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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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New Mexico Register

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A = Amended, E = Emergency, N = New, R = Repealed, Rn = Renumbered

There Are No Adopted Rules In This Issue

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Notices of Rulemaking and Proposed Rules

ECONOMIC DEVELOPMENT DEPARTMENT FILM OFFICE

Notice of Proposed Rulemaking

The Economic Development Department (“EDD or Department”) hereby gives notice that the Department will conduct a public hearing as indicated to obtain input on amending the following rules:

5.5.51 NMAC (Development Employment Funding for Film and Multimedia Production Companies).

5.5.52 NMAC (Development Pre-Employment Training for Film and Multimedia Production Companies).

The proposed rulemaking actions specific to the Job Training Incentive Program for Film and Multimedia Programs may be obtained from Rochelle Bussey at the contact below on April 15, 2016.

A public hearing regarding the rules will be held on Wednesday, May 18, 2016 at the New Mexico Film Office, 1100 S. St. Francis Drive, Santa Fe, NM 87505. The time for the hearing on the proposed rules is 9:00 AM MDT.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program for Film and Multimedia Programs to Rochelle Bussey, Sr. Manager of Operations and Workforce Development Programs, New Mexico Economic Development Department/Film Division, P.O. Box 20003 Santa Fe, New Mexico 87504-5003, or rochelle@nmfilm.com (505) 476-5604. Written comments must be received no later than 5:00 pm on Wednesday, May 11, 2016.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Rochelle Bussey as soon as possible. The Department requests at least ten days advanced notice to provide requested special accommodations.

ECONOMIC DEVELOPMENT DEPARTMENT JOB TRAINING INCENTIVE PROGRAM

Notice of Proposed Rulemaking

The Economic Development Department (“EDD or Department”) hereby gives notice that the Department will conduct a public hearing as indicated to obtain input on amending the following rule:

5.5.50 NMAC, Industrial Development Training Program.

The proposed rulemaking actions specific to the Job Training Incentive Program may be obtained from the EDD website <https://gonm.biz/business-resource-center/edd-programs-for-business/job-training-incentive-program/> or Sara Haring at the contact below on April 15, 2016.

A public hearing regarding the rule will be held on Wednesday, May 18, 2016 at the CNM Workforce Training Center, 5600 Eagle Rock Ave., NE, Albuquerque, NM. The time for the hearing on the proposed rule is 9:00 AM MDT.

Interested individuals may testify at the public hearing or submit written comments regarding the proposed rulemaking relating to the Job Training Incentive Program to sara.haring@state.nm.us or Sara Haring, JTIP Program Manager, New Mexico Economic Development Department, P.O. Box 20003 Santa Fe, New Mexico 87504-5003. Written comments must be received no later than 5:00 pm on Friday, May 13, 2016.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this hearing are asked to contact Sara Haring as soon as possible. The Department requests at least ten days advanced notice to provide requested special accommodations.

HUMAN SERVICES DEPARTMENT INCOME SUPPORT DIVISION

Notice of Public Hearing

The New Mexico Human Services Department (HSD) will hold a public hearing to allow public comment on the proposed amendment of New Mexico Administrative Code (NMAC) for alignment with the Code of Federal Regulations (CFR). The hearing will be held on Wednesday, May 18, 2016, at 2:30 p.m. to 4:30 p.m. at the Department of Health (DOH) Harold Runnels Building Auditorium, 1190 St. Francis Drive, Santa Fe, NM.

The Department is promulgating rules to the following sections of New Mexico Administrative Code (NMAC) for alignment with the Code of Federal Regulations (CFR) to include:

- The responsibilities of the Department and applicants regarding the application/recertification process, which includes general application procedures and processes for potentially eligible households and anyone who requests information of these processes;
- The responsibilities of the Department and applicants/recipients relative to procedures when determining the initial benefits, interim reporting and recertification for continued eligibility for SNAP benefits;
- The Department is updating the consequences of non-compliance for failure to comply with work requirements.

The Human Services Register Vol. 39 No. 9 outlining the proposed regulations is available on the HSD’s website at: <http://www.hsd.state.nm.us/LookingForInformation/income-support-division-registers.aspx>. Individuals wishing to testify or to request a copy of the proposed regulation should contact the Income Support Division, P.O. Box 2348, Pollon Plaza, Santa Fe, New Mexico 87504-2348, or by calling 505-827-7250.

If you are a person with a disability and you require this information in an alternative format, or you require a

special accommodation to participate in any HSD public hearing, program, or service, please contact the American Disabilities Act Coordinator, at 505-827-7701 or through the New Mexico Relay system, at 711 or toll free at 1-800-659-1779. The Department requests at least a 10-day advance notice to provide requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments. Written or recorded comments must be received by 4:30 p.m. on the date of the hearing, Wednesday, May 18, 2016. Please send comments to:

Human Services Department
P.O. Box 2348, Pollon Plaza
Santa Fe, New Mexico 87504-2348

You may send comments electronically to: HSD-isdrules@state.nm.us/.

HUMAN SERVICES DEPARTMENT

MEDICAL ASSISTANCE DIVISION

Notice of Public Hearing to Receive Testimony on the Proposed Rules 8.231.400, 500 & 600 NMAC

The Human Services Department (the Department), Medical Assistance Division (MAD), is proposing to amend the following rules that are part of the New Mexico Administrative Code (NMAC): 8.231.400 NMAC, *Medicaid Eligibility - Infants of Mothers Who Are Medicaid Eligible (Category 031) - Recipient Policies*, 8.231.500 NMAC, *Medicaid Eligibility - Infants of Mothers Who Are Medicaid Eligible (Category 031) - Income and Resource Standards*, and 8.231.600 NMAC, *Medicaid Eligibility - Infants of Mothers Who Are Medicaid Eligible (Category 031) - Benefit Description*. The Department's intent is to bring these rules into alignment with Centers for Medicare & Medicaid Services (CMS) regulations as approved by CMS, incorporate standardized rule language, and provide additional clarification for providers and recipients. The register for these proposed amendments to these rules will be available April 15, 2016 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.

A public hearing to receive testimony on these proposed rules will be held in Hearing Room 1, Toney Anaya Building, 2550 Cerrillos Road Santa Fe on May 16, 2016 at 10 a.m., Mountain Daylight Time (MDT).

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's TDD system may be accessed toll-free at 1-800-659-8331 or in Santa Fe by calling 505-827-3184. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

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. 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, May 16, 2016.

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.

REGULATION AND LICENSING DEPARTMENT

REAL ESTATE COMMISSION

Notice of Public Hearing

The New Mexico Real Estate Commission will hold a public rule hearing on Monday, May 16, 2016 at 9:00 a.m. at the Commission office at 5500 San Antonio Drive NE, in Albuquerque, New Mexico.

The Commission is seeking real estate broker and public input on proposed changes to the rules listed below. The Commission will take final action on proposed rules considered at the May 16

rule hearing, as well as proposed rules considered at the February 19, 2016 rule hearing, at a regular meeting immediately following the rule hearing on Monday, May 16, 2016.

Copies of the proposed rule changes summarized below, as well as the proposed rules considered at the February 19, 2016 rule hearing, are available from the Commission office at 5500 San Antonio Drive NE, Suite B, Albuquerque, New Mexico or from the Commission web site at www.rld.state.nm.us. Copies of the agenda for the rule hearing may be obtained from the Commission office no later than seventy two (72) hours before the hearing.

Real estate brokers and members of the public may comment on the proposed rule changes during the hearing and may submit written comments to the Commission up to the day of the hearing. Written comments submitted prior to the hearing should be mailed to Wayne W. Ciddio, Executive Secretary, New Mexico Real Estate Commission, 5500 San Antonio Drive NE, Suite B, Albuquerque, New Mexico 87109 or emailed to Mr. Ciddio at wayne.ciddio@state.nm.us.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the rule hearing, please contact Wayne W. Ciddio, Executive Secretary, New Mexico Real Estate Commission at (505) 222-9829 or by email at wayne.ciddio@state.nm.us at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and proposed rule changes, can be provided in various accessible formats. Please contact Mr. Ciddio if a summary or other type of accessible format is needed.

Following is a summary of the proposed rule changes that the Commission will consider at the May 16, 2016 rule hearing.

TITLE 16	OCCUPATIONAL
AND PROFESSIONAL LICENSING	CHAPTER 61
BROKERS	REAL ESTATE
PART 1	GENERAL
PROVISIONS	

16.61.1.7 DEFINITIONS:
The Commission is proposing to amend the definitions of:
“**Agent**” to make the definition consistent with the definition in the Uniform Owner

Resident Relations Act which says that a property manager is the exclusive agent of the property owner.

“Broker duties” from “the duties that brokers owe to their clients and customers in the course of a real estate transaction” to “certain duties owed by brokers to customers, clients, tenants, and other brokers”.

“Commercial real estate” to mirror the definition of commercial real estate in the foreign broker law as it applies to foreign brokers, i.e., brokers licensed in jurisdictions other than New Mexico, conducting real estate transactions in New Mexico without a New Mexico broker’s license.

“Core course” to define the four –hour course that will be required annually of all brokers and replace the current eight-hour Mandatory Course that is required every three years.

“Core elective course” to define the four- hour specialized course in residential sales, commercial sales, property management, or vacant land/ranch sales that will be required of all brokers once every three years in addition to the annual core course.

“Exclusive agency” to add to the definition of “exclusive agency” sub agency and the brokerage relationship between a property manager and a property owner.

“Foreign broker” to reinstate a definition of foreign broker that was removed from the Commission rules when the foreign broker provisions of the Real Estate License Law were briefly repealed.

“Honesty and reasonable care and ethical and professional conduct” to add ethical and professional conduct to the existing broker duty of “honesty and reasonable care” and to define the expanded broker duty as “conduct that a reasonable person would understand to meet standards of professionalism and ethical conduct within a profession, including but not limited to good faith, competence, trustworthiness, diligence, and lawful behavior”.

“Property manager” to clarify for purposes of consistency with the Uniform Owner Resident Relations Act that a property manager is the exclusive agent of a property owner in a property management transaction.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 61 REAL ESTATE BROKERS PART 13 CONTINUING EDUCATION REQUIREMENTS

The Commission is proposing to amend Part 13 to:

Increase from 30 to 36 the number of continuing education hours brokers will be required to complete every three years as a condition of license renewal.

Replace the eight-hour Mandatory Course required every three years with a four-hour Core Course required annually; require a four-hour elective course in a specialty area (residential sales, commercial sales, property management, vacant land/ranch sales) every three years; and require a four-hour commission-approved ethics course every three years. Rename the “commission approved thirty-hour post-licensing course” the “New Broker Business Practices course”.

Clarify that brokers may receive up to a maximum of four hours of continuing education credit during each three-year licensing cycle for attending Commission meetings, rule hearings, and disciplinary hearings. Add attendance at meetings of the Education Advisory Committee to the list of Commission-related meetings for which a broker can receive continuing education credit.

Establish a mechanism for implementing the transition from the Mandatory Course to the Core Course so that brokers who have already completed the Mandatory Course in their current three-year renewal cycle would not have to take the Core Course until their next renewal cycle. Establish July 1, 2016 as the effective date of the new Core Course, Core Elective Course, and Ethics Course requirements.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 61 REAL ESTATE BROKERS PART 17 ASSOCIATE BROKER: AFFILIATION AND RESPONSIBILITIES

The Commission is proposing to amend Part 17 to:

Allow associate brokers who have been on inactive status since their initial licensure one year from the time they activate their licenses to complete the New Broker Business Practices Course. Current rules require associate brokers to complete the course within one year from initial licensure whether they have been on active or inactive status.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 61 REAL ESTATE BROKERS PART 23 TRUST ACCOUNTS

The Commission is proposing to amend Part 23 to:

Require that qualifying brokers have access to all trust accounts and all financial records related to the brokerage’s trust accounts.

Require that trust account reconciliation be performed monthly and be verified by the qualifying broker with responsibility for the trust account.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING CHAPTER 61 REAL ESTATE BROKERS PART 24 PROPERTY MANAGEMENT

The Commission is proposing to amend Part 24 to:

Require property managers to deliver fully-executed property management agreements and all other documents related to the property management transaction to property owners, except if prohibited by contract or law from providing certain documents.

Require that property management agreements specify in writing that the brokerage relationship between the property manager and the property owner is an exclusive agency relationship. Require that property agreements disclose the status of any foreclosure or other financial situation that could affect the tenants’ residency.

Require that the property management agreement disclose to the property owner if the property manager is prohibited by law or contract from providing to the property owner certain information, including a tenant’s criminal background check or credit report, and that the property management agreement includes the owner’s written consent that such documents will not be provided.

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.

**There Are No Adopted Rules
In This Issue**

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Issue 8	April 18	April 30
Issue 9	May 2	May 13
Issue 10	May 16	May 31
Issue 11	June 1	June 15
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Issue 18	September 16	September 30
Issue 19	October 3	October 14
Issue 20	October 17	October 31
Issue 21	November 1	November 15
Issue 22	November 16	November 30
Issue 24	December 16	December 30

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