insurance Company							
							For Underwriters That Charge Rates Below the Promulgated Rates
NM Form No.	Transaction Code	Transaction Type	NMAC Rate Provision	No. of Transactions	Direct Premiums Written	Dependent on Basic Premium Rate?	Direct Premiums As If They Had Been Written at Promulgated Rates
none	0001	Charge for Additional Chain of Title	13.14.9.16			No	
none	0002	Charge for [Unplatted] Tract of Unusual Complexity	13.14.9.16			Yes	
none	0003	Abstract Retirement Credit	13.14.9.24			Yes	
none	0004	Loan Policy - Mechanic's Lien Coverage With Evidence of Priority	13.14.9.40 E			No	
none	0005	Loan Policy - Mechanic's Lien Coverage Without Evidence of Priority	13.14.9.40 E			Yes	
none	0006	Owner's Policy - Mechanic's Lien Coverage - Filing Period Expired	13.14.10.9A			No	
none	0007	Owner's Policy - Mechanic's Lien Coverage - Filing Period Not Expired	13.14.10.9B			Yes	
none	0008	Survey Coverage Endorsement - <u>Owner</u>	13.14.10.10			Yes	
<u>none</u>	<u>0009</u>	<u>Survey Coverage Endorsement- Lender</u>	<u>13.14.10.10</u>			<u>No</u>	
<u>none</u>	<u>0010</u>	<u>Pro Forma Policy - Owner</u>	<u>Subsection C of 13.14.9.19 NMAC</u>			<u>No</u>	
<u>none</u>	<u>0011</u>	<u>Pro Forma Policy - Loan</u>	<u>Subsection 13.14.9.19 NMAC</u>			<u>No</u>	

none	[0009] 0012	Duplicate Original Policy	13.14.9.33			No	
none	0013	Cancellation Fee	13.14.9.19B			No	
1	0101	Owner's Policy	13.14.9.20			Yes	
1	0102	Owner's Policy - With Bulk Rate	13.14.9.23			Yes	
1	0103	Multiple Owners on Same Land - Simultaneous Issue	13.14.9.32			Yes	
1	0104	Replacement Owner's Policy	13.14.9.26			Yes	
1	0105	Owner's Policy After Foreclosure -Completed Foreclosure	13.14.9.28			Yes	
1	0106	Owner's Policy After Foreclosure -Terminated Foreclosure	13.14.9.28			Yes	
1	0110	Owner's Policy - Reissue (10% Discount)	13.14.9.35			Yes	
1	0115	Owner's Policy - Reissue (15% Discount)	13.14.9.35			Yes	
1	0120	Owner's Policy - Reissue (20% Discount)	13.14.9.35			Yes	
1	0125	Owner's Policy - Reissue (25% Discount)	13.14.9.35			Yes	
2	0201	Loan Policy - Single Issue	13.14.9.22			Yes	
2	0202	Loan Policy - Simultaneous Issue with Owner's Policy	13.14.9.30			No	
2	0203	Loan Policy - Second Mortgage or Subsequent Issue	13.14.9.36			Yes	
2	0204	Replacement Loan Policy	13.14.9.26			Yes	
2	0205	Loan Policy Insuring Construction Loan	13.14.9.40A			No	
2	0206	Loan Policy Insuring Construction Loan Extension	13.14.9.40B			No	
2	0240	Loan Policy – Substitution and Statutory Rate (within 3 years – 40%)	13.14.9.39; <u>Section 59A-30-6.1 NMSA1978</u>			Yes	
2	0250	Loan Policy - Substitution and Statutory Rate (more than 3 years, less than 5 years - 50%)	13.14.9.39; <u>Section 59A-30-6.1 NMSA1978</u>			Yes	
2	0260	Loan Policy – Substitution and Statutory Rate (more than 5 years, less than 10 years - 60%)	13.14.9.39; <u>Section 59A-30-6.1 NMSA1978</u>			Yes	



2	0280	Loan Policy – Substitution and Statutory Rate (more than 10 years, less than 20 years - 80%)	13.14.9.39; Section 59A-30-6.1 NMSA1978			Yes	
6	0600	Commitment for Title Insurance	13.14.9.19A			No	
[6.1	0601	Plain Language Commitment for Title Insurance	13.14.9.19A			No]	
9	0900	Notice of Availability of Owner's Title Insurance	None			No	
10	1000	Facultative Reinsurance Agreement	None			No	
11	1104	Correction/Multipurpose Endorsement	13.14.8.8			No	
11	1105	Renewal, Extension & Partial Release Endorsement	13.14.10.20			No	
11	1106	Extension of Commitment for Title Insurance	13.14.9.19A			No	
11	1108	Increase in Coverage	13.14.6.8D			Yes	
12	1200	Condominium Endorsement – All Assessments (ALTA 4-06)	13.14.10.14			No	
13	1300	Planned Unit Development Endorsement – All Assessments (ALTA 5-06)	13.14.10.15			No	
13.1	1301	Planned Unit Development Endorsement – Unpaid Assessments (ALTA 5.1-06)	13.14.10.15			No	
14	1400	Variable Rate Mortgage Endorsement (ALTA 6-06)	13.14.10.12			No	
15	1500	Variable Rate Mortgage Endorsement - Negative Amortization (ALTA 6.2-06)	13.14.10.12			No	
16	1600	Manufactured Housing Unit Endorsement (ALTA 7-06)	13.14.10.13			No	
16.1	1601	Manufactured Housing Unit (Conversion Loan) Endorsement (ALTA 7.1-06)	13.14.10.13			No	
16.2	1602	Manufactured Housing Unit (Conversion Owner's) Endorsement (ALTA 7.2-06)	13.14.10.13			No	
17	1700	Revolving Credit Endorsement	13.14.10.12			No	
18	1800	Construction Loan Policy Endorsement A	13.14.9.40D			Yes	

20	2000	Leasehold - Owner's Endorsement (ALTA 13-06)	13.14.10.19			No	
20	2003	Leasehold Owner's Policy - Simultaneous Issue with Owner's Policy	13.14.9.31			Yes	
20	2010	Leasehold Owner's Policy - Reissue (10% Discount)	13.14.9.35			Yes	
20	2015	Leasehold Owner's Policy - Reissue (15% Discount)	13.14.9.35			Yes	
20	2020	Leasehold Owner's Policy - Reissue (20% Discount)	13.14.9.35			Yes	
20	2025	Leasehold Owner's Policy - Reissue (25% Discount)	13.14.9.35			Yes	
21	2100	Leasehold - Loan Endorsement (ALTA 13.1-06)	13.14.10.19			No	
21.1	2101	Leasehold Loan Policy – Simultaneous Issue with Leasehold Owner's Policy	13.14.9.30			No	
22	2200	Pending Disbursement Down Date Endorsement	13.14.10.18			No	
23	2300	Pending Improvements Endorsement	13.14.10.23			No	
24	2400	Assignment Endorsement (ALTA 10-06)	13.14.10.8			No	
24.1	2401	Assignment and Down Date Endorsement (ALTA 10.1-06)	13.14.10.8			No	
25	2500	Additional Advance Endorsement	13.14.10.11			No	
26	2600	Partial Coverage Endorsement	<del>[None]</del> <u>13.14.10.64</u> <u>NMAC</u>			No	
28	2800	Non-Imputation - Full Equity Transfer Endorsement (ALTA 15-06)	13.14.10.21			Yes	
28.1	2801	Non-Imputation – Additional Interest Endorsement (ALTA 15.1-06)	13.14.10.21			Yes	
28.2	2802	Non-Imputation – Partial Equity Transfer Endorsement (ALTA 15.2-06)	13.14.10.21			Yes	
29	2900	Environmental Protection Lien Endorsement (ALTA 8.1-06)	13.14.10.22			No	
30	3000	Condominium Endorsement Unpaid Assessments (ALTA 4.1-06)	13.14.10.24			No	

31	3100	Owner's Leasehold Conversion Endorsement	13.14.9.38			Yes	
33	3300	Change of Name Endorsement	None			No	
34	3400	U.S. Policy (ALTA 12-03-12)	13.14.9.25			Yes	
41	4100	Limited Pre-Foreclosure Title Insurance Policy (ALTA 12-03-12)	13.14.9.28			Yes	
42	4200	Limited Pre-Foreclosure Title Insurance Policy Down Date Endorsement (ALTA 12-03-12)	13.14.10.18			No	
43	4300	Insuring Around Endorsement	None			No	
44	4400	Revolving Credit -Increased Credit Limit Endorsement	13.14.10.30			No	
45	4500	Residential Limited Coverage Junior Loan Policy ALTA (Rev. 08-01-12)	13.14.9.29			No	
46	4600	Down Date Endorsement to Residential Limited Coverage Junior Loan Policy JR1 (ALTA 08-01-12)	13.14.10.32			No	
47	4700	Endorsement to Residential Limited Coverage Junior Loan Policy JR2 (ALTA 08-01-12)	13.14.10.33			No	
[48	4800	<del>Truth-in-Lending-Endorsement (ALTA 2-06)</del>	<del>13.14.10.31</del>			<del>Yes]</del>	
50	5000	Restrictions, Encroachments and Minerals Endorsement - Loan Policy (ALTA 9-06)	13.14.10.34			Yes	
50.1	5001	Restrictions Encroachments, Minerals – Loan Policy Endorsement (ALTA 9.3-06)	13.14.10.34			Yes	
51	5100	Land Abuts Street Endorsement	13.14.10.36			No	
52	5200	Location Endorsement (ALTA 22-06)	13.14.10.37			No	
54	5400	Contiguity Single Parcel Endorsement (ALTA 19.1-06)	13.14.10.39			No	
55	5500	Named Insured Endorsement	13.14.10.40			No	

56	5600	Restrictions, Encroachments, Minerals– Owner’s Policy (Unimproved Land) Endorsement (ALTA 9.1-06)	13.14.10.34			Yes	
56.1	5601	Restrictions, Encroachments, Minerals – Owner’s Policy – (Unimproved Land) Endorsement (ALTA 9.4-06)	13.14.10.34			Yes	
57	5700	Restrictions, Encroachments, Minerals – Owner’s Policy (Improved Land) Endorsement (ALTA 9.2-06)	13.14.10.34			Yes	
57.1	5701	Restrictions, Encroachments, and Minerals (Owner’s Policy -Improved Land) Endorsement (ALTA 9.5-06)	13.14.10.34			Yes	
58	5800	First Loss - Multiple Parcel Transactions Endorsement (ALTA 20-06)	13.14.10.41			No	
60	6000	Aggregation Endorsement (ALTA 12-06)	13.14.10.43			No	
60.1	6001	Aggregation Endorsement (ALTA 12.1-06)	13.14.10.43			No	
61	6100	Foundation Endorsement	13.14.10.44			No	
62	6200	Assignment of Rents or Leases Endorsement (ALTA 37-06)	13.14.10.45			No	
63	6300	Short Form Residential Loan Policy	13.14.9.22			Yes	
64	6400	Zoning - Unimproved Land Endorsement (ALTA 3-06)	13.14.10.47			Yes	
64.1	6401	Zoning – Unimproved Land - No Applicable Zoning Ordinances Endorsement	13.14.10.47			Yes	
65	6500	Zoning - Completed Structure Endorsement (ALTA 3.1-06)	13.14.10.48			Yes	
65.1	6501	Zoning – Land Under Development Endorsement (ALTA 3.2-06)	13.14.10.48			Yes	
65.2	6502	Zoning- Completed Structure - No Applicable Zoning Ordinances Endorsement	13.14.10.48			Yes	

66	6600	Contiguity - Multiple Parcels Endorsement (ALTA 19-06)	13.14.10.39			No	
67	6700	Access and Entry Endorsement (ALTA 17 - 06)	13.14.10.49			No	
68	6800	Indirect Access and Entry Endorsement (ALTA 17.1- 06)	13.14.10.50			No	
69	6900	Utility Access Endorsement (ALTA 17.2-06)	13.14.10.51			No	
70	7000	Commercial Environmental Protection Lien Endorsement (ALTA 8.2- 06)	13.14.10.52			No	
71	7100	Reverse Mortgage Endorsement (ALTA 14.3- 06)	13.14.10.53			No	
72	7200	Single Tax Parcel Endorsement (ALTA 18-06)	13.14.10.54			No	
73	7300	Multiple Tax Parcel Endorsement (ALTA 18.1- 06)	13.14.10.55			No	
74	7400	Doing Business Endorsement (ALTA 24-06)	13.14.10.56			No	
75	7500	Subdivision Endorsement (ALTA 26-06)	13.14.10.57			No	
76	7600	Easement - Damage or Enforced Removal Endorsement (ALTA 28-06)	13.14.10.58			No	
77	7700	Co-Insurance - Single Policy Endorsement (ALTA 23-06)	13.14.10.59			No	
78	7800	Same as Survey Endorsement (ALTA 25-06)	13.14.10.38			No	
79	7900	Same as Portion of Survey Endorsement (ALTA 25.1- 06)	13.14.10.38			No	
80	8000	Mortgage Modification Endorsement (ALTA 11-06)	13.14.10.20			No	
80.1	8001	Mortgage Modification With Subordination Endorsement (ALTA 11.1- 06)	13.14.10.61			No	
80.2	8002	Mortgage Modification With Additional Amount of Title Insurance Endorsement (ALTA 11.2- 06)	13.14.10.61			Yes	
83	8300	Construction Loan – Endorsement (ALTA 32.0- 06)	None			No	

83.1	8301	Construction Loan – Direct Payment Endorsement (ALTA 32.1-06)	None			No	
83.2	8302	Construction Loan – Insured’s Direct Payment Endorsement (ALTA 32.2-06)	None			No	
84	8400	Disbursement Endorsement (ALTA 33-06)	13.14.10.18			No	
85	8500	Identified Risk Coverage Endorsement	None			No	
86	8600	Policy Authentication Endorsement (ALTA 39-06)	13.14.18.111			No	
88	8800	Energy Project Leasehold/ Easement - Owner’s Endorsement (ALTA 36-06)	13.14.10.60			Yes	
88.1	8801	Energy Project Leasehold/ Easement - Loan Endorsement (ALTA 36.1-06)	13.14.10.60			Yes	
88.2	8802	Energy Project - Leasehold - Owner’s Endorsement (ALTA 36.2-06)	13.14.10.60			Yes	
88.3	8803	Energy Project - Leasehold - Loan Endorsement (ALTA 36.3-06)	13.14.10.60			Yes	
88.4	8804	Energy Project Covenants, Conditions & Restrictions - Land under Development - Owner’s Endorsement (ALTA 36.4-06)	13.14.10.60			Yes	
88.5	8805	Energy Project Covenants, Conditions & Restrictions - Land Under Development - Loan Endorsement (ALTA 36.5-06)	13.14.10.60			Yes	
88.6	8806	Energy Project - Encroachments Endorsement (ALTA 36.6-06)	13.14.10.60			Yes	
88.7	8807	Energy Project - Fee Estate - Owner’s Policy Endorsement (ALTA 36.7-06)	13.14.10.60			Yes	
88.8	8808	Energy Project - Fee Estate - Loan Policy Endorsement (ALTA 36.8-06)	13.14.10.60			Yes	
89	8900	Mezzanine Financing Endorsement (ALTA 16-06)	13.14.10.62			No	
90	9000	Residential Limited Coverage Modification of Mortgage Policy	13.14.9.42			Yes	

91	9100	Contract Purchaser Conversion Endorsement	13.14.6.10			Yes	
[2	9240	Loan Policy - Statutory Rate (within 3 years - 40%)	59A-30-6.1-NMSA 1978			Yes	
2	9250	Loan Policy - Statutory Rate (more than 3 years, less than 5 years - 50%)	59A-30-6.1-NMSA 1978			Yes	
2	9260	Loan Policy - Statutory Rate (more than 5 years, less than 10 years - 60%)	59A-30-6.1-NMSA 1978			Yes	
2	9280	Loan Policy - Statutory Rate (more than 10 years, less than 20 years - 80%)	59A-30-6.1-NMSA 1978			Yes]	

<b>TOTAL:</b>				
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Crosscheck with Form 1:	
Difference:	

Explanation for Difference (if any):

[13.14.17.12 NMAC - Rp, 13.14.17.12 NMAC, 7/1/2006; A, 8/17/2009; A, 9/15/2010; A, 10/1/2012; A, 7/31/2014; A, 3/1/2016; A, 7/1/2018]

**SUPERINTENDENT OF INSURANCE, OFFICE OF**

**This is an amendment to 13.14.18 NMAC, Sections 11 and 13, effective July 1, 2018.**

**13.14.18.11 ADDITIONAL AFFIRMATIVE COVERAGES:**

**A.** When issuing a commitment for an owner’s or loan policy, or issuing an owner’s or loan policy, exceptions as to easements, rights-of-way, and restrictions must detail any matters of violation, protrusion, encroachment or overlap on to easement, right-of-way, adjacent property, building set back lines or other violated restriction, which are revealed by an inspection or survey of the property.

**B.** In the case of commitments issued for loan policies [~~(construction and permanent)~~], and in the issuance of said loan policies, but not in the case of commitments for owner’s policies, leasehold owner’s policies and contract purchaser’s policies, or the issuance of said

policies, [when there are no violations of restrictions] the following language may be added to each [such] covenant, deed, or other recorded restriction exception: “Violations of [These] this [(or these)] restriction[(s)] have (has) not been violated] (or these restrictions), if any, and [a] any future violation thereof shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in schedule B. However, this policy insures that any violation of this restriction (or these restrictions) [these (or this) restriction(s)] relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein.”

~~[C.]~~ Alternatively, and only in commitments for or the

issuance of loan policies, when there are violations revealed, the following language may be added to each such restriction exception: “These (or this) restrictions(s) have (has) been violated in that (insert language stating what violation(s) exist(s)). This (or these) violation(s) will not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage herein insured. This assurance does not extend to restriction(s) relating to environmental protection unless a notice of a violation thereof has been recorded or filed in the public records and is not referenced in schedule B. However, this policy insures that any violation of these (or this) restriction(s) relating to environmental protection shall not cause a forfeiture or reversion of title and will not affect the validity or priority of the lien of the mortgage insured herein.”

~~[D.]~~ C. Additionally, and again only in commitments for or the issuance of loan policies, when protrusions, encroachments

or overlaps into or upon easements, rights-of-way, adjacent property, the property to be insured, or building set-back lines (as described in restrictive covenants or plats filed of record) are revealed by a survey, the following paragraph may be added as a separate specific exception: "Encroachment (protrusion or overlap) of the improvements over (on, onto, in, into or upon) the (here describe the easement, right-of-way, adjacent property, the land to be insured, or building set-back line) as shown on a survey prepared by \_\_\_\_\_ dated \_\_\_\_\_. This policy insures the insured against loss or damage as defined in this policy by reason of the entry of any final decree entered in a court of competent jurisdiction and of last resort ordering the removal of said improvements presently situate on the land which constitute the (protrusion, overlap or encroachment)." This affirmative coverage language may be inserted into the foundation endorsement, NM form 61, in accordance with 13.14.10.44 NMAC.

~~[E:]~~ **D.** Each insurer shall establish its written underwriting requirements necessary to offer these additional affirmative coverages or determine that it does not desire to offer said coverages under any circumstances. No company may provide affirmative coverage by the intentional omission of an exception to any adverse matter disclosed by inspection, or unrecorded survey or other evidence, or by a search and examination of the public records, or by any adverse matter arising by operation of law except as specifically authorized by these rules.

[13.14.18.11 NMAC - Rp,  
13.14.18.11 NMAC, 3/1/2016; A,  
7/1/2018]

**13.14.18.13 APPROVED FORMS:** ~~[The following forms are hereby promulgated for use in New Mexico and the text of each referenced ALTA form and their dates of adoption are hereby incorporated by reference. The forms that are not ALTA forms are hereby promulgated in the form set forth~~

~~at the effective date of this rule in the NMAC. All of the forms herein adopted shall be set forth in their entirety in a repository on a secure website to be created and maintained by the office of superintendent of insurance, which shall be responsible for maintaining the repository. The forms as reproduced in that secure repository shall constitute the exclusive promulgated forms for use in New Mexico, and none of those forms may be altered except to correct non-substantive errors or by proper amendment to this rule approved by the office of superintendent of insurance. To the extent, if any, that there is any discrepancy between any form described herein and any form reproduced in the repository, the form described herein shall control and be deemed the promulgated form. For promulgated title insurance forms, visit [www.osi.state.nm.us](http://www.osi.state.nm.us).]~~

**Continued on the  
following page**



[NM- FORM- NO.:	ALTA FORM NO. & DATE	NAME OF FORM
1	6-17-06	Owner's Policy
2	6-17-06	Loan Policy
		[Reserved]
6	6-17-06	Commitment for Title Insurance
6.1	6-17-06	Plain Language Commitment for Title Insurance
		[Reserved]
9		Notice of Availability of Owner's Title Insurance
10	9-24-94	Facultative Reinsurance Agreement
11		Multipurpose Endorsement
12	4-06, 10-16-08	Condominium Endorsement - All Assessments
13	5-06, 10-16-08	Planned Unit Development Endorsement All Assessments
13.1	5.1-06 10-16-08	Planned Unit Development Endorsement Unpaid Assessments
14	6-06, 6-17-06	Variable Rate, Mortgage Endorsement
15	6.2-06, 6-17-06	Variable Rate Mortgage Negative Amortization Endorsement
16	7-06, 6-17-06	Manufactured Housing Unit Endorsement
16.1	7.1-06, 6-17-06	Manufactured Housing - Conversion (Loan) Endorsement
16.2	7.2-06, 6-17-06	Manufactured Housing - Conversion (Owner's) Endorsement
17		Revolving Credit Endorsement
18	A, 6-1-87	Construction Loan Policy Endorsement A
		[Reserved]
20	13-06, 4-02-12	Leasehold Owner's Endorsement
21	13.1-06, 4-02-12	Leasehold Loan Endorsement
22		Pending Disbursement Down Date Endorsement
23		Pending Improvements Endorsement
24	10-06, 6-17-06	Assignment Endorsement
24.1	10.1-06, 10-16-08	Assignment and Down Date Endorsement
25		Additional Advance Endorsement
26		Partial Coverage Endorsement
		[Reserved]
28	15-06, 6-17-06	Non-Imputation - Full Equity Transfer Endorsement
28.1	15.1-06, 6-17-06	Non-Imputation - Additional Interest Endorsement
28.2	15.2-06, 6-17-06	Non-Imputation - Partial Equity Transfer Endorsement
29	8.1-06, 6-17-06	Environmental Protection Lien Endorsement
30	4.1-06, 6-17-06	Condominium Endorsement Unpaid Assessments
31		Owner's Leasehold Conversion Endorsement
		[Reserved]
33		Change of Name Endorsement
34	12-3-12	U.S. Policy
35		Notice to Purchaser Insured

41	12-3-12	Limited-Pre-Foreclosure Title Insurance Policy
42	12-3-12	Limited-Pre-Foreclosure Title Insurance Policy Down Date Endorsement
43		Insuring-Around Endorsement
44		Revolving Credit - Increased Credit Limit Endorsement
45	8-1-12	Residential Limited Coverage Junior Loan Policy
46	8-1-12	Down Date Endorsement to Residential Limited Coverage Junior Loan Policy JR1
47	8-1-12	Endorsement to Residential Limited Coverage Junior Loan Policy JR 2 (Future-Advance)
48	2-06, 6-17-06	Truth-in-Lending Endorsement
49		Notice of Availability of Future Increase in Coverage and Potential Premium-Discounts for Future Policies
50	9-06, 6-17-06	Restrictions, Encroachments, Minerals - Loan Policy Endorsement
50.1	9.3-06, 6-17-06	Restrictions, Encroachments, Minerals - Loan Policy Endorsement
51		Land Abuts Street Endorsement
52	22-06	Location Endorsement
		[Reserved]
54	19.1-06, 6-17-06	Contiguity Single Parcel Endorsement
55		Named Insured Endorsement
56	9.1-06, 6-17-06	Restrictions, Encroachments, Minerals - Owner's Policy (Unimproved Land)-Endorsement
56.1	9.4-06, 6-17-06	Restrictions, Encroachments, Minerals Endorsement (Owner's Policy -- Unimproved Land)
57	9.2-06, 6-17-06	Restrictions, Encroachments, Minerals - Owner's Policy (Improved Land)-Endorsement
57.1	9.5-06, 6-17-06	Restrictions, Encroachments, Minerals (Owner's Policy - Improved Land)-Endorsement
58	20-06, 6-17-06	First Loss - Multiple Parcel Transactions Endorsement
		[Reserved]
60	12-06, 6-17-06	Aggregation Endorsement
60.1	12.1-06	Aggregation Endorsement
61		Foundation Endorsement
62	37-06, 11-3-12]	Assignment of Rents or Leases Endorsement
63	12-3-12	Short Form Residential Loan Policy
64	3-06, 6-17-06	Zoning - Unimproved Land Endorsement
64.1		Zoning - Unimproved Land - No Applicable Zoning Ordinances Endorsement
65	3.1-06, 10-22-09	Zoning - Completed Structure Endorsement
65.1	3.2-06, 4-2-12	Zoning - Land Under Development Endorsement
65.2		Zoning - Completed Structure - No Applicable Zoning Ordinances Endorsement
66	19-06, 6-17-06	Contiguity - Multiple Parcels Endorsement
67	17-06, 6-17-06	Access and Entry Endorsement
68	17.1-06, 6-17-06	Indirect Access and Entry Endorsement
69	17.2-06, 6-17-06	Utility Access Endorsement
70	8.2-06, 6-17-06	Commercial Environmental Protection Lien Endorsement
71	14.3-06, 10-22-09	Reverse Mortgage Endorsement

72	18-06, 6-17-06	Single Tax Parcel Endorsement
73	18.1-06, 6-17-06	Multiple Tax Parcel Endorsement
74	24-06, 10-16-08	Doing Business Endorsement
75	26-06, 6-17-06	Subdivision Endorsement
76	28-06, 10-16-08	Easement - Damage or Enforced Removal Endorsement
77	23-06, 6-17-06	Co-Insurance - Single Policy Endorsement
78	25-06, 6-17-06	Same as Survey Endorsement
79	25.1-06, 6-17-06	Same as Portion of Survey Endorsement
80	11-06, 6-17-06	Mortgage Modification Endorsement
80.1	11.1-06, 10-22-09	Mortgage Modification With Subordination Endorsement
80.2]	11.2-06, 12-2-13	Mortgage Modification With Additional Amount of Title Insurance Endorsement
81	4-2-14	Closing Protection Letter - Single Transaction
81.1	4-2-14	Closing Protection Letter - Multiple Transactions
		[Reserved]
82		Inter-Underwriter Indemnification Agreement
83	32.0-06, 2-3-11	Construction Loan - Endorsement
83.1	32.1-06, 4-2-13	Construction Loan - Direct Payment Endorsement
83.2	32.2-06, 4-2-13	Construction Loan - Insured's Direct Payment Endorsement
84	33-06, 2-3-11	Disbursement Endorsement
85		Identified Risk Coverage Endorsement
86	39-06, 4-2-13	Policy Authentication Endorsement
88	36-06, 4-2-12	Energy Project Leasehold/Easement - Owner's Endorsement
88.1	36.1-06, 4-2-12	Energy Project Leasehold/Easement - Loan Endorsement
88.2	36.2-06, 4-2-12	Energy Project - Leasehold - Owner's Endorsement
88.3	36.3-06, 4-2-12	Energy Project - Leasehold - Loan Endorsement
88.4	36.4-06, 4-2-12	Energy Project Covenants, Conditions & Restrictions - Land Under Development - Owner's Endorsement
88.5	36.5-06, 4-2-12	Energy Project Covenants, Conditions & Restrictions - Land Under Development - Loan Endorsement
88.6	36.6-06, 4-2-12	Energy Project - Encroachments Endorsement
88.7	36.7-06, 4-2-12	Energy Project - Fee Estate - Owner's Policy Endorsement
88.8	36.8-06, 4-2-12	Energy Project - Fee Estate - Loan Policy Endorsement
89	16-06, 6-17-06	Mezzanine Financing Endorsement
90	12-1-14	Residential Limited Coverage Mortgage Modification Policy
91		Contract Purchaser Conversion Endorsement

\*omitting Paragraph 14\*

The forms published in the website of the office of the Superintendent of Insurance are hereby promulgated for use in New Mexico, and text of each form and its date of adoption are incorporated herein by reference. The repository of promulgated forms is found at <https://www.osi.state.nm.us/Title/officialtitleinsforms.aspx>. The forms as reproduced in that secure repository shall constitute the exclusive promulgated forms for use in New Mexico and none of those forms may be altered except to correct non-substantive errors or by proper amendments as provided in Section 14-4-1, *et seq.* NMSA 1978, or as otherwise required by law.

[13.14.18.13 NMAC - Rp, 13.14.18.13 NMAC, 3/1/2016; A, 7/1/2018]

**VETERINARY MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING  
CHAPTER 24 SHELTERING  
PROVIDERS  
PART 1 GENERAL  
PROVISIONS**

**16.24.1.1 ISSUING**  
**AGENCY:** New Mexico Board of  
Veterinary Medicine.  
[16.24.1.1 NMAC - N, 7/1/18]

**16.24.1.2 SCOPE:** This  
part applies to applicants, licensees,  
certificate holders and persons or  
agencies within the jurisdiction of the  
board.  
[16.24.1.2 NMAC - N, 7/1/18]

**16.24.1.3 STATUTORY**  
**AUTHORITY:** Section 61-14-5  
NMSA 1978.  
[16.24.1.3 NMAC - N, 7/1/18]

**16.24.1.4 DURATION:**  
Permanent.  
[16.24.1.4 NMAC - N, 7/1/18]

**16.24.1.5 EFFECTIVE**  
**DATE:** July 1, 2018 unless a later  
date is cited at the end of a section.  
[16.24.1.5 NMAC - N, 7/1/18]

**16.24.1.6 OBJECTIVE:**  
To define terms relevant to animal  
sheltering, euthanasia, circumstances  
under which a license is required,  
persons exempted from licensing,  
custody and alteration of a license,  
transferability, display of license,  
notification of changes, local  
regulations, and professional ethical  
standards, and to set forth standards  
for the operation, meeting and record  
keeping requirements of the board.  
[16.24.1.6 NMAC - N, 7/1/18]

**16.24.1.7 DEFINITIONS:**  
**A. Words starting**  
**with the letter A:**  
**(1) "Act"**  
means the Veterinary Practice Act,  
Subsections B of Sections 77-1-1  
through 77-1-12 NMSA 1978.

**(2) "Animal"**  
means any animal, except humans,  
not defined as "livestock" in  
Subsection T of this section.

**(3) "Animal**  
**shelter"** means:

**(a)**  
a county or municipal facility that  
provides shelter to animals on a  
regular basis; and

**(b)**  
a private humane society or a private  
animal shelter that temporarily houses  
stray, unwanted or injured animals  
through administrative or contractual  
arrangements with a local government  
agency; and

**(c)**  
does not include a municipal  
zoological park.

**B. Words starting**  
**with the letter B: "Board"** means  
the board of veterinary medicine.

**C. Words starting**  
**with the letter C:**

**(1)**  
**"Companion animal"** means  
any vertebrates commonly kept as  
domestic pets, excluding man, and  
those under the jurisdiction of the  
New Mexico department of game and  
fish and those under the jurisdiction of  
the New Mexico livestock board.

**(2)**  
**"Consulting pharmacist"** means  
a pharmacist whose services are  
engaged on a routine basis by a  
euthanasia agency and who is  
responsible for the distribution,  
receipt and storage of drugs according  
to the state and federal regulations.

**D. Words starting**  
**with the letter D:**

**(1)**  
**"Dangerous drug"** means a drug,  
other than a controlled substance  
enumerated in schedule I of the  
Controlled Substances Act, that  
because of a potentiality for harmful  
effect or the method of its use or  
the collateral measures necessary to  
its use is not safe, except under the  
supervision of a practitioner licensed  
by law to direct the use of such  
drug and hence for which adequate  
directions for use cannot be prepared.  
'Adequate directions for use' means  
directions under which the layperson

can use a drug or device safely  
and for the purposes for which it is  
intended.

**(2)**  
**"DEA"** means United States drug  
enforcement administration.

**(3)**  
**"Disposition"** means the adoption  
of an animal; return of an animal  
to the owner; release of an animal  
to a rescue organization; release of  
an animal to another animal shelter  
or to a rehabilitator licensed by the  
department of game and fish or  
the United States fish and wildlife  
service; or euthanasia of an animal.

**E. Words starting**  
**with E:**

**(1)**  
**"Emergency field euthanasia"**  
means the process defined by rule  
of the board to cause the death of  
an animal in an emergency situation  
when the safe and humane transport  
of the animal is not possible.

**(2)**  
**"Euthanasia"** means to produce  
the humane death of an animal by  
standards deemed acceptable to the  
board as set forth in its rules.

**(3)**  
**"Euthanasia agency"** means a  
facility licensed by the board that  
provides shelter to animals on a  
regular basis, including a humane  
society or a public or private shelter  
facility that temporarily houses stray,  
unwanted or injured animals, and that  
performs euthanasia.

**(4)**  
**"Euthanasia drugs"** means non-  
narcotic schedule II or schedule  
III substances and chemicals as set  
forth in the Controlled Substances  
Act, Section 30-31-1 et. seq. NMSA  
1978, that are used for the purposes  
of euthanasia and pre-euthanasia of  
animals.

**(5)**  
**"Euthanasia instructor"** means a  
euthanasia technician or a veterinarian  
certified by the board to instruct other  
individuals in euthanasia techniques.

**(6)**  
**"Euthanasia technician"** means  
a person licensed by the board to  
euthanize animals for a euthanasia  
agency.

**(7) “Exotic”**

means any vertebrate animals, excluding man, wild animals, livestock and companion animals.

**F. Words starting**

**with F:** “FDA” means United States food and drug administration.

**G. Words starting**

**with G:** [RESERVED]

**H. Words starting**

**with H:** “Humanely” means actions marked by compassion, sympathy or consideration, especially for the prevention of the suffering of the animal.

**I. Words starting**

**with I:** [RESERVED]

**J. Words starting**

**with J:** [RESERVED]

**K. Words starting**

**with K:** [RESERVED]

**L. Words starting**

**with L:** “Livestock” means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals.

**M. Words starting**

**with M:** [RESERVED]

**N. Words starting**

**with N:** “Non-livestock” means any animal not covered under the definition of livestock in Subsection L of Section 77-1B-2 NMSA 1978.

**O. Words starting**

**with O:** [RESERVED]

**P. Words starting**

**with P:** [RESERVED]

**Q. Words starting**

**with Q:** [RESERVED]

**R. Words starting**

**with R:** “Rescue organization” means an organization that rescues animals and is not involved in the breeding of animals.

**S. Words starting**

**with S:**

**(1) “Sharps”**

means any discarded article that may cause punctures or cuts. Such wastes may include, but are not limited to needles, scalpel blades, glass slides, glassware, suture needles and trocars.

**(2)**

**Supervising veterinarian** means a person who is a New Mexico-licensed veterinarian, who holds both a valid New Mexico controlled substance license and a valid federal drug enforcement agency license and who approves the drug protocols and the procurement and administration of all pharmaceuticals at a euthanasia agency.

**T. Words starting**

**with T:** [RESERVED]

**U. Words starting**

**with U:** [RESERVED]

**V. Words starting**

**with V:**

**(1)**

**“Veterinarian”** means a person who is licensed as a doctor of veterinary medicine by the board of veterinary medicine pursuant to the Veterinary Practice Act, Section 61-14-1 et. seq. NMSA 1978.

**(2)**

**“Veterinary facility”** means any building, mobile unit, vehicle or other location where services included within the practice of veterinary medicine are provided.

**W. Words starting**

**with W:** “Wild animal” means any vertebrate animals under the jurisdiction of the New Mexico game and fish department.

**X. Words starting**

**with X:** [RESERVED]

**Y. Words starting**

**with Y:** [RESERVED]

**Z. Words starting**

**with Z:** [RESERVED]

[16.24.1.7 NMAC - N, 7/1/18]

**16.24.1.8 NON-PUBLIC**

**RECORDS:** The following records are considered confidential and are not subject to public inspection:

**A.** letters of reference;

**B.** medical reports

or records of chemical dependency, physical or mental examinations or treatment;

**C.** the contents

of any examination used to test for an individual’s knowledge or competence;

**D.** investigative files if disclosure would impede the investigation;

**E. written**

communication relating to actual or potential disciplinary action, including complaints, until the board acts or declines to act; and

**F. matters of opinion**

in personnel files.

[16.24.1.8 NMAC - N, 7/1/18]

**16.24.1.9 SAVINGS**

**CLAUSE:** If any provision of these rules or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of these rules and the application of such provisions to other persons or circumstances shall not be affected thereby.

[16.24.1.9 NMAC - N, 7/1/18]

**HISTORY OF 16.24.1 NMAC:****History of Repealed Material:**

16.24.1 NMAC, General Provisions, filed 05/14/2009 - Duration expired 7/21/2012.

16.24.1 NMAC, General Provisions, filed 2/5/2014, repealed effective 6/30/2018

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## VETERINARY MEDICINE, BOARD OF

### TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING

#### CHAPTER 24 SHELTERING PROVIDERS

#### PART 2 LICENSURE AND CERTIFICATION

**16.24.2.1 ISSUING**

**AGENCY:** New Mexico Board of Veterinary Medicine.

[16.24.2.1 NMAC - N, 7/1/18]

**16.24.2.2 SCOPE:**

This part applies to applicants, licensees, certificate holders and persons or agencies within the jurisdiction of the board.

[16.24.2.2. NMAC - N, 7/1/18]

**16.24.2.3 STATUTORY**

**AUTHORITY:** Section 61-14-5; Section 61-14-8; Section 61-14-9; Section 61-14-10; Section 61-14-12; Section 61-14-13; Section 61-14-14

and Section 61-14-15 NMSA 1978.  
[16.24.2.3 NMAC - N, 7/1/18]

**16.24.2.4 DURATION:**

Permanent.

[16.24.2.4 NMAC - N, 7/1/18]

**16.24.2.5 EFFECTIVE**

**DATE:** July 1, 2018 unless a later date is cited at the end of a section.

[16.24.2.5 NMAC - N, 7/1/18]

**16.24.2.6 OBJECTIVE:** To provide for the most humane restraint, in-facility capture, and death possible for animals when euthanasia is required.

[16.24.2.6 NMAC - N, 7/1/18]

**16.24.2.7 DEFINITIONS:**

[RESERVED]

**16.24.2.8 PRACTICING WITHOUT A LICENSE OR CERTIFICATE:**

**A.** It is a violation of the act for a person, other than a veterinarian licensed to practice in New Mexico, to perform euthanasia for a euthanasia agency in this state unless the individual is licensed by the board pursuant to Subsection B of Section 77-1-6 NMSA 1978.

**B.** It is a violation of the act for an entity other than a veterinary facility to perform euthanasia unless the agency is licensed by the board pursuant to Subsection B of Section 77-1-8 NMSA 1978.

[16.24.2.8 NMAC - N, 7/1/18]

**16.24.2.9 LICENSURE OR CERTIFICATION EXEMPTIONS:**

**A.** The act does not apply to veterinarians licensed in New Mexico.

**B.** The act does not apply to wildlife rehabilitators working under the auspices of the department of game and fish.

**C.** A for profit veterinary facility serving as a euthanasia agency pursuant to a contract with a local government is exempt from the provisions of the act; provided that the veterinary facility is subject to licensure and rules adopted

pursuant to the Veterinary Practice Act, Section 61-14-1 et. seq. NMSA 1978.

**D.** A municipal facility that is a zoological park is exempt from the provisions of the act.

**E.** A commissioned law enforcement officer is exempt from the act when conducting emergency field euthanasia or in situations where the public's health or safety is at risk or the animal is irremediably suffering.

**F.** The board may exempt a euthanasia instructor from the required euthanasia technician testing based upon review of the applicant's credentials and practical experience in shelter euthanasia. The applicant shall be required to obtain a euthanasia instructor certificate and is subject to the required certified euthanasia instructor duties.

[16.24.2.9 NMAC - N, 7/1/18]

**16.24.2.10 CUSTODY AND ALTERATION OF LICENSE OR CERTIFICATE:**

**A.** Licenses and certificates issued by the board are at all times the property of the board, and may remain in the custody of the licensee or certificate holder only as long as the licensee or certificate holder complies with the act and board rules.

**B.** Licenses and certificates shall not be altered or duplicated in any way.

**C.** Inspectors or board designees shall retrieve any license or certificate that is suspended, revoked, expired, or left by a licensee or certificate holder who is no longer employed at an establishment.

[16.24.2.10 NMAC - N, 7/1/18]

**16.24.2.11 LICENSE OR CERTIFICATE NOT TRANSFERABLE:**

A license or certificate issued by the board pursuant to the act shall not be transferred or assigned.

[16.24.2.11 NMAC - N, 7/1/18]

**16.24.2.12 DISPLAY OF LICENSE OR CERTIFICATE AND NOTIFICATION OF CHANGES:**

**A.** A euthanasia technician license or a euthanasia agency license shall at all times be posted in the euthanasia room of the euthanasia agency, unless the euthanasia technician is working at a location other than the euthanasia agency. If the euthanasia technician is performing euthanasia offsite, the licensee shall have the license in his or her possession. Euthanasia instructor certificate holders shall have the certificate in his or her possession when teaching any board approved euthanasia technician training course.

**B.** Licensees and certificate holders shall notify the board of any change of address, phone or other contact information within 30 days. If a euthanasia agency has a change of address, its current license will be invalidated on the date the change in address is effective and the agency shall reapply to the board for a valid license in order to perform euthanasia.

[16.24.2.12 NMAC - N, 7/1/18]

**16.24.2.13 APPLICATION FOR LICENSURE AS A EUTHANASIA TECHNICIAN:**

**A.** In order to obtain a license as a licensed euthanasia technician, the applicant shall submit the following documentation and a completed application on a form provided by the board which may available online, accompanied by the required fees:

(1) proof of age indicating the applicant is at least 18 years of age, such as a copy of a driver's license or a copy of a state issued identification card (do not submit a copy of a birth certificate);

(2) two, two inch by two inch original photographs taken within the past six months;

(3) a notarized authorization for release of information form;

(4) state criminal history background check as specified in 16.24.2.17 NMAC;

(5) verification that the applicant holds a high school diploma or its equivalent;

(6) verification that the applicant holds a certificate of completion, or similar document, of a board approved euthanasia technician training course within three years preceding the date the application for licensure is submitted, which course shall be approved as described in 16.24.2.18 NMAC;

(7) verification of passing a board approved examination administered by a certified euthanasia instructor at a board approved euthanasia training course with a grade of at least eighty percent;

(8) passing an examination, administered by the board, with a grade of at least eighty percent;

(9) any other information or verifications the board may request.

**B.** Sixty-day temporary euthanasia technician license.

(1) A temporary license may be issued at the discretion of the board. The temporary license is intended to assist a licensed euthanasia agency to hire trained personnel in the event the agency's only licensed euthanasia technician leaves the agency or is no longer able to perform euthanasia for any reason. The temporary license is valid for a period of no more than 60 calendar days. The temporary license cannot be renewed by the euthanasia technician. No more than one temporary license may be granted to an individual unless approved by the board in consideration of extenuating circumstances.

(2) To qualify for a temporary license, an applicant shall submit all items required in Paragraphs (1) through (6) of Subsection A of 16.25.11.12 NMAC. [16.24.2.13 NMAC - N, 7/1/18]

**16.24.2.14 APPLICATION FOR CERTIFICATION AS A EUTHANASIA INSTRUCTOR:**

**A.** In order to obtain a certificate as a certified euthanasia instructor the applicant shall submit the following documentation and a completed application on a form

provided by the board, which may be available online, accompanied by the required fees:

(1) proof of age indicating the applicant is at least 21 years of age such as a copy of a driver's license or a copy of a state issued identification card (do not submit a copy of a birth certificate);

(2) two, two inch by two inch original photographs taken within the past six months;

(3) a notarized authorization for release of information form;

(4) state criminal history background check as specified in 16.24.2.17 NMAC;

(5) verification that the applicant holds a high school diploma or its equivalent;

(6) verification that the applicant holds a certificate of completion of a board approved euthanasia technician training course, completed within one year preceding the date the application for certification is submitted;

(7) verification of passing a board approved examination for a board approved euthanasia technician training course with a grade of at least ninety percent;

(8) verification of at least one year of practical experience in the euthanasia of shelter animals preceding the date of application;

(9) any other information or verifications the board may request.

**B.** The board may exempt a euthanasia instructor from taking a required board approved euthanasia technician training course and test based upon review of the applicant's credentials and practical experience in shelter euthanasia. The applicant shall be required to obtain a euthanasia instructor certificate and is subject to the required certified instructor duties.

[16.24.2.14 NMAC - N, 7/1/18]

**16.24.2.15 APPLICATION FOR LICENSURE AS A EUTHANASIA AGENCY:**

All agencies that will provide euthanasia

services on or after January 1, 2010, shall be licensed by the board by January 1, 2010, or before performing euthanasia services if the agency does not begin performing euthanasia services until a later date. In order to obtain a license as a euthanasia agency, the applicant shall submit the following documentation and a completed application on a form provided by the board, which may be online, accompanied by the required fee:

**A.** the agency shall have at least one licensed euthanasia technician on staff who shall at all times be assisted by a trained assistant;

**B.** the agency shall provide the names of their current licensed euthanasia technicians at the time of application or renewal for licensure and shall notify the board when there is a change in licensed euthanasia technicians at the agency within 30 days;

**C.** the agency shall have a written contingency plan for providing euthanasia in the event the agency is without a licensed euthanasia technician;

**D.** the agency shall notify the board in the event it no longer has a licensed euthanasia technician on staff within 72 hours;

**E.** the agency shall keep accurate controlled substance and dangerous drug logs, in compliance with applicable state controlled substances laws, which shall be inspected quarterly according to the guidelines of the New Mexico pharmacy board and shall be made available to the board approved euthanasia agency inspector;

**F.** the agency shall identify and describe any contracts with a supervising veterinarian, a consulting pharmacist and any holder of DEA licenses;

**G.** the agency shall comply with board inspections;

**H.** the agency shall pay the license fee established by the board; and

**I.** the agency shall provide any other information or verifications the board may request.

[16.24.2.15 NMAC - N, 7/1/18]

**16.24.2.16 APPLICATION FOR LICENSE OR CERTIFICATE RENEWALS:**

**A.** Licenses and certificates shall be valid for one year from the date the license or certificate is issued. Each licensee or certificate holder shall, on or before the expiration date of the license or certificate submit a renewal form provided by the board and pay a renewal fee as established by the board. Holders of a license or certificate who fail to renew on or before the expiration date may not practice past the expiration date and may be considered to be practicing without a license. Any person may reinstate an expired license or certificate within three years of its expiration by making application to the board for renewal and paying the current renewal fee along with all delinquent renewal fees and late fees. After three years have elapsed since the date of expiration, a license or certificate may not be renewed and the holder shall apply for a new license or certificate and take the required examination. The board may assess a late fee on the applicant as established by the board. License or certificate holders shall also comply with Subsections B through D to renew a license or certificate, as applicable.

**B.** For each renewal, a euthanasia technician shall also:

(1) provide proof of having taken four hours of board-approved continuing education courses or in-service training during the prior year, which may include, but are not limited to, animal handling, euthanasia, recording and handling of controlled substances and dangerous drugs, shelter operations and teacher training courses. Credit for non-contact forms of instruction including online training is accepted. A maximum of four credit hours may be accrued as excess and carried forward to the subsequent licensing year.

(2) complete any continuing education course specifically required by the board

within the preceding twelve months;  
(3) be responsible for proving the validity of the reported continuing education hours by submitting photocopies of seminar registrations or completion certificates, or similar documentation; and

(4) submit a request for course approval including a course description with course outline, the number of course hours, and agency teaching the course, in writing to the board if there is a question about whether a particular course, class, or seminar will be approved for credit.

**C.** For each renewal, a euthanasia instructor shall also:

(1) provide proof of having taken eight hours of board approved continuing education courses during the prior 12 months, which may include, but are not limited to, animal handling, euthanasia, recording and handling of controlled substances and dangerous drugs, shelter operations and teacher training courses. Credit for non-contact forms of instruction including online training is accepted. A maximum of eight credit hours may be accrued as excess and carried forward to the subsequent licensing year.

(2) complete any continuing education course specifically required by the board within the preceding twelve months;

(3) be responsible for proving the validity of the reported continuing education hours by submitting photocopies of seminar registrations or completion certificates, or similar documentation; and

(4) submit a request for course approval including a course description with course outline, the number of course hours, and agency teaching the course, in writing to the board if there is a question about whether a particular course, class, or seminar will be approved for credit.

**D.** For each renewal, a euthanasia agency shall also:

(1) submit to

an inspection every other calendar year and correct any deficiencies found during its inspection;

(2) submit a current list of its licensed euthanasia technicians.

[16.24.2.16 NMAC - N, 7/1/18]

**16.24.2.17 APPLICANT BACKGROUND CHECK PROCEDURE:**

**A.** Pursuant to Subsection B of Section 77-1-5(N) NMSA 1978 all applicants for initial issuance or reinstatement of a license or certificate in New Mexico shall be required to establish positive identification for a state criminal history background check, except commissioned law enforcement officers.

**B.** Department of public safety authorization for release of information form shall be submitted to the department of public safety with a money order or cashier's check made out to the department of public safety, for the prescribed fee for the amount established by the department of public safety for the processing of state criminal history background checks.

[16.24.2.17 NMAC - N, 7/1/18]

**16.24.2.18 CURRICULUM FOR BOARD APPROVED EUTHANASIA TECHNICIAN TRAINING COURSES:**

In order to receive board approval for a euthanasia technician training course that will be taught on or after July 1, 2009, the euthanasia instructor shall submit a written request for approval to the board along with 12 copies of the instructor's manual, the course curriculum and a description of the test administered by the instructor. Courses will be approved until such time as the board revokes the approval. Approved courses will subject to annual review. The curriculum shall include the following.

**A.** animal anatomy and physiology as related to euthanasia;

**B.** euthanasia: the history, current standards, stages of euthanasia, best practices;



**C.** euthanasia by injection: acceptable sites (advantages, disadvantages, criteria for selecting which site), restraint for each type of injection, injection techniques and mechanics of each technique, acceptable euthanasia drugs, best practices;

**D.** pre-euthanasia anesthesia: uses, stages of anesthesia, criteria for judging depth of anesthesia, drugs for this use, administration sites and methods, best practices;

**E.** verification of death: proper and accurate methods of verification of death;

**F.** pharmaceuticals: controlled and non-controlled substances (types, method of actions, uses), dosage calculations, security and storage of both types of drugs, record keeping, drug logs, controlled substance logs, labeling of drug mixtures, material safety data sheets (MSDS sheets), inventory management;

**G.** proper disposal techniques: euthanized animals, drug waste, expired drugs, sharps, biohazardous or infectious waste;

**H.** euthanasia by non-injection method: criteria for choosing case for non-injection method;

**I.** emergency field euthanasia: methods and best practices for emergency field euthanasia;

**J.** animal handling: humane handling techniques, techniques to reduce animal stress, restraint of wild or unsocialized animals, humane capture techniques for in-facility escapes;

**K.** species other than dogs and cats: restraint techniques, acceptable and best euthanasia techniques for each species, public health concerns, rabies (description of disease, signs, submission procedures);

**L.** euthanasia room: equipment and supplies (use and location), backup equipment, setup, lighting, safety measures; and

**M.** staff health and safety concerns: zoonotic disease,

emergency equipment (use, location), sharps handling and disposal, work place safety, safety equipment and apparel, eye wash station; compassion fatigue and euthanasia-related stress (recognition, reduction techniques, professional services).  
[16.24.2.18 NMAC - N, 7/1/18]

**HISTORY OF 16.24.2 NMAC:**

**History of Repealed Material:**

16.24.2 NMAC, Licensure and Certification, filed 5/14/2009 - Duration expired 7/21/2012.

16.24.2 NMAC, Licensure and Certification, filed 2/5/2014, repealed effective 6/30/2018.

**VETERINARY MEDICINE,  
BOARD OF**

**TITLE 16 OCCUPATIONAL  
AND PROFESSIONAL  
LICENSING**

**CHAPTER 24 SHELTERING  
PROVIDERS**

**PART 3 DUTIES OF  
LICENSEES AND CERTIFICATE  
HOLDERS**

**16.24.3.1 ISSUING**

**AGENCY:** New Mexico Board of Veterinary Medicine.

[16.24.3.1 NMAC - N, 7/1/18]

**16.24.3.2 SCOPE:** This

part applies to applicants, licensees, certificate holders and persons or agencies within the jurisdiction of the board.

[16.24.3.2 NMAC - N, 7/1/18]

**16.24.3.3 STATUTORY**

**AUTHORITY:** These rules are promulgated pursuant to the Veterinary Practice Act, Subsections B of Sections 77-1-5, 77-1-6, 77-1-7 NMSA 1978.

[16.24.3.3 NMAC - N, 7/1/18]

**16.24.3.4 DURATION:**

Permanent.

[16.24.3.4 NMAC - N, 7/1/18]

**16.24.3.5 EFFECTIVE**

**DATE:** July 1, 2018 unless a later date is cited at the end of a section.

[16.24.3.5 NMAC - N, 7/1/18]

**16.24.3.6 OBJECTIVE:** To establish board approved procedures for humane euthanasia of common shelter animals in New Mexico that include duties of euthanasia agencies, euthanasia technicians, and euthanasia instructors in order to ensure approved humane restraint and euthanasia techniques are consistently practiced.

[16.24.3.6 NMAC - N, 7/1/18]

**16.24.3.7 [DEFINITIONS:  
[RESERVED]]**

**16.24.3.8 GENERAL  
REQUIREMENTS FOR  
LICENSED EUTHANASIA  
TECHNICIANS AND AGENCIES:**

**A.** Euthanasia shall be performed by a licensed euthanasia technician employed or under contract with a licensed euthanasia agency, by a licensed veterinarian, or in the case of emergency field euthanasia, may be performed by a commissioned law enforcement officer by means of gunshot.

**B.** Euthanasia technicians shall scan all companion animals for a microchip and look for a license or other identification tag directly prior to performing euthanasia. Every microchip, license or identification tag located shall be recorded. If a microchip, license or identification tag is found at the time of euthanasia, the licensed euthanasia technician shall verify that all reasonable attempts to contact the owner have been made and only after verification may the euthanasia proceed. If the verification is not possible, then the euthanasia shall be postponed until verification is completed, except in situations in which the animal is in severe, acute distress or is irremediably suffering.

**C.** Euthanasia technicians shall euthanize dogs and cats only by the use of an FDA approved sodium pentobarbital euthanasia solution, or any other board approved euthanasia solutions, with the exception of emergency field euthanasia as provided for in

16.24.3.15 NMAC.

**D.** Euthanasia agencies using controlled substances shall have under contract a consulting pharmacist as defined in the New Mexico Pharmacy Act.

**E.** Euthanasia agencies shall be inspected at least every other calendar year.

**F.** Euthanasia technicians shall euthanize all other non-livestock animals in accordance with Section 61-11-1 Pharmacy Act. et. seq. NMSA 1978 and the applicable methods, recommendations and procedures set forth in 16.24.3.9 NMAC and 16.24.3.12 through 16.24.3.15 NMAC.

**G.** Euthanasia technicians and euthanasia agencies shall maintain storage, security, recordkeeping and disposal methods of controlled substances used for euthanasia as set forth in the board approved euthanasia technician training courses in accordance with the New Mexico pharmacy board and DEA regulations. Euthanasia technicians and euthanasia agencies shall adhere to all existing state and federal laws and protocols.

**H.** Euthanasia agencies shall display material safety data sheets for all drugs used in the euthanasia process in the euthanasia area or shall make such material available and accessible to all employees on the premises.

**I.** Euthanasia technicians may use a sedative or anesthetic as set forth in the board approved euthanasia technician training courses.

**J.** Euthanasia technicians and their assistants shall handle animals humanely as detailed in board approved euthanasia instruction from the commencement of and throughout the euthanasia process. Remains shall be disposed of promptly in compliance with local ordinance.

**K.** A euthanasia agency shall handle, treat and dispose of infectious waste, including but not limited to remains, anatomical body parts, excretions, blood soiled articles and bedding, that are generated from

an animal that the agency knows or has reason to suspect has a disease that is capable of being transmitted to humans as follows.

**(1)** All infectious waste will be sterilized or disinfected by heat, steam, chemical disinfection, radiation, or desiccation.

**(2)** Infectious waste held for disposal shall be collected in sanitary leak resistant bags clearly labeled for biohazard disposal. The bag shall contain the gloves worn while collecting the waste and those used in treatment and post mortem examinations of suspect animals.

**(3)** All sharps shall be disposed of in labeled sharps containers. Such containers shall be rigid-sided, solidly sealed containers that are highly resistant to puncture. These containers shall be incinerated or disposed of in an environmentally safe manner by a duly licensed disposer or an approved medical sharps incineration facility or shall be disposed of in such a way as to render the sharps harmless. This disposal shall not apply to infectious waste sharps, which, contained in a puncture resistant container, should be disposed of as described in infectious waste disposal. Due to the small volume of sharps generated in a euthanasia agency, transportation of the filled, sealed containers shall not be mandated by nor limited to commercial haulers.

**L.** A euthanasia agency shall dispose of drugs as follows.

**(1)** The removal and disposal of outdated or unwanted dangerous drugs shall be the responsibility of the consultant pharmacist.

**(2)** Outdated or unwanted controlled substances shall be disposed of through a DEA-registered reverse distributor or pursuant to the requirements of Title 21, Code of Federal Regulations, Part 1307.

**(3)** The transfer of any dangerous drug inventory to another registrant shall be pursuant to the rules of the board of pharmacy and be the responsibility

of the consultant pharmacist in compliance with state and federal laws and regulations for the transfer of such drugs.

**M.** A euthanasia agency shall handle waste materials that are generated from an animal that does not have a disease transmissible to humans and is not suspected of being contaminated with an agent capable of infecting humans as provided under this section.

**(1)** Animal remains.

**(a)** A euthanasia technician shall dispose of an animal's remains promptly by release to owner, burial, cremation, incineration, commercial rendering or, if permitted by local ordinance, placement in a public landfill.

**(b)** If prompt disposal of an animal's remains is not possible, the euthanasia technician shall contain the animal's remains in a freezer or store them in a sanitary, non-offensive manner until such time as they can be disposed of as provided above.

**(2)** A euthanasia technician shall dispose of tissues, specimens, bedding, animal waste and extraneous materials, not suspected of harboring pathogens infectious to humans, by approved municipality or county disposal methods.

**N.** In the event of the occurrence of a suspect foreign animal disease or disease of potential concern to state or national security, the euthanasia agency will immediately contact the state veterinarian, the U. S. department of agriculture, and other applicable departments. The euthanasia technician and euthanasia agency shall handle all tissues, laboratory samples, and biomedical waste associated with such cases in accordance with the recommendations made by the state veterinarian, and other departments and agencies, which are deemed necessary and appropriate in such cases.

**O.** It shall be a violation of the act for euthanasia technicians and euthanasia agencies to end an animal's life using the

following methods:

- (1) decompression;
- (2) nitrous oxide;
- (3) drowning;
- (4) decapitation;
- (5) cervical dislocation;
- (6) pithing;
- (7) exsanguination;
- (8) electrocution;
- (9) gunshot, excluding properly performed field euthanasia in an emergency situation as defined in 16.24.3.13 NMAC below;
- (10) air embolism;
- (11) nitrogen flushing;
- (12) strychnine;
- (13) acetone or any other industrial solvent;
- (14) any other chemical agent;
- (15) intrahepatic injection (IH); and
- (16) any method not specifically approved by the board.

[16.24.3.8 NMAC - N, 7/1/18]

#### 16.24.3.9 DUTIES OF A LICENSED EUTHANASIA TECHNICIAN:

The duties of a euthanasia technician shall include but are not limited to:

- A. performing euthanasia on a sufficient number and variety of animals under the direct supervision of a veterinarian or a skilled, knowledgeable licensed euthanasia technician to demonstrate proficiency in the performance of humane euthanasia before performing euthanasia without supervision, and, verifying in writing to the board (for example, by a letter written by the supervising veterinarian or euthanasia technician) within 60 days that the technician has demonstrated proficiency and maintains that documentation at the euthanasia agency, provided that this requirement

does not apply to euthanasia technicians who have performed euthanasia for a period of at least six months;

B. preparing animals for euthanasia, including scanning for the presence of a microchip in companion animals;

C. carefully and accurately recording the dosage and drug waste for each euthanasia performed pursuant to the rules of the New Mexico board of pharmacy;

D. maintaining the security of all controlled substances and dangerous drugs, including records relating to controlled substances and dangerous drugs, at the euthanasia agency in accordance with applicable state and federal laws;

E. reporting to the board and the department of health any infraction of the act or rules adopted pursuant to the act, or any misuse of drugs;

F. humanely capturing, restraining, and euthanizing animals as taught in board approved euthanasia technician training courses;

G. disposing of remains in accordance with law;

H. maintaining license in an active status;

I. reporting any change of name, address, telephone or other contact information to the board within 30 days;

J. providing to the board or authorized board representative a reply to a request for information allowed under the act or these rules within ten working days;

K. a euthanasia technician shall prepare a report of any euthanasia performed that deviates from board approved rules, and the euthanasia agency shall keep these records on file for four years.

[16.24.3.9 NMAC - N, 7/1/18]

#### 16.24.3.10 DUTIES OF A CERTIFIED EUTHANASIA INSTRUCTOR:

The duties of a certified euthanasia instructor shall include but are not limited to:

- A. reporting any change of name, address, phone or

other contact information to the board within 30 days;

B. maintaining current knowledge of New Mexico board of pharmacy rules and the New Mexico board of veterinary medicine rules, as they apply to euthanasia and controlled substances used in the practice of euthanasia;

C. providing reports on a form provided to the board within 30 days of the completion of the courses;

D. providing to the board or authorized board representative, a reply to a request for additional information allowed under the act or these rules within ten working days.

[16.24.3.10 NMAC - N, 7/1/18]

#### 16.24.3.11 DUTIES OF A LICENSED EUTHANASIA AGENCY:

The duties of a licensed euthanasia agency include, but are not limited to:

A. keeping records for a period of four years showing:

- (1) those individuals who are authorized in writing, in accordance with these rules, by the euthanasia agency to administer an FDA approved sodium pentobarbital euthanasia solution or other board approved euthanasia solution;

(2) logs with respect to controlled substances used to carry out humane euthanasia in accordance with the New Mexico pharmacy board rules;

B. having at least one licensed euthanasia technician on staff or having a contract with a veterinary facility for the purposes of performing euthanasia; in the event the agency falls below this minimum requirement, the agency shall immediately apply to the board to license additional individual(s) or forfeit its license;

C. accurately reporting no later than January 31 annually on board provided forms, impound, disposition and reason for euthanasia of all animals for the prior year; the board may suspend or revoke the agency's license in the event the

agency fails to report to the board by February 28 of each year;

**D.** expediting the euthanasia procedure for any animal accepted by a euthanasia agency that is critically ill or severely injured and that in the determination of the euthanasia agency requires euthanasia; in these cases, the euthanasia agency shall place the animal in a quiet environment and give the animal treatment to reduce pain and suffering until a euthanasia technician or veterinarian is able to euthanize the animal;

**E.** having a current euthanasia policy and procedures manual; the manual shall include but is not limited to the following:

- (1) a copy of the act;
- (2) a copy of the euthanasia training manuals provided by the board approved euthanasia technician training courses attended by the euthanasia technicians working at the euthanasia agency;
- (3) a list of methods of euthanasia allowed at the euthanasia agency and the policy and procedures for each method;
- (4) a list of licensed euthanasia technicians, the methods they have been trained in, the date of training and the date of expiration of their license;
- (5) the name, address and contact information for the veterinarian or euthanasia technician responsible for the euthanasia agency facility license;
- (6) the name, address and contact information for the veterinarian responsible for veterinary medical care of the animals; the contact information shall include telephone numbers for working hours, weekends, nights and holidays;
- (7) a protocol for euthanasia procedures to use in emergencies, after hours, holidays and weekends;
- (8) procedures to follow if no licensed euthanasia technician is present and euthanasia of an animal is necessary;
- (9) a list of

methods of verifying death of an animal after a euthanasia process is performed;

(10) the name and contact information of the manufacturer and supplier of all materials used in euthanasia procedures at the euthanasia agency, including such materials as:

- (a) bottled gas (if applicable);
  - (b) the chamber used to euthanize animals by inhalant gas (if applicable);
  - (c) injectable FDA approved sodium pentobarbital euthanasia solution or other board approved euthanasia solution; and,
  - (d) sedative or anesthetic solution;
  - (11) a copy of the original DEA certification permitting the use of controlled substances;
  - (12) a material safety data sheet for any chemical or gas used for euthanasia in that agency;
  - (13) a material safety data sheet for any anesthetic or tranquilizer used in that agency;
  - (14) notice of the signs and symptoms associated with human exposure to the agents used for euthanasia at that agency;
- F.** providing for the observation or inspection of the euthanasia process and euthanasia agency as requested by the board; observations or inspections may be done by any means including through a board approved instructor, inspector, or appointed designee;

**G.** a euthanasia technician shall prepare a report of any euthanasia performed that deviates from board approved rules, and the euthanasia agency shall keep these records on file for four years;

**H.** the agency shall ensure that any assistants to the euthanasia technician have received, at a minimum, documented in-service training as to the proper handling and restraint of animals for the purposes of euthanasia; this training

can be provided by the agency's own licensed euthanasia technician.  
[16.24.3.11 NMAC - N, 7/1/18]

**16.24.3.12 EUTHANASIA BY INJECTION OF FDA APPROVED SODIUM PENTOBARBITAL EUTHANASIA SOLUTION OR BOARD APPROVED EUTHANASIA SOLUTIONS:**

**A.** The approved routes of injections of an FDA approved sodium pentobarbital euthanasia solution or board approved euthanasia solutions, listed in order of preference, are:

- (1) intravenous injection as taught in board approved euthanasia technician training courses;
- (2) intraperitoneal injection, but only if used as taught in a board approved euthanasia technician training course and as set forth below; or
- (3) intracardiac injection, but only if used in accordance with Section 30-18-15 NMSA 1978 and as set forth below; it is unlawful for a euthanasia technician to use intracardiac injections to administer euthanasia to a conscious animal.

**B.** Intracardiac injection shall be acceptable only when performed on anesthetized or comatose animals. If a euthanasia technician uses intracardiac injection, the euthanasia technician shall administer the appropriate pre-euthanasia drugs as set forth in the board approved euthanasia technician training courses and shall ascertain that the animal is not conscious before administering the intracardiac injection.

**C.** Only veterinarians or euthanasia technicians shall administer the injections set forth in the board approved euthanasia technician training.

**D.** The euthanasia agency shall equip the designated area used for injection to ensure accuracy in the procedure and safety for the euthanasia technician, which should include but is not limited to sufficient lighting, useable animal restraint

devices, and an eye wash station.

**E. Euthanasia**  
technicians shall administer injectable euthanasia agents to animals with at least the minimum dosage, as set forth in the board approved euthanasia technician training courses.

**F. Euthanasia**  
technicians shall place animals given an FDA approved sodium pentobarbital euthanasia solution or board approved euthanasia solutions by intraperitoneal injection in a quiet area, separated from physical contact with other animals during the dying process except that newborns and infants may be held.

**G. Euthanasia**  
technicians shall monitor the animals from the time euthanasia is performed until verification of the death of each animal.

**H. Euthanasia**  
technicians shall verify death by a combination of ascertaining the absence of ocular reflexes as well as the cessation of heartbeat or by observing the onset of rigor mortis, or other methods established by the board approved euthanasia technician training courses prior to remains storage and disposal.

[16.24.3.12 NMAC - N, 7/1/18]

### **16.24.3.13 EUTHANASIA BY CARBON MONOXIDE GAS:**

**A.** Carbon monoxide is illegal for the euthanasia of dogs and cats.

**B.** Carbon monoxide may be used for the euthanasia of animals (excluding dogs or cats) that may present a zoonotic hazard.

**C.** Operations shall be in compliance with all applicable state and federal regulations under the occupational safety and health administration (OSHA) and an annual inspection of such equipment and operations shall be required. The following guidelines shall be observed:

(1) a euthanasia agency shall not operate a carbon monoxide chamber unless a euthanasia technician or New Mexico licensed veterinarian and one other adult are present at the time of

operation;

(2) acceptable gas is limited to commercially compressed carbon monoxide gas and never gas piped from a motor;

(3) the ambient temperature inside the chamber shall not exceed 85 degrees fahrenheit (29.4 degrees celsius) when it contains live animals;

(4) if the chamber is commercially manufactured to euthanize only one animal at a time, no more than one animal at a time may be euthanized;

(5) if the chamber is commercially designed to euthanize more than one animal at a time, there shall be independent sections or cages to separate individual animals; if separation partitions are not used under specific circumstances, the specific circumstances shall be noted on the animal's disposition card; only animals of the same species shall be placed in the chamber simultaneously, with no more than the maximum number recommended by the manufacturer placed in the chamber;

(6) no live animal shall be placed in the chamber with a dead animal;

(7) prior to storage and disposal of remains, the euthanasia technician shall verify death by a combination of ascertaining the absence of ocular reflexes as well as the cessation of heartbeat or by observing the onset of rigor mortis or other methods established by the board approved euthanasia technician training courses prior to remains storage and disposal;

(8) euthanasia of this type shall be performed in a commercially manufactured carbon monoxide chamber and the manufacturer's operating and servicing instructions shall be strictly followed;

(9) the chamber shall be located outdoors or in a properly ventilated room, though if it is located indoors it shall not be located in the same room as kennels housing other animals;

(10) to avoid

risk of death or injury to personnel operating the chamber, as well as personnel working in the vicinity of the chamber, the chamber shall be airtight and equipped with the following in working order:

(a) an exhaust fan that is capable of evacuating all gas from the chamber prior to the chamber being opened, is connected by a gas-type duct to the outdoors, and the chamber shall be thoroughly vented prior to removing any remains to avoid risk of death to the euthanasia technician or other personnel in the vicinity of the chamber;

(b) a gas flow regulator and flow meter for the canister;

(c) a gas concentration gauge to indicate that gas concentrations are at proper levels and that the gas concentration process shall achieve at least a six percent carbon monoxide gas concentration, but not to exceed ten percent, within 5 minutes after the introduction of carbon monoxide into the chamber is initiated;

(d) an accurate temperature gauge for monitoring the interior of the chamber;

(e) a carbon monoxide monitor, which if located on the exterior of the chamber shall be connected to an audible alarm system that will sound in the room containing the chamber;

(f) explosion-proof electrical equipment, if equipment is exposed to carbon monoxide; and

(g) a view-port with either internal lighting or external lighting sufficient to allow visual surveillance of all animals within the chamber;

(11) all chamber equipment shall be in proper working order and used according to manufacturer's specifications during the operation of the chamber;

(12) the chamber shall be thoroughly cleaned after the completion of each cycle; chamber surfaces shall be

constructed and maintained so they are impervious to moisture and can be readily sanitized; and,

(13) the euthanasia agency shall prominently display the operation, maintenance, and safety instructions in the area containing the chamber.

[16.24.3.13 NMAC - N, 7/1/18]

**16.24.3.14 EUTHANASIA BY CARBON DIOXIDE GAS:**

A. Euthanasia by carbon dioxide gas is illegal for use on dogs and cats.

B. Carbon dioxide may be used for the euthanasia of animals, excluding dogs and cats, that may present a zoonotic hazard.

C. Operations and equipment shall be in compliance with any applicable state and federal regulations and may be inspected annually or as required by the board. Inspections must be performed by board trained inspectors.

D. Acceptable gas is limited to commercially compressed carbon dioxide gas.

E. If the chamber is manufactured to euthanize only one animal at a time, no more than one animal at a time may be euthanized in that chamber.

F. If the chamber is designed to euthanize more than one animal at a time there shall be independent sections or cages to separate individual animals. If separation partitions are not used under specific circumstances approved by the board, the specific circumstances shall be noted on the animal's disposition card. Only animals of the same species shall be placed in the chamber simultaneously with no more than the maximum recommended by the manufacturer.

G. Carbon dioxide should enter the chamber at a rate that displaces twenty percent of the oxygen each minute.

H. The optimal carbon dioxide flow for the chamber must be calculated.

I. No live animal shall be placed in the chamber with a dead animal.

J. Euthanasia of this type shall be performed in a commercially manufactured carbon dioxide chamber or one manufactured to commercial standards and the manufacturer's operating and services instructions shall be strictly followed.

K. The chamber shall be located outdoors or in a well-ventilated room to minimize exposure to the carbon dioxide.

L. The chamber must not be airtight. Air must be able to escape to leave room for the carbon dioxide. A vent hole near the top of the chamber or a loosely-fitted lid will let out the air but not the carbon dioxide. The vent hole will also prevent pressure buildup.

M. The carbon dioxide chamber shall have a view-port to allow visual surveillance of the animals within the chamber.

N. All chamber equipment shall be in proper working order and used according to the manufacturer's specifications during the operation of the chamber.

O. The chamber shall be thoroughly cleaned and aired out between uses. Chamber surfaces shall be constructed and maintained so they are impervious to moisture and can be readily sanitized.

P. The euthanasia agency shall prominently display the operation, maintenance, and safety instructions for the carbon dioxide chamber in the area containing the chamber.

Q. Euthanasia technicians shall verify death by a combination of ascertaining the absence of ocular reflexes as well as the cessation of heartbeat or by observing the onset of rigor mortis or other methods established by the board approved euthanasia technician training courses, prior to remains storage and disposal.

[16.24.3.14 NMAC - N, 7/1/18]

**16.24.3.15 EMERGENCY FIELD EUTHANASIA:**

A. From time to time, there will be cases when emergency field euthanasia will be required. Cases shall be limited to:

(1) situations in which the animal is in severe, acute distress or is irremediably suffering in which delay or movement of the animal will cause severe pain and suffering;

(2) situations in which movement of the animal poses immediate and significant risk to the animal, human, or public health or safety.

B. If possible or practical, euthanasia by injection is the preferred method of field euthanasia. If practical, pre-euthanasia drugs shall be given to the animal prior to the euthanasia drugs.

C. If gunshot is used, it shall be performed by a euthanasia technician only if the euthanasia technician is properly certified in the use of firearms permitted by the employing agency of the euthanasia technician, or by a commissioned law enforcement officer. The gunshot shall be placed according to species as taught in board approved euthanasia technician training courses, whenever possible.

D. All instances of emergency field euthanasia shall be documented and shall include the following:

(1) a description of the incident that resulted in the need to conduct emergency field euthanasia;

(2) the date of the incident;

(3) the time of the incident;

(4) a description of the animal including species, gender, estimated age;

(5) the name and contact information of the euthanasia technician or law enforcement officer;

(6) the technique used; and,

(7) the reason why the animal could not be transported to a shelter or euthanasia agency.

E. Emergency field euthanasia incidents shall be reported to the board within 30 days. All documentation and records relating

to the incident shall be kept on file by the euthanasia agency for four years and be available for review by the board.

**F.** The euthanasia technician or commissioned law enforcement officer shall verify death by pupil dilation and cessation of respiration or other methods established by the board approved euthanasia technician training courses prior to remains storage and disposal. [16.24.3.15 NMAC - N, 7/1/18]

#### **HISTORY OF 16.24.3 NMAC:**

##### **History of Repealed Material:**

16.24.3 NMAC, Duties of Licensees and Certificate Holders, filed 5/14/2009 - Duration expired 7/21/2012.

16.24.3 NMAC, Duties of Licensees and Certificate Holders, filed 2/5/2014, repealed effective 6/30/2018.

### **VETERINARY MEDICINE, BOARD OF**

#### **TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 24 SHELTERING PROVIDERS PART 4 FEES**

##### **16.24.4.1 ISSUING**

**AGENCY:** New Mexico Board of Veterinary Medicine.

[16.24.4.1 NMAC - N, 7/1/18]

**16.24.4.2 SCOPE:** This part applies to applicants, licensees, certificate holders and persons or agencies within the jurisdiction of the board.

[16.24.4.2 NMAC - N, 7/1/18]

##### **16.24.4.3 STATUTORY**

**AUTHORITY:** These rules are promulgated pursuant to the Veterinary Practice Act.

[16.24.4.3 NMAC - N, 7/1/18]

##### **16.24.4.4 DURATION:**

Permanent.

[16.24.4.4 NMAC - N, 7/1/18]

**16.24.4.5 EFFECTIVE DATE:** July 1, 2018 unless a later date is cited at the end of a section. [16.24.4.5 NMAC - N, 7/1/18]

**16.24.4.6 OBJECTIVE:** To establish fees for application, licensure, certification, renewal and board provided services. [16.24.4.6 NMAC - N, 7/1/18]

**16.24.4.7 DEFINITIONS:**  
[RESERVED]

**16.24.4.8 FEES:** All fees are payable to the board and are non-refundable. No individual fee shall exceed \$150.00 annually. Fees are as follows.

**A.** Application for euthanasia technician license  
\$ 100.00

**B.** Renewal for euthanasia technician license  
\$ 100.00

**C.** Application for 60-day temporary license  
\$ 75.00

**D.** Application for euthanasia instructor certification  
\$ 150.00

**E.** Renewal for euthanasia instructor certification  
\$ 150.00

**F.** Application for euthanasia agency license  
\$ 150.00

**G.** Renewal for euthanasia agency license  
\$ 150.00

**H.** Late renewal fee (includes technician, instructor and agency) \$ 100.00

**I.** Verification of licensure or certification  
\$ 25.00

**J.** Listing of licensees (paper or electronic)  
\$ 75.00

**K.** Charge for insufficient funds  
\$ 50.00

**L.** Duplicate licenses  
\$ 25.00

[16.24.4.8 NMAC - N, 7/1/18]

#### **HISTORY OF 16.24.4 NMAC:**

#### **History of Repealed Material:**

16.24.4 NMAC, Complaints, Enforcement and Disciplinary Action, filed 5/14/2009 - Duration expired 7/21/2012.

16.24.4 NMAC, Fees, filed 2/5/2014, repealed effective 6/30/2018.

### **VETERINARY MEDICINE, BOARD OF**

**This is an amendment to 16.25.2 NMAC, Section 11, effective July 1, 2018.**

**16.25.2.11 LICENSURE BY ENDORSEMENT:** A veterinarian who has been licensed in another state and has performed at least five years of clinical veterinary practice with at least 6,000 hours immediately preceding application for a New Mexico license, may qualify for licensure by endorsement. A qualified endorsement applicant:

**A.** Does not need to provide his score from the national licensing examination.

**B.** May take the jurisprudence examination for the standard endorsement fee at a special time, arranged through the executive director, rather than at one of the board set regularly scheduled examination times.

**C.** Applicant must report criminal convictions and disciplinary actions taken in all jurisdictions.

[16.25.2.11 NMAC - Rp, 16.25.2.11 NMAC, 01-17-2014; A, 07/01/18]

### **VETERINARY MEDICINE, BOARD OF**

**This is an amendment to 16.25.8 NMAC, Sections 9 and 10, effective July 1, 2018.**

#### **16.25.8.9 INSTRUCTION, EXAMINATIONS, AND LICENSING:**

[— **A.** — To obtain a bovine AI and bovine PD permit, an applicant must:

(1) —

Complete bovine AI and bovine PD instruction given by the bovine AI and PD examiner or through another institution approved by the board.

(a)

To request board approval for a particular bovine AI and PD course of instruction, an applicant must provide to the board a course outline or description, including number of instructional contact hours.

(b) At

its next meeting, the board will make its determination whether approval will be granted.

(2) Applicant

must pass bovine AI and PD written and proficiency examinations prepared and administered by the board or its appointed agent(s). The purpose of the examination(s) is to determine the knowledge and proficiency of each applicant.

(3) Applicant

must be recommended by the board appointed examiner as qualified for the bovine AI and PD permit(s).

**B.** Upon the

examiner's recommendation, the board may issue a bovine AI and bovine PD permit.

**C.** Each bovine

AI and PD permit applicant has one year in which to apply to the board for a permit after passing the examination(s). If the applicant does not apply for a permit within one year, applicant must retake the examination(s).

**D.** Fees for instruction

are paid directly to the instructor or institution that provides the instruction.

(1)

Examination fees are paid directly to the board appointed examiner; and

(2) Fees for

initial bovine AI and PD permits and annual renewals are paid to the board of veterinary medicine. A current list of fees relating to bovine artificial insemination and bovine pregnancy diagnosis permits is also posted at the board's web site: [www.nmbvm.org](http://www.nmbvm.org).

(a)

Initial permit: each permit, bovine AI or bovine PD - \$75.

(b)

Annual permit renewal: each permit, bovine AI or bovine PD - \$75.

(c)

Late-renewal penalty fees:

(i)

postal postmarked after December 31 but no later than January 31 - \$50; or

(ii)

postal postmarked after January 31 - \$75.]

**A.** To obtain a

bovine AI and bovine PD permit, an applicant must:

(1)

Complete bovine AI and bovine PD instruction given by the bovine AI and PD examiner or through another institution approved by the board.

To request board approval for a particular bovine AI and PD course of instruction, an applicant must provide to the board a course outline or description, including number of instructional contact hours and sponsoring group or organization.

At its next meeting, the board will make its determination whether the instruction or course is adequate and if approval will be granted.

(2) Pass

bovine AI and PD written and proficiency examinations prepared and administered by the board or its appointed agent(s). The purpose of the examination(s) is to determine the knowledge and proficiency of each applicant.

(3) Be

recommended by the board appointed examiner as qualified for the bovine AI and PD permit(s).

**B.** Upon the

examiner's recommendation, the board may issue a bovine AI and bovine PD permit.

**C.** Each bovine AI

and PD permit applicant has one year in which to apply to the board for a permit after passing the proficiency examination(s). If the applicant does not apply for a permit within one year, applicant must retake the appropriate examination(s).

**D.** Fees:

(1) Fees for

instruction are paid directly to the instructor or institution that provides the instruction.

(2) Fees for

the proficiency examinations are paid directly to the board appointed examiner.

(3) Fees for

initial bovine AI and PD permits and annual renewals are paid to the board. A current list of fees relating to bovine artificial insemination and bovine pregnancy diagnosis permits is also posted at the board's web site: [www.nmbvm.org](http://www.nmbvm.org).

(a)

Initial permit: each permit, bovine AI or bovine PD - \$75.

(b)

Annual permit renewal: each permit, bovine AI or bovine PD - \$75.

(c)

Late-renewal penalty fees:

(i)

postal postmarked after December 31 but no later than January 31 - \$50; or

(ii)

postal postmarked after January 31 - \$75.

[16.25.8.9 NMAC - A, 16.25.8.9 NMAC; A, 07-01-2018]

**16.25.8.10 PERMIT RENEWAL:**

**A.** [Bovine AI and bovine PD technicians must pass the proficiency or equivalent portion of the bovine AI and PD examination every three years as determined by the board.]

To renew a Bovine AI and PD permit, a technician must submit letters of recommendation from two clients who have used the applicant's services within the last 12 months.

The letters of recommendation shall attest to applicant's proficiency and endorse applicant's application for renewal. If two client endorsements are not available, taking and passing the board administered proficiency examination will be sufficient.

**B.** Bovine AI and PD technicians are not required to accrue continuing education hours.

**C.** Before the December 31 renewal date, the board office provides bovine AI and PD technicians a renewal form to be completed and returned with the renewal fee.

**D.** If a bovine AI and



PD technician permit lapses and is not renewed within one year, the applicant must re-take and pass the examination(s) before the technician can obtain a new permit.

[16.25.8.10 NMAC - A, 16.25.8.10 NMAC; A, 07-01-2018]

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**END OF ADOPTED  
RULES**

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**Other Material Related to Rulemaking**

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**COMMISSION OF PUBLIC  
RECORDS**

**NOTICE TO EXTEND PUBLIC  
COMMENT**

The New Mexico Commission of Public Records (CPR) and the State Records Administrator are extending their comment period for a rule hearing that was held on Tuesday, May 22, 2018, at 10:00 a.m. at the New Mexico State Records Center and Archives, which is an accessible facility, at 1209 Camino Carlos Rey, Santa Fe, NM. Public comment will be taken on the following:

Amendments to:

1.21.2 NMAC Retention and Disposition of Public Records

1.13.30 NMAC Disposition of Public Records and Non-Records, Section 7

1.13.10 NMAC Records Storage and Access, Section 7

Interested persons may submit comments on the proposed rules at the rule hearing or may submit written comments via email at [rmd.cpr@state.nm.us](mailto:rmd.cpr@state.nm.us). Written comments must be received no later than 5 p.m. on Friday, June 29, 2018. If submitting written comments by email, please indicate in the subject line the number of each rule(s) for which you are providing comments.

# 2018 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXIV, Issues 1-24

Issue	Submittal Deadline	Publication Date
<b>Issue 1</b>	<b>January 4</b>	<b>January 16</b>
<b>Issue 2</b>	<b>January 18</b>	<b>January 30</b>
<b>Issue 3</b>	<b>February 1</b>	<b>February 13</b>
<b>Issue 4</b>	<b>February 15</b>	<b>February 27</b>
<b>Issue 5</b>	<b>March 1</b>	<b>March 13</b>
<b>Issue 6</b>	<b>March 15</b>	<b>March 27</b>
<b>Issue 7</b>	<b>March 29</b>	<b>April 10</b>
<b>Issue 8</b>	<b>April 12</b>	<b>April 24</b>
<b>Issue 9</b>	<b>April 26</b>	<b>May 15</b>
<b>Issue 10</b>	<b>May 17</b>	<b>May 29</b>
<b>Issue 11</b>	<b>May 31</b>	<b>June 12</b>
<b>Issue 12</b>	<b>June 14</b>	<b>June 26</b>
<b>Issue 13</b>	<b>June 28</b>	<b>July 10</b>
<b>Issue 14</b>	<b>July 12</b>	<b>July 24</b>
<b>Issue 15</b>	<b>July 26</b>	<b>August 14</b>
<b>Issue 16</b>	<b>August 16</b>	<b>August 28</b>
<b>Issue 17</b>	<b>August 30</b>	<b>September 11</b>
<b>Issue 18</b>	<b>September 13</b>	<b>September 25</b>
<b>Issue 19</b>	<b>September 27</b>	<b>October 16</b>
<b>Issue 20</b>	<b>October 18</b>	<b>October 30</b>
<b>Issue 21</b>	<b>November 1</b>	<b>November 13</b>
<b>Issue 22</b>	<b>November 15</b>	<b>November 27</b>
<b>Issue 23</b>	<b>November 29</b>	<b>December 11</b>
<b>Issue 24</b>	<b>December 13</b>	<b>December 27</b>

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