

NEW MEXICO   
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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

Volume XXVII, Issue 9

May 13, 2016

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## Notices of Rulemaking and Proposed Rules

### CHILDREN, YOUTH AND FAMILIES DEPARTMENT

#### Notice of Public Hearing

Juvenile Justices Services (JJS) Division of the Children, Youth and Families Department (CYFD) will hold a public hearing in Santa Fe on Wednesday, June 1, 2016, from 10:00 a.m. to 12:00 p.m. at the PERA Building, 1120 Paseo de Peralta, room, 565, to take comments regarding the proposed changes to 8.14.5 NMAC, Safety and Emergency Operations.

The policy changes may also be reviewed between 8:00 a.m. and 5:00 p.m. at the JJS Director's office, room 542, in the PERA building in Santa Fe. Copies of the policy changes may be purchased (for the cost of copying); contact Meena M. Moest, CYFD/JJS, at 505-629-5460.

The PERA building is accessible to people with disabilities. Documents can be available in different formats to accommodate a particular disability upon request by calling 505-469-6891. If assistance is required to attend the hearing, please call 505-469-6891 to arrange accommodation. Written comments are provided the same weight as comments received during the public hearings.

### HEALTH, DEPARTMENT OF

#### NOTICE OF PUBLIC HEARING

The New Mexico Department of Health will hold a public hearing on 7.30.9 NMAC "Birthing Workforce Retention Fund". The Hearing will be held on Thursday, June 2, 2016 at 9:00 a.m. in the Harold Runnels Building Auditorium, located at 1190 St. Francis Drive, Santa Fe, New Mexico.

The public hearing will be conducted to receive public comment regarding the proposed repeal and replacement of the Birth Workforce Retention Fund rules in order to comply with amendments made to the Medical Malpractice Act to establish certain conditions for awards.

A copy of the proposed rules can be obtained from:

Amber Montoya  
2040 S. Pacheco St.  
Santa Fe, NM 87505  
(505) 476-8907  
Amber.Montoya@state.nm.us

Please submit any written comments regarding the proposed rules to the attention of Amber Montoya at the above address or e-mail prior to the hearing. If you are an individual with a disability who is in need of special assistance or accommodations to attend or participate in the hearing, please contact Amber Montoya by telephone at (505) 476-8907. The Department requests at least ten (10) days advance notice to provide requested special accommodations.

### PUBLIC RECORDS, COMMISSION OF

#### NOTICE OF REGULAR MEETING AND RULE HEARING

The New Mexico State Commission of Public Records ("Commission") has scheduled a regular meeting and rule hearing for Tuesday, June 21, 2016, at 9:00 A.M. at the New Mexico State Records Center and Archives, which is an accessible facility, at 1205 Camino Carlos Rey, Santa Fe, NM. If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any form of auxiliary aid or service to attend or participate in the meeting, please contact Carmen Noble at (505) 476-7902 by June 7, 2016. Public documents, including the agenda and minutes, can be provided in various accessible formats.

At the hearing the Commission will take oral and written comments related to the rulemaking actions listed below and during the meeting consider approving these rulemaking actions.

**Interested individuals may submit written comments regarding the proposed rulemaking actions via e-mail at [Carmen.Noble@state.nm.us](mailto:Carmen.Noble@state.nm.us). Written comments must be received no later than 5:00 p.m. on June 7, 2016 for inclusion in the Commission packet.** The submission of written comments as soon as possible is encouraged.

Persons offering written comments at the hearing must have seven (7) copies for the

Commission to review.

Copies of the proposed rules are available below and at the office of the State Records Administrator located in the Santa Fe State Records Center and Archives at 1205 Camino Carlos Rey, Santa Fe, NM.

A copy of the agenda for the combined meeting and rule hearing is also available at the office of the State Records Administrator located in the Santa Fe State Records Center and Archives at 1205 Camino Carlos Rey, Santa Fe, NM. The agenda is subject to change up to 72 hours prior to the meeting.

#### Repeal

1.13.70 NMAC Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems

#### Amend

1.21.2 NMAC Retention and Disposition of Public Records  
1.13.4 NMAC Records Management Requirements for Electronic Messaging

### PUBLIC REGULATION COMMISSION

#### NOTICE OF PROPOSED RULEMAKING AND STATEWIDE WRECKER TARIFF

The New Mexico Public Regulation Commission (NMPRC or Commission) gives notice of its proposed adoption of **amendments to the Fuel Surcharge Rule 18.3.15 NMAC and Statewide Wrecker Tariff proceeding regulated by the Commission pursuant to the Motor Carrier Act, NMSA 1978, Sections 65-2A-1 to-41 (amended 2013).**

Copies of the Notice of Proposed Rulemaking and Order initiating Statewide Wrecker Tariff Proceeding containing additional information and filing instructions may be downloaded from the proposed rulemaking section of the commission's website at <http://www.nmprc.state.nm.us> under Case No. 15-00063-TR-R or by calling the commission's records management bureau at (505) 827-6968.

**Fuel Surcharge Rulemaking:** Written initial comments and written response

comments shall be filed by the deadlines below with the commission's records management bureau at P.O. Box 1269, Santa Fe, NM 87504- 1269 or by hand delivery to the NMPRC records management bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 as follows: Written initial comments not later than **July 14, 2016** and written response comments not later than **July 21, 2016**. Comments shall refer to Case No. 15-00063-TR-R.

**Statewide Wrecker Tariff Proceeding:**

Written Pre-filed testimony and written response testimony shall be filed by the deadlines below with the commission's records management bureau at P.O. Box 1269, Santa Fe, NM 87504- 1269 or by hand delivery to the NMPRC records management bureau at 1120 Paseo de Peralta, Room 406, Santa Fe, NM 87501 as follows: Written Pre-filed testimony not later than **July 14, 2016** and written response testimony not later than **July 21, 2016**. Comments shall refer to Case No. 15-00063-TR-R.

A public hearing will be held on **July 28, 2016, beginning at 9:00 a.m.** at the offices of the commission located in the 4th floor hearing room of the old PERA Building, at 1120 Paseo de Peralta, in Santa Fe. The purpose of the hearing is to **receive oral comments**. Because commenters are afforded the opportunity to submit written comments and written responses to the commission, **any individual who wants to provide oral comments shall be limited to five minutes to express those comments, subject to the commission's discretion**. The commission may also determine that a spokesperson be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony **or other** evidence will be taken **at the hearing as this is a rulemaking proceeding**.

The record of this case will close thirty days after the public hearing held on **July 28, 2016**.

Interested persons should contact the commission to confirm the date, time, and place of this public hearing because hearings are occasionally rescheduled. Any person with a disability requiring special assistance in order to participate in the hearing should contact Ms. Kathleen Segura at (505) 827-4501 at least 48 hours prior to the commencement of the hearing.

Statutory Authority: New Mexico Constitution, Article XI, Sec. 2; NMSA 1978, §8-8-4(B)(10); the Motor Carrier Act, NMSA 1978, §§ 65-2A-1 to -41 (amended 2013).

**REGULATION AND  
LICENSING DEPARTMENT  
NURSING, BOARD OF**

**Public Rules Hearing**

The New Mexico Board of Nursing will hold a Rules Hearing on Friday, June 17, 2016. The Rules Hearing will begin at 1:30 p.m. The rules hearing will be held at the New Mexico Board of Nursing Conference Room, 6301 Indian School Rd. NE, Suite 710, Albuquerque NM 87110.

The purpose of the rules hearing is to hear public testimony and comments regarding the proposed amendments to the Board's rules and regulations: 16.12 NMAC: Part 1 General Provision, Part 2 Nurse Licensure, Part 3 Nursing Educational Programs, Part 4 Hemodialysis Technician and Part 5 Medication Aides.

Persons desiring to present their views on the proposed amendments to the rules may download them from [www.bon.state.nm.us](http://www.bon.state.nm.us):

In order for the board members to review the comments prior to the hearing, persons wishing to submit written comments regarding the proposed rules should submit them to the board office in writing **no later than June 1, 2016**. Persons wishing to present written comments at the hearing are asked to provide (10) copies of any comments or proposed changes for distribution to the board and staff. In addition, persons may present their comments orally at the hearing.

Notice: Any person presenting testimony, who is representing a client, employer or group, must be registered as a lobbyist through the Secretary of State's Office (9505) 827-3600 or do so within 10 days of the Public Hearing.

If you have questions, or if you are an individual with a disability who wishes to attend the hearing or meeting, please call the board office at (505) 841-8340 at least two weeks prior to the hearing or as soon as possible.

**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.

**REGULATION AND LICENSING DEPARTMENT**  
**NURSING HOME ADMINISTRATORS BOARD**

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING**  
**CHAPTER 13 NURSING HOME ADMINISTRATORS**  
**PART 6 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS**

**16.13.6.1 ISSUING**  
**AGENCY:** New Mexico Nursing Home Administrators Board.  
 [16.13.6.1 NMAC - N, 05-26-2016]

**16.13.6.2 SCOPE:** Part 6 of Chapter 13 sets forth application procedures to expedite licensure for military service members, spouses and veterans.  
 [16.13.6.2 NMAC - N, 05-26-2016]

**16.13.6.3 STATUTORY AUTHORITY:** Part 6 of Chapter 13 is promulgated pursuant to and in accordance with the Nursing Home Administrators Act, Sections 61-13-1 to - 17 NMSA 1978 (specific authority to promulgate rules is 61-2-6(D)(2) and, Section 61-1-34 NMSA 1978.  
 [16.13.6.3 NMAC - N, 05-26-2016]

**16.13.6.4 DURATION:** Permanent.  
 [16.13.6.4 NMAC - N, 05-26-2016]

**16.13.6.5 EFFECTIVE DATE:** May 26, 2016 unless a later date is cited at the end of a section.  
 [16.13.6.5 NMAC - N, 05-26-2016]

**16.13.6.6 OBJECTIVE:** The objective of Part 6 of Chapter 13 is to expedite licensure for military service members, spouses and veterans pursuant to 61-1-34 NMSA 1978.  
 [16.13.6.6 NMAC - N, 05-26-2016]

**16.13.6.7 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.  
 [16.13.6.7 NMAC - N, 05-26-2016]

**16.13.6.8 APPLICATION REQUIREMENTS:**

**A.** Applications for registration shall be completed on a form provided by the department.

**B.** The information shall include:  
**(1)** a completed application and corresponding fee pursuant to 16.13.3 NMAC, 16.13.5 NMAC and 16.13.2 NMAC;

**(2)** satisfactory evidence that the applicant is currently licensed in another jurisdiction, including a branch of armed forces of the United States, and holds a current license in good standing; the applicant further must provide satisfactory evidence that he has met the minimal licensing requirement in that jurisdiction and that they are substantially equivalent to the licensing requirements for New Mexico licensees in nursing home administration; and

**C.** proof of honorable discharge (DD214), military ID card, or accepted proof of military spouse status.  
 [16.13.6.8 NMAC - N, 05-26-2016]

**16.13.6.9 FEES:**

**A.** The fee for application registration is \$200.

**B.** The fee for a new license is \$200.

**C.** The fee for renewal of registration is \$200.  
 [16.13.6.9 NMAC - N, 05-26-2016]

**16.13.6.10 RENEWAL REQUIREMENTS:**

**A.** A license issued pursuant to this section shall not be renewed until the licensee satisfies the

requirements for the issuance of a license as set forth in 16.13.7 NMAC and for the renewal of a license set forth in 16.13.8 NMAC.

**B.** A license issued pursuant to this section shall be valid for one year or until March 31, whichever comes first.

**C.** 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.

**D.** The renewal application will be available online at the board's website at [www.RLD.state.nm.us/boards](http://www.RLD.state.nm.us/boards) or by calling the board office.

**E.** To renew a license, the licensee must submit a completed license renewal application, verification of continuing education, a current CPR certification and the applicable fee at time of renewal. The licensee shall also submit proof of passing the national association of long term care administrator board (NAB) exam and show proof of taking and passing an administrator-in-training course.

[16.13.6.10 NMAC - N, 05-26-2016]

**HISTORY OF 16.13.6 NMAC:**  
**[RESERVED]**

**REGULATION AND LICENSING DEPARTMENT**  
**NURSING HOME ADMINISTRATORS BOARD**

This is an amendment to 16.13.1 NMAC, Section 1, effective 05-26-2016.

**16.13.1.1 ISSUING**  
**AGENCY:** New Mexico Nursing Home Administrators Board [725 St. Michael's Drive Santa Fe, New Mexico 87504 (505)-827-7170].

[10-31-95; 16.13.1.1 NMAC - Rn, 16 NMAC 13.1.1, 1-25-2001; A, 05-26-2016]

**REGULATION AND  
LICENSING DEPARTMENT  
NURSING HOME  
ADMINISTRATORS BOARD**

This is an amendment to 16.13.3 NMAC, Sections 7, 8 and 9, effective 05-26-16.

**16.13.3.7 DEFINITIONS:**

**A. "Application for licensure form"** means the application form approved by the board for the candidate to apply for licensure by the board."

**B. "Authorization letter"** means the letter from the examination service authorizing the eligible candidate to sit for the national examination.

**C. "Board approved administrator-in-training program"** means an administrator-in-training program approved by the licensing board in the state in which the training occurred.

**[E:] D. "CBT"** refers to computer based test or testing.

**[D:] E. "CBT fee"** refers to the computer based testing fee assessed by the CBT vendor.

**[E:] F. "CBT vendor"** means the contractor who provides scheduling services, testing center facility, and use of computer equipment to candidates eligible to take the national standard licensing exam in computer based format.

**[F:] G. "Computer based test"** means a type of test in computer-based format designed to be administered through the use of a computer as opposed to a written test.

**[G:] H. "Computer based testing fee"** means the fee charged to the candidate by the CBT vendor for scheduling services and for use of the vendor's facility and computer equipment while taking the examination.

**[H:] I. "Eligibility list"** means the candidates listed by the service as eligible to take the examination.

**[I:] J. "Eligibility period"** means the sixty-day (60) period from the date specified on the authorization letter to the eligible candidate.

**[J:] K. "Examination"** means the national licensing examination for licensure as provided by the national association of boards of examiners for long term care administrators (NAB), or its successor.

**[K:] L. "Examination application form"** means NAB's application form for computerized testing, which must be completed on-line through NAB's website.

**[L:] M. "Examination fee"**

means the fee for the examination payable to NAB.

**[M:] N. "NAB"** is the acronym for the national association of boards of examiners for long term care administrators.

**[N:] O. "National examination agency"** means the national association of boards of examiners for long term care administrators or its successor.

**P. "Preceptor"** means a licensed nursing home administrator in good standing who gives practical experience to an administrator in training.

**[O:] Q. "Professional examination service"** means NAB's contractor for facilitating the development and offering of the examination in computer-based format.

**[P:] R. "Service"** refers to the professional examination service.

**[Q:] S. "Testing center"** means the CBT vendor location(s) where the examination is administered. [01-10-2000; 16.13.3.7 NMAC - Rn, 16 NMAC 13.3.7, 1-25-2001; A, 02-15-2004; A, 05-26-2016]

**16.13.3.8 PREREQUISITE REQUIREMENTS:** All applicants for licensure by examination must:

**A.** be of good moral character;

**B.** have completed a degreed baccalaureate program at an accredited institution of higher learning in a course of study approved by the board as adequate preparation for nursing home administration; and

**C.** complete the application process as set forth by board regulation and policy.

**D.** ~~[REPEALED]~~ have completed a board approved administrator in training program or board approved internship program. The requirements include the following:

(1) a minimum of 1000 hours of on-site, supervised training and monthly written evaluations by the preceptor;

(2) the preceptor shall be a licensed nursing home administrator with at least three years of experience as a nursing home administrator in good standing. [2-24-88; 9-18-92; 2-13-94; 10-31-95; 01-10-2000; 16.13.3.8 NMAC - Rn, 16 NMAC 13.3.8, 1-25-2001; A, 02-15-2004; A, 05-26-2016]

**16.13.3.9 DOCUMENTATION AND OTHER REQUIREMENTS:** Each applicant for licensure by examination

must provide the following documents and fees to the board. Applications for licensure are valid for one year from date of receipt, and will be purged from the board's records after that date.

**A.** A completed board-approved application for licensure form, signed in the presence of a notary public.

**B.** A recent (within the last year) passport-type photograph of the applicant that the applicant has signed on the back in the presence of a notary public.

**C.** A copy of the applicant's birth certificate.

**D.** Complete official transcript(s) leading up to and showing that the applicant has been awarded a baccalaureate degree, and sent directly to the board by the institution(s).

**E.** A statement of any other professional licenses held by the applicant either in New Mexico or in other states, and copies of the license(s).

**F.** Completed verification of licensure form(s) sent directly to the board by the applicant's other state(s) of professional licensure.

**G.** Three letters of reference from persons unrelated to the applicant sent directly to the board by the references.

**H.** A completed, approved release form authorizing the board to conduct a criminal records check.

**I.** The application and licensure fee, payable to the board (See Subsection B of 16.13.2.8 NMAC, "Fees").

**J.** ~~[REPEALED]~~ Proof of completion of at least 1000 hours in a board approved administrator in training program or internship program in the form of:

(1) certification of a completion of a board approved administrator in training program from the institution providing the program; or  
(2) a notarized letter verifying proof of completion of 1000 hours in a board approved internship; such internship requires direct supervision of the applicant in a nursing home by a licensed nursing home administrator.

**K** ~~[REPEALED]~~

~~[RESERVED]~~

[2-24-88; 9-18-92; 2-13-94; 1-31-95; 10-31-95; 11-29-97; 01-10-2000; 16.13.3.9 NMAC - Rn, 16 NMAC 13.3.9, 1-25-2001; A, 02-15-2004; A, 05-26-2016]



**REGULATION AND  
LICENSING DEPARTMENT  
NURSING HOME  
ADMINISTRATORS BOARD**

This is an amendment to 16.13.8 NMAC, Sections 12 and 13, effective 05-26-2016.

**16.13.8.12 RENEWAL**

**DEADLINE:**

**A.** The completed license renewal application, verifications of continuing education, and applicable renewal fee must be received by the board [~~postmarked on or before the last day of the renewal month in order for the renewal application to be in compliance with these regulations and for the license to remain valid~~] on or before March 31.

**B.** The licensee does not hold a valid license and shall not hold a nursing home administrator position in New Mexico until the expired license has been reactivated.  
[2-24-88; 3-20-91; 2-13-94; 10-31-95; 16.13.8.12 NMAC - Rn, 16 NMAC 13.8.12, 1-25-2001; A, 05-26-2016]

**16.13.8.13 INCOMPLETE APPLICATIONS:**

**A.** Unsigned, incorrect, or otherwise incomplete renewal applications will be rejected and returned to the licensee for correction or completion.

**B.** Any renewal application corrected or otherwise, returned to the board [~~postmarked after the last day of the renewal month~~] after March 31, must be accompanied by an additional late penalty fee (See Subsection G. of 16.13.2.8 NMAC).  
[10-31-95; 16.13.8.13 NMAC - Rn, 16 NMAC 13.8.13, 1-25-2001; A, 05-26-2016]

**REGULATION AND  
LICENSING DEPARTMENT  
NURSING HOME  
ADMINISTRATORS BOARD**

This is an amendment to 16.13.10 NMAC, Section 9, effective 05-26-2016.

**16.13.10.9 LATE PENALTY:**

License renewal applications [~~postmarked~~] received after the last day of the renewal month must be accompanied by a late penalty fee in addition to the renewal fee as set forth in Subsections G. and J. of 16.13.2.8 NMAC.  
[10-31-95; 16.13.10.9 NMAC - Rn, 16

NMAC 13.10.9, 1-25-2001; A, 04-15-2002; A, 05-26-2016]

**REGULATION AND  
LICENSING DEPARTMENT  
NURSING HOME  
ADMINISTRATORS BOARD**

This is an amendment to 16.13.12 NMAC, Section 8, effective 05-26-2016.

**16.13.12.8 PREREQUISITE REQUIREMENTS FOR**

**REACTIVATION:** The licensee must meet the following requirements before his/her inactive or expired license will be reactivated:

**A.** Request from the board a reactivation application form or download it from the board's internet website;

**B.** Complete, sign, and return the reactivation application form within the time limitations set forth in 16.13.9.12 and 16.13.10.13 NMAC.

**C.** Submit verification of twenty-four (24) hours of continuing education completed [~~within the previous twelve (12) months prior to the reactivation month~~] for each year the license was expired; and

**D.** Remit the required fee(s) as set forth in Subsections I and J of 16.13.2.8 NMAC.  
[10-31-95; 16.13.12.8 NMAC - Rn & A, 16 NMAC 13.12.8, 1-25-2001; A, 04-02-2002; A, 05-26-2016]

**END OF ADOPTED  
RULES**

# 2016 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXVII, Issues 1-24

Volume XXVII	Submittal Deadline	Publication Date
Issue 1	January 4	January 15
Issue 2	January 19	January 29
Issue 3	February 1	February 12
Issue 4	February 15	February 29
Issue 5	March 1	March 15
Issue 6	March 16	March 31
Issue 7	April 1	April 15
Issue 8	April 18	April 30
Issue 9	May 2	May 13
Issue 10	May 16	May 31
Issue 11	June 1	June 15
Issue 12	June 16	June 30
Issue 13	July 1	July 15
Issue 14	July 18	July 29
Issue 15	August 1	August 15
Issue 16	August 16	August 31
Issue 17	September 1	September 15
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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