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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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Notices of Rulemaking and Proposed Rules

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION COMMISSION

Notice of Public Meeting and Public Hearing

The State of New Mexico, through its Oil Conservation Commission hereby gives notice pursuant to law and Commission rules of the following meeting and public hearing to be held at 9:00 A.M. on **October 6, 2016**, in Porter Hall at 1220 South St. Francis Drive, Santa Fe, New Mexico, before the Oil Conservation Commission. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting.

Application of the Oil Conservation Division to Amend Certain Provisions of Title 19, Chapter 15, Part 5, Section 9 of the New Mexico Administrative Code Concerning Compliance. The proposed rule amendments are intended to increase efficiency, make information more readily accessible, and to make other changes including:

(1) amending Subsection B of 19.15.5.9 NMAC to replace the provision that the Oil Conservation Division (“OCD”) mail notice to operators on a monthly basis when according to records on file with the OCD a well on the inactive well list described in Subsection F of 19.15.5.9 NMAC shows no production or injection for the past 12 months with a provision that requires the OCD to post the information on its website. In addition, the OCD would be required to notify an operator by first class mail 60 days prior to commencing an enforcement action against

an operator for a violation of 19.15.5.9 NMAC;
(2) amending Paragraph (1) of Subsection E of 19.15.5.9 NMAC to provide that the OCD shall make available on its website penalty assessments assessed over the prior 12 months and the date the operator paid them; and
(3) amending Paragraph (2) of Subsection E of 19.15.5.9 NMAC to remove the first sentence stating that an operator who contests an order assessing penalties may appeal and may seek a stay of the order.

The proposed rule amendment and the meeting agenda are available from Commission Clerk Florene Davidson at (505) 476-3458 or can be viewed on the Hearings Page at the Oil Conservation Division’s web site at <http://www.emnrd.state.nm.us/ocd>. Persons **recommending modifications** to the proposed rule amendment must file a notice of recommended modifications with the Commission Clerk no later than 5:00 P.M. on **September 22, 2016**. The notice must include the text of the recommended modifications of the proposed rule amendment, an explanation of the recommended modification’s impact, and reasons for adopting the modification. Persons intending to provide **written comments** on the proposed rule change must submit their written comments no later than 5:00 P.M. on **September 29, 2016** to the Commission Clerk. Persons intending to offer technical testimony at the hearing must file six copies of a **Pre-hearing Statement** conforming to the requirements of 19.15.3.11 NMAC, and six copies of all exhibits the person will offer as evidence at the hearing, no later than 5:00 P.M. on **September 29, 2016**. Proposed modifications and written comments may be hand-delivered or mailed to Ms. Davidson at 1220 South

Saint Francis Drive, Santa Fe, New Mexico 87505, or may be faxed to Ms. Davidson at (505) 476-3462. Pre-hearing Statements must be hand-delivered or mailed to Ms. Davidson at the above address.

If you are an individual with disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Ms. Davidson at (505) 476-3458 or the New Mexico Relay Network at 1-800-659-1779. Public documents can be provided in various accessible forms. Please contact Ms. Davidson if a summary or other type of accessible form is needed. A party who plans on using projection equipment at a hearing must contact Florene Davidson seven (7) business days prior to the hearing requesting the use of the projection equipment. Wireless internet is available; however, the party must provide its own laptop computer.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico on this 23rd day of August, 2016.

STATE OF NEW MEXICO
OIL CONSERVATION DIVISION

David Catanach
Director, Oil Conservation Division

S E A L

HIGHER EDUCATION DEPARTMENT

Notice of Public Hearing

The Higher Education Department (“Department”) hereby gives notice that the Department will conduct a public hearing at 2044 Galisteo Street, Suite 4, Santa Fe, New Mexico 87505-2100, on October 18, 2016, from 9:00 a.m. to 11:00 a.m. The purpose of the public hearing will be

to obtain input on the following rules:

- 5.7.17 NMAC Military War Veteran Scholarship (New Rule)
- 5.7.18 NMAC Residency for Tuition Purposes (Rule Amendment)
- 5.7.20 NMAC Legislative Lottery Scholarship Program (Rule Amendment)

Interested individuals may testify either at the public hearing or submit written comments regarding the proposed rulemaking to Mr. David Mathews, Office of General Counsel, Higher Education Department, 2044 Galisteo Street, Suite 4, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402) (telefax (505) 476-8454).

Written comments must be received no later than 5:00 pm on October 11, 2016 (7 days prior to hearing). However, the submission of written comments as soon as possible is encouraged. Any rule may be removed from the agenda prior to the scheduled hearing.

The proposed rulemaking action may be accessed on the Department's website (<http://hed.state.nm.us/>) or obtained from David Mathews, Office of General Counsel, Higher Education Department, 2044 Galisteo Street, Suite 4, Santa Fe, New Mexico 87505-2100 (david.mathews@state.nm.us) (505) 476-8402) (telefax (505) 476-8454). The proposed rule will be made available at least twenty (20) days prior to the hearings.

Individuals with disabilities who require this information in an alternative format or need any form of auxiliary aid to attend or participate in this meeting are asked to contact the Higher Education Department as soon as possible. The Department requests at least five (5) days advance notice to provide requested special accommodations.

MEDICAL BOARD

NOTICE OF PUBLIC RULE HEARING

The New Mexico Medical Board will convene an Interim Board Meeting on Thursday, September 29, 2016 at 4:00 p.m. and conduct a Public Rule Hearing on Thursday, September 29, 2016 at 4:10 p.m., at Regulation and Licensing Department Albuquerque Office located at 5500 San Antonio Drive, NE Albuquerque, NM 87109.

The Board will reconvene after the Hearing to take action on the proposed rule amendments. The Board may enter into Executive Session during the meeting to discuss licensing or limited personnel issues.

The purpose of the Rule Hearing is to consider amending 16.10.14 NMAC (Management of Pain with Controlled Substances). A copy of the proposed amended rule is available upon request from the Board office at 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505, by phone (505)476-7220, or on the Board's website at www.nmmb.state.nm.us.

Persons desiring to present their views on the proposed rule may appear in person at said time and place or may submit written comments no later than 5:00 p.m., September, 23, 2016, to the New Mexico Medical Board, Attn: Sondra Frank, Esq., Executive Director, 2055 South Pacheco Street, Bldg. 400, Santa Fe, NM 87505.

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 in order to attend or participate in the meeting, please contact Amanda Quintana at 505-476-7230 or AmandaL.Quintana@state.nm.us prior to the meeting. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Executive director if a summary or other type of accessible format is needed.

PUBLIC REGULATION COMMISSION

NOTICE OF PROPOSED RULEMAKING - CASE NO. 16-00225-UT

The Public Regulation Commission ("PRC" or "Commission") gives notice of its initiation of a proposed rulemaking promulgating **revisions to Rule 17.11.10 NMAC - State Rural Universal Service Fund.**

Copies of the Order Initiating Rulemaking containing additional information, a copy of the proposed rule, 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. 16-00225-UT or by calling the Commission's Records Management Bureau at (505) 827-6968 (Melanie Sandoval) or (505) 827-6970 (Heather Cordova).

Written Initial Comments and written Response Comments shall be filed by the deadlines below with the NMPRC's Records Management Bureau by mail 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 **September 23, 2016** and written Response Comments not later than **October 7, 2016** Comments shall refer to Case No. 16-00225-UT.

A public comment hearing will be held on **October 19, 2016, beginning at 1:30 p.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 give interested individuals an opportunity to give oral comments. The Commission may limit the time for each comment to five minutes.

Interested persons should contact the Commission to confirm the date, time,

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

Agendas for the weekly meetings of the Commission containing information regarding proposed discussion and/or action by the Commission are available for review on the Commission's website at <http://www.nmprc.state.nm.us>.

Constitutional and Statutory Authority: N.M. Const. art. XI, Section 2, and under NMSA 1978, Paragraph (10) of Subsection B of Section Sections 8-8-4 NMSA 1978 (1998), 8-8-15 (1999, amended 2001), 63-9H-4 (1999, amended 2013) and 63-9H-6 (1999, amended 2013).

**REGULATION AND
LICENSING DEPARTMENT
REAL ESTATE APPRAISERS
BOARD**

**PUBLIC RULE HEARING AND
REGULAR BOARD MEETING**

The New Mexico Real Estate Appraisers Board ("Board") will hold a public rule hearing to consider proposed rule amendments to the Real Estate Appraisers Rules and the Appraisal Management Company Rules. The hearing will be held on Friday, October 21, 2016, at the LCPS Central Office, 505 S. Main Street, Las Cruces, NM, 88001, in Conference Room A. The rule hearing will begin at 9:00 a.m. followed by the regular scheduled Board Meeting in which the Board will adopt the rules and discuss items on the agenda.

The purpose of the rule hearing is to consider adoption of proposed amendments to the following Board Rules and Regulations: 16.62.1 NMAC, General Provisions, 16.62.2

NMAC, Application for Apprentice, 16.62.6 NMAC, Examinations, 16.62.7 NMAC, Issuance/Renewal of Apprentice Registration/Licenses/Certificates, 16.62.8 NMAC, Educational Programs/Continuing Education, 16.62.10 NMAC, Temporary Practice, 16.62.12 NMAC, Fees, 16.62.13 NMAC, Disciplinary Proceedings, 16.62.15 NMAC, Retirement and Reinstatement, 16.62.16 NMAC, Advertising, 16.65.1 NMAC, General Provisions, 16.65.2 NMAC, Registration Requirements, 16.65.3 NMAC, Application for Registration, and 16.65.5 NMAC, Fees.

The proposed rule amendments are available on the Board's website: www.rld.state.nm.us/boards/Real_Estate_Appraisers.aspx. Individuals requesting copies may contact the Board Office at the Toney Anaya Building, 2550 Cerrillos Road, Santa Fe, New Mexico 87505, or by calling (505) 476-4622. A copy of the agenda for the regular board meeting will be available at least seventy-two (72) hours prior to the meeting and will be posted on the Board's website. The agenda may also be obtained by contacting the Board Office.

In order for the Board Members to review the comments in their meeting packets prior to the meeting, persons wishing to make comments regarding the proposed rule amendments must present them to the Board Office in writing no later than October 7, 2016. Persons wishing to present their comments at the hearing will need to provide ten (10) copies of any comments or proposed changes for distribution to the Board and staff.

If you have questions, or are an individual with a disability who needs a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Board Office at (505) 476-4622 at least two (2) weeks prior to the meeting or as soon as possible.

**STATE GAME
COMMISSION**

**STATE GAME COMMISSION
MEETING AND RULE MAKING
NOTICE**

On Wednesday, October 5, 2016, beginning at 9:00 a.m., at the Adele Ilfed Auditorium, located at New Mexico Highlands University, 800 University Avenue, Las Vegas, NM, the State Game Commission will meet in public session to hear and consider action as appropriate on the following: Turner Endangered Species Foundation Presentation on Black-footed Ferret, Bolson Tortoise, and the Mexican Wolf, State Land Office 2017-2018 Hunting, Fishing and Trapping Access Lease, Revocations, Final Biennial Review of State Listed and Endangered Species, Annual Nuisance Wildlife Depredation Report, Final Rule Presentation Regarding Options for Providing Premium Hunt Opportunities, Final Rule Presentation Javelina, Presentation of Draft Recovery Plan for White-Tailed Ptarmigan, Potential Additional Bighorn Sheep Season on San Andreas Mountains, Update on the Revision of the Statewide Wildlife Action Plan, Update on Hunter Education Program, Update on Development of Shooting Ranges in New Mexico, Draft Rule Changes to the Fisheries 19.31.4 NMAC and Manner and Method Rules 19.31.10, NMAC, Draft Rule Presentation of the Commission's Appeal Process, Closed Executive Session, and Potential Property Acquisition in San Juan County.

Copies of proposed rule changes and the agenda can be obtain from the Office of the Director, New Mexico Department of Game and Fish, P.O. Box 25112, Santa Fe, New Mexico 87504, or from the Department's website. This agenda is subject to change up to 72 hours prior to the meeting. Please contact the Director's Office at (505) 476-8000, or the Department's website at www.wildlife.state.nm.us for updated

information.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact the Department at (505) 476-8000 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact the Department at 505-476-8000 if a summary or other type of accessible format is needed.

SUPERINTENDENT OF INSURANCE, OFFICE OF

NOTICE OF PROPOSED RULEMAKING

NOTICE IS HEREBY GIVEN that the Superintendent of Insurance (Superintendent), New Mexico Office of Superintendent of Insurance (OSI), upon the Superintendent’s own motion, and proceeding pursuant to the New Mexico Insurance Code, 1978 NMSA Section 59A-1-1, *et seq.* (Insurance Code), proposes to promulgate and amended a rule pertaining to bail bondsmen and solicitors, to be codified in the New Mexico Administrative Code (NMAC) at Section 13.20.2 (**BAIL BONDSMEN AND SOLICITORS**).

1. The text of the proposed rule is located on the OSI website at <http://www.osi.state.nm.us/>, under the “Rulemaking” tab, and is incorporated by reference into this Notice of Proposed Rulemaking (NOPR). The current Bail Bondsmen and Solicitors rule may also be found through the OSI website or at the Official New Mexico Administrative Code website at: <http://164.64.110.239/nmac/parts/title13/13.020.0002.htm>
2. Statutory authority for promulgation of this rule is found at Sections 59A-2-8, 59A-2-9 and 59A-51-1 *et seq.* NMSA 1978.
3. OSI staff, all

persons seeking license to transact, or all persons transacting bail bond business in the state of New Mexico, members of the judiciary, consumer advocacy groups and any member of the public, are encouraged to provide comments or file any written comments according to the criteria and schedule set forth as follows:

- a. Oral comments will be accepted at the public hearing from any interested persons;
- b. Written comments may be submitted for the record, in lieu of providing oral comments at the hearing and are due no later than **4:00 p.m. on October 13, 2016**. Any responsive comments should be filed **no later than 4:00 p.m. on October 27, 2016**.

4. Written comments and written responsive comments shall be filed on the OSI Docket by sending original copies to:
 Mr. Mariano Romero
 OSI Records Management Bureau
 1120 Paseo de Peralta, Room 331
 P. O. Box 1689
 Santa Fe, NM 87504-1689
ATTN: Docket No. 16-00040-RULE-PC

5. The Superintendent will hold a public comment hearing beginning at **9:00a.m. on Thursday, November 3, 2016**, at the Office of Superintendent of Insurance, in the PRC 4th Floor Hearing Room, OLD PERA Building, 1120 Paseo de Peralta, Santa Fe, New Mexico 87501. Deputy Superintendent Robert Doucette will be the designated hearing examiner for this case.

6. Any person with a disability requiring special assistance in order to participate in a hearing should contact **Lois Caroline Pedro, at 505-476-0305** at least 48 hours prior to the commencement of the hearing.

7. The Superintendent will consider all oral comments and will review all timely submitted written comments and responses.

8. The record in this rulemaking shall close upon the earlier of the following dates: **5:00**

p.m. December 3, 2016, or the date a Final Order is issued in this case, at which time no further oral or written communication concerning this rulemaking will be entertained or considered by the Superintendent or the Hearing Examiner.

9. Copies of this NOPR shall be sent to all persons on the attached Certificate of Service, via electronic mail if possible and otherwise via U.S mail.

DONE AND ORDERED this ___ day of _____, 2016.
JOHN G. FRANCHINI
Superintendent of Insurance

TAXATION AND REVENUE DEPARTMENT

NOTICE OF HEARING AND PROPOSED RULES

The New Mexico Taxation and Revenue Department proposes to amend the following rules:

- Motor Vehicle Code**
 18.19.5.6 NMAC
 Section 66-5-9 NMSA 1978
(Objective)
 18.19.5.9 NMAC
 Section 66-5-9 NMSA 1978
(Prorating of Driver’s License Fees)
 18.19.5.12 NMAC
 Section 66-5-9 NMSA 1978
(Proof of Identification Number, Identity, and Age for United States Citizen, United States National or Permanent Resident Alien)

The New Mexico Taxation and Revenue Department proposes to adopt the following rules:

- Motor Vehicle Code**
 18.19.5.14 NMAC
 Section 66-5-9 NMSA 1978
(Proof of Identification Number, Identity, Age, and Lawful Status for Lawful United States Residents)
 18.19.5.15 NMAC
 Section 66-5-9 NMSA 1978
(Proof of Identification Number, Identity, and Age for

a Driving Authorization Card or Identification Card that is Not Acceptable for Federal Purposes)

18.19.5.16 NMAC

Section 66-5-9 NMSA 1978

(Proof of New Mexico Residency)

18.19.5.17 NMAC

Section 66-5-15.2 NMSA 1978

(Fingerprints and Criminal History Screening)

The proposals were placed on file in the Office of the Secretary on September 15, 2016. Pursuant to Section 9-11-6.2 NMSA 1978 of the Taxation and Revenue Department Act, the final of the proposals, if filed, will be filed as required by law on or about November 15, 2016.

A public hearing will be held on the proposals on Tuesday, October 18, 2016, at 9:30 a.m. in the ACD Classroom on the first floor of the Manual Lujan Building, 1200 St. Francis Drive, Santa Fe, New Mexico. Individuals with disabilities who need any form of auxiliary aid to attend or participate in the public hearing are asked to contact Patricia Herrera at patricia.herrera1@state.nm.us. The Taxation and Revenue Department will make every effort to accommodate all reasonable requests, but cannot guarantee accommodation of a request that is not received at least ten calendar days prior to the scheduled hearing.

Accessible copies of the proposals are available upon request; contact the Tax Policy Office at policy.office@state.nm.us. Comments on the proposals are invited. Comments may be made in person at the hearing or in writing. Written comments on the proposals should be submitted to the Taxation and Revenue Department, Director of Tax Policy, Post Office Box 630, Santa Fe, New Mexico 87504-0630 or by email to policy.office@state.nm.us on or before October 18, 2016.

18.19.5.6 OBJECTIVE: The objective of this part is to interpret,

exemplify, implement and enforce the provisions of the Motor Vehicle Code, including compliance with regulations for the REAL ID Act of 2005, Title 6 C.F.R. Chapter 1, Section 37.

[3/15/96; 18.19.5.6 NMAC - Rn, 18 NMAC 19.5.6, 9/14/00; A, xx/xx/2016]

18.19.5.9 PRORATING OF DRIVER'S LICENSE FEES:

A. The fees imposed for the issuance of a driver's license or commercial driver's license may be prorated if the licensure period is shortened pursuant to Section 66-5-19 NMSA 1978. Fees shall be prorated on an annual basis. In no case shall the fee be less than the prorated fee for one full year.

B. A person whose license or identification card expires on or after July 1, 2020 may apply for a license or identification card acceptable for federal purposes upon submission of all required documents. The person shall receive a new license or identification card that contains the same expiration date as the one previously issued. The person shall receive credit for the period remaining on the license or identification card toward the cost of the new license or identification card.

[18.19.5.9 NMAC - N, 10/31/05; A, xx/xx/2016]

18.19.5.12 [PROOF OF IDENTIFICATION NUMBER, IDENTITY AND RESIDENCY:

A. Applicants for a New Mexico identification card, driving permit, provisional driver's license or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity and residency.

B. A person applying for a driver's license or identification card that was lost can use a New Mexico enhanced driver's license photo from the motor vehicle division (MVD) database as proof of identity and identification number, subject to MVD's ability to verify the applicant's social security number or other identification number used

to obtain the driver's license or identification card, as sufficient proof to issue a replacement driver's license or identification card.

C. Any applicant eligible for a social security number must produce their social security card in order to provide evidence of the identification number. An applicant who cannot provide the social security card must provide two of the following documents:

(1) a United States, state, or local government-issued medical card through which the social security number can be verified;

(2) a statement from a federally regulated financial institution through which the social security number can be verified; or

(3) any document in Subsection F of this section, as long as the document can be used to verify the social security number and is not used for proof of both identification number and identity.

D. In order to prove identification number, a foreign national who is unable to obtain a social security number must produce documentary proof of a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso or a valid passport issued by their country of citizenship. A foreign national may produce an individual tax identification number (ITIN) so long as it is accompanied by a matricula consular card or a valid passport. The applicant's ITIN card or the applicant's letter from the IRS issuing the ITIN is sufficient proof of the ITIN.

E. Applicants must produce one of the following documents as proof of identity:

(1) original birth certificate issued by a state or territory of the United States;

(2) certified copy of birth certificate issued by a state or territory of the United States;

(3) an original or certified copy of a foreign birth certificate with a notarized English

translation;

_____ (4) _____ original official copy of an FS545 or FS1350 form certifying birth abroad and translated into English;

_____ (5) _____ affidavit of Indian birth;

_____ (6) _____ N560 certificate of citizenship;

_____ (7) _____ N550 certificate of naturalization;

_____ (8) _____ a valid permanent resident card issued by the United States government;

_____ (9) _____ a valid I-551 resident alien card issued since 1997;

_____ (10) _____ a court order for name change, gender change, adoption or divorce, as long as it includes the legal name, date of birth and court seal;

_____ (11) _____ a marriage certificate issued by a state or a territory of the United States; or

_____ (12) _____ any document contained in Subsection F of this section, as long as the document is not used for proof of both identification number and identity.

F. Applicants can use the following documents to provide documentary proof of their identification number or documentary proof of their identity but the document cannot be used for proof of both their identification number and identity:

_____ (1) _____ a state issued driver's license, a driver's license issued by a territory of the United States, or by jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ (2) _____ a state government-issued photo identification card, or a photo identification card issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year; however, the MVD photo identification document card issued by MVD pursuant to Subsection J of this section may not be used to satisfy this proof of identification number

requirement;

_____ (3) _____ a state government-issued photo learner's permit, or a photo learner's permit issued by a territory of the United States, or by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ (4) _____ a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

_____ (5) _____ a valid passport issued by country of citizenship;

_____ (6) _____ an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

_____ (7) _____ a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;

_____ (8) _____ an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center ID card;

_____ (9) _____ a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2); or

_____ (10) _____ a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth.

G. Applicants eighteen years of age or older must provide two of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

_____ (1) _____ a real property rental agreement or purchase agreement;

_____ (2) _____ a utility bill, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

_____ (3) _____ an insurance bill;

_____ (4) _____ a bank statement;

_____ (5) _____ an

employment pay stub that contains the applicant's name and address;

_____ (6) _____ a local property tax statement or mortgage documents;

_____ (7) _____ proof of a minor child enrolled in a New Mexico public, private, or tribal school;

_____ (8) _____ a current, valid motor vehicle registration;

_____ (9) _____ original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

_____ (10) _____ original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

_____ (11) _____ a New Mexico medical assistance card; or

_____ (12) _____ a New Mexico public assistance card.

H. Applicants less than eighteen years of age applying for an identification card must provide one of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

_____ (1) _____ proof that the child is enrolled in a New Mexico public, private, or tribal school;

_____ (2) _____ a bank statement;

_____ (3) _____ an affidavit from the applicant's parent or guardian stating that the applicant lives with that person, as long as the affidavit is accompanied by the parent/guardian's New Mexico driver's license, the parent/guardian's New Mexico identification card, or two proofs of New Mexico residency of the parent/guardian;

_____ (4) _____ original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;

_____ (5) _____ original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant is a New Mexico resident;

_____ (6) _____ documents from membership in a New Mexico religious organization; or

_____ (7) _____ documents from membership in a New Mexico sports organization.

_____ **I.** _____ MVD may require foreign nationals or first-time applicants from another state, to provide a certified copy of their driving record with an English-language translation, if applicable, from the jurisdiction where the applicant is currently or was previously licensed.

_____ **J.** _____ Applicants who are unable to meet the requirements for a New Mexico identification card, driving permit, provisional driver's license, or driver's license, may apply for an MVD photo identification document card. The MVD photo identification document card issued by MVD does not necessarily meet federal identification requirements. This card will be clearly identified on the card as a restricted card that cannot be used for certain purposes. The identification document cannot be used to apply for a New Mexico identification card, driving permit, provisional driver's license or driver's license. An applicant for the MVD photo identification document card must provide two documentary proofs of their identity and one documentary proof of residency.

_____ **(1)** _____ Applicants must produce two forms of documentation with their name and date of birth or with their name and social security number. Two documents with name and date of birth or two documents with name and social security number are acceptable. Any two of the following documents containing the name and date of birth or name and social security number are acceptable to prove identity:

_____ **(a)** _____ a state issued driver's license, a driver's license issued by a territory of the United States, or a license issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ **(b)** _____ a state issued identification card,

an identification card issued by a territory of the United States, or an identification card issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ **(c)** _____ a state issued photo learner's permit, a photo learner's permit issued by a territory of the United States, or a photo learner's permit issued by a jurisdiction of Canada, as long as it has a photograph and has not been expired more than one year;

_____ **(d)** _____ an original or certified copy of the birth certificate issued by a United States state or territory of the United States;

_____ **(e)** _____ an affidavit of Indian birth;

_____ **(f)** _____ a current passport issued by the United States;

_____ **(g)** _____ a valid passport issued by country of citizenship;

_____ **(h)** _____ an I-94 form presented without a passport if it contains the applicant's photo;

_____ **(i)** _____ American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card or physical address certification letter from the pueblo's governor's office or planning department;

_____ **(j)** _____ N550 United States certificate of naturalization;

_____ **(k)** _____ a certificate of citizenship (N560);

_____ **(l)** _____ a resident alien card (I-551, AR-3, AR3A, AR-103) that contains the applicant's photo;

_____ **(m)** _____ FS545 or FS1350 United States certificate of birth abroad;

_____ **(n)** _____ a military identification card that includes the applicant's photo;

_____ **(o)** _____ a United States veterans administration card that includes the applicant's photo, so long as it is accompanied by a United States veterans

administration medical center identification card;

_____ **(p)** _____ a medical card that includes the applicant's photo;

_____ **(q)** _____ a military dependent identification card that includes the applicant's photo;

_____ **(r)** _____ a government-issued photo identification card;

_____ **(s)** _____ a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;

_____ **(t)** _____ a New Mexico corrections department photo identification card with name, date of birth and documentation that the card has not expired within the past year;

_____ **(u)** _____ an infant baptismal certificate;

_____ **(v)** _____ a social security card;

_____ **(w)** _____ a bank card, debit card, or credit card that contains the applicant's photo;

_____ **(x)** _____ a high school, GED, college, trade school, or university transcript, certificate, or diploma;

_____ **(y)** _____ an employee identification badge that contains the applicant's photo;

_____ **(z)** _____ a medical insurance card or documentation of medical insurance coverage or eligibility that contains an identification number;

_____ **(aa)** _____ military discharge/separation papers (DD-214);

_____ **(bb)** _____ selective service card;

_____ **(cc)** _____ proof of eligibility for and receipt of welfare benefits;

_____ **(dd)** _____ medical records;

_____ **(ee)** _____ documentation from a federal, state, or local correctional facility; or

_____ **(ff)** _____ a social security administration benefits award letter containing the social security number.

_____ **(2)** _____ Applicants

must provide one or more of the following documents, showing a New Mexico address for the applicant, as proof that the applicant lives in New Mexico:

- (a) a real property rental agreement or purchase agreement;
- (b) a utility bill, such as a gas, electric, waste, water, cable, satellite bill, or telephone bill but not a bill for a cell phone;
- (c) an insurance bill, such as automobile, home or health;
- (d) a federally regulated financial institution document, such as a bank statement, excluding checks;
- (e) an employment pay stub with name and address;
- (f) a local property tax statement with name and address;
- (g) proof of a minor child enrolled in a New Mexico public, private, or tribal school;
- (h) a current, valid motor vehicle registration;
- (i) original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident;
- (j) original documents from a city, county, state, tribal, or federal government or social service organization attesting to the fact that the applicant is a New Mexico resident;
- (k) a matricula consular card issued after February 1, 2005, by the Mexican consulate in Albuquerque or El Paso;
- (l) documentation of eligibility and proof that the applicant is currently receiving services from a 501(c)(3) organization, as defined by the Internal Revenue Code; or
- (m) other documents as approved by the MVD director.] **PROOF OF**

IDENTIFICATION NUMBER, IDENTITY, AND AGE FOR UNITED STATES CITIZEN, UNITED STATES NATIONAL OR PERMANENT RESIDENT ALIEN:

A. A United States citizen, United States national or permanent resident alien applying for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, must provide documentary proof of their identification number, identity, age, lawful status and New Mexico residency.

B. To establish identity and age, and lawful status, the applicant must present at least one of the following documents:

- (1) a valid, unexpired United States passport;
- (2) a valid, unexpired United States passport card;
- (3) a valid foreign passport with I-551 stamp;
- (4) a certified copy of a birth certificate filed with a state office of vital statistics or equivalent agency in the individual's place of birth;
- (5) a consular report of birth abroad issued by the U.S. department of state, form FS-240, DS-1350 or FS-545;
- (6) a valid, unexpired permanent resident card (form I-551) issued by the U.S. department of homeland security (DHS) or immigration and naturalization service;
- (7) a certificate of naturalization issued by DHS, form N-550 or form N-570;
- (8) a certificate of citizenship, form N-560 or form N-561, issued by DHS;
- (9) other documents as DHS may designate by notice published in the federal register; or
- (10) other documents as allowed by an approved DHS exception process.

C. Along with the

identity document listed above, an applicant must also present his or her social security administration (SSA) account number card. If a SSA account card is not available, the person shall present one the following documents, provided that the document bears the applicant's social security number:

- (1) a W-2 form;
 - (2) a SSA-1099 form;
 - (3) a non-SSA-1099 form; or
 - (4) a pay stub with the applicant's name and social security number on it.
- [18.19.5.12 NMAC - N, 6/29/01; A, 6/14/02; A, 6/30/03; A, 10/1/07; A, 7/31/09; A, xx/xx/2016]

18.19.5.14 PROOF OF IDENTIFICATION NUMBER, IDENTITY, AGE, AND LAWFUL STATUS FOR LAWFUL UNITED STATES RESIDENTS:

A. A person who is legally in the United States but not a United States citizen, United States national or permanent resident alien may apply for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and must provide documentary proof of their identification number, identity, age, lawful status and New Mexico residency.

B. To establish identity and age, the applicant must present one of the following documents:

- (1) an unexpired employment authorization document issued by U.S. department of homeland security (DHS), form I-766 or form I-688B, verified by the systematic alien verification for entitlements system (SAVE);
- (2) an unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States, verified by SAVE.

(3) REAL
ID Act of 2005 driver’s license
or identification card issued in
compliance with the standards
established by this part.
C. If the identity
document submitted is from one listed
in Paragraph (3) of Subsection B of
18.19.5.14 NMAC, then to establish
legal or lawful presence in the United
States, the applicant must present one
of the following documents issued by
the U.S. federal government verified
through SAVE:
(1) an
unexpired immigrant or nonimmigrant
visa status for admission into the
United States;
(2) a pending
or approved application for asylum in
the United States;
(3) admission
into the United States as a refugee;
(4) a pending
or approved application for temporary
protected status in the United States;
(5) approved
deferred action status;
(6) a pending
application for adjustment of status
to legal permanent resident or
conditional resident;
(7) conditional
permanent resident alien status; or
(8) other
documents as DHS may designate
by notice published in the Federal
Register.
D. Along with the
identity document listed above, an
applicant must also present his or
her social security administration
(SSA) account number card. If a
social security administration account
card is not available, the person shall
present one the following documents,
provided that the document bears the
applicant’s social security number:
(1) a W-2
form;
(2) a SSA-
1099 form;
(3) a non-
SSA-1099 form; or
(4) a pay stub
with the applicant’s name and social
security number on it.
 [18.19.5.14 NMAC - N, xx/xx/2016]

18.19.5.15 PROOF OF IDENTIFICATION NUMBER, IDENTITY, AND AGE FOR A DRIVING AUTHORIZATION CARD OR IDENTIFICATION CARD THAT IS NOT ACCEPTABLE FOR FEDERAL PURPOSES:
A. Applicants for a
New Mexico driving authorization
card or identification card that is not
acceptable for federal purposes must
provide documentary proof of their
identification number, identity, age
and residency.
B. An applicant
who does not currently hold a valid
New Mexico driver’s license or
identification card must also submit
fingerprints for a background check,
as provided in 19.18.5.17 NMAC.
C. An applicant who
chooses to provide a social security
number must present his or her social
security administration (SSA) account
number card. If a SSA account card
is not available, the person shall
present one the following documents,
provided that the document bears the
applicant’s social security number:
(1) a W-2
form;
(2) a SSA-
1099 form;
(3) a non-
SSA-1099 form; or
(4) a pay stub
with the applicant’s name and social
security number on it.
D. Applicants can
use the following documents to
provide documentary proof of their
identification number or documentary
proof of their identity, but one
document cannot be used for proof of
both their identification number and
identity:
(1) a passport
or passport card from the applicant’s
country of citizenship if not verified
through systematic alien verification
for entitlements system (SAVE);
(2) a certified
copy of a birth certificate filed with
a state office of vital statistics or
equivalent agency in the individual’s
place of birth;
(3) a consular

report of birth abroad issued by the
U.S. department of state, form FS-
240, DS-1350 or FS-545;
(4) an
unexpired employment authorization
document issued by the U.S.
department of homeland security,
form I-766 or form I-688B, verified
by SAVE;
(5) an
identification card issued by the
consulate of Mexico in El Paso,
Texas, or such other foreign consulate
with which the New Mexico motor
vehicle division has established a
reliable method of verifying the
authenticity of the identification card;
(6) an
individual tax identification number;
(7) a certified
letter of enrollment issued by a
federally recognized Indian nation,
tribe or pueblo;
(8) a valid
identification card issued by a
federally recognized Indian nation,
tribe or pueblo;
(9) certified
copy of foreign birth certificate issued
by the applicant’s place or birth,
provided that if the document is not
in English, a certified copy of the
foreign birth with a notarized English
translation;
(10) affidavit of
Indian birth;
(11) a state
issued driver’s license, a driver’s
license issued by a territory of the
United States, or by jurisdiction of
Canada, as long as it has a photograph
and has not been expired more than
one year;
(12)
a state government-issued photo
identification card, or a photo
identification card issued by a
territory of the United States, or by
a jurisdiction of Canada, as long as
it has a photograph and has not been
expired more than one year;
(13) a state
government-issued photo learner’s
permit, or a photo learner’s permit
issued by a territory of the United
States, or by a jurisdiction of Canada,
as long as it has a photograph and
has not been expired more than one year;

(14) an American Indian or Alaskan proof of Indian blood, certificate of degree of Indian blood, federal Indian census card or tribal membership card;

(15) a photo identification card issued by the United States military, United States coast guard or New Mexico national guard;

(16) an identification document issued by the United States veterans administration, so long as it is accompanied by a United States veterans administration medical center identification card;

(17) a valid United States active duty/retiree/reservist military identification card (DOD ID DD-2);

(18) a United States, state, or local government-issued photo ID, issued based on name, social security number and date of birth;

(19) N560 certificate of citizenship if verified in SAVE;

(20) N550 certificate of naturalization if verified in SAVE;

(21) a valid permanent resident card issued by the United States government if verified in SAVE;

(22) a valid I-551 resident alien card issued since 1997 if verified in SAVE; or

(23) a valid New Mexico license or identification card.
[18.19.5.15 NMAC - N, xx/xx/2016]

18.19.5.16 PROOF OF NEW MEXICO RESIDENCY:

A. All applicants for a REAL ID Act of 2005 compliant New Mexico identification card, driving permit, provisional driver's license, or driver's license, other than a commercial driver's license, and all applicants for a driving authorization card and identification card not acceptable for federal purposes must provide documentary evidence demonstrating New Mexico residency.

B. Applicants must provide two of the following

documents, showing the applicant's name and a New Mexico residential address for the applicant, as proof that the applicant lives in New Mexico.

(1) a current real property rental agreement or purchase agreement;

(2) a utility bill dated within 60 days, such as water, gas, electric, waste, telephone, cable or satellite bill, but not a bill for a cell phone;

(3) an insurance bill, card or binder, dated within 60 days;

(4) a bank or credit card statement dated within 60 days;

(5) an employment pay stub that contains the applicant's name and address, dated within 60 days;

(6) a local property tax statement or mortgage documents;

(7) a document from an education institution, such as a transcript, report card or enrollment confirmation, provided it is dated within 60 days;

(8) original documents from a New Mexico community organization attesting to the fact that the applicant is a New Mexico resident, provided it is dated within 60 days;

(9) original documents from a city, county, state, tribal or federal government organization attesting to the fact that the applicant; is a New Mexico resident;

(10) a New Mexico medical assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(11) a New Mexico public assistance card with address on card, letter from issuing agency that came with card showing name and address, or profile printout from issuing agency;

(12) documents indicating membership in a New Mexico religious organization, provided that the applicant is less than

18 years of age; or

(13) documents indicating membership in a New Mexico sports organization, provided that the applicant is less than 18 years of age.

[18.19.5.16 NMAC - N, xx/xx/2016]

18.19.5.17 FINGERPRINTS AND CRIMINAL HISTORY SCREENING:

A. Authority; use of criminal history information: The taxation and revenue department (TRD) is authorized to obtain the criminal history records of applicants for driving authorization cards and TRD is authorized to obtain criminal history records of applicants for identification cards that are not acceptable for federal agencies for federal purposes, provided that the applicant does not possess a valid New Mexico license or identification card and that the applicant does not provide proof of lawful status. TRD is further authorized to exchange fingerprint data directly with the federal bureau of investigation and the New Mexico department of public safety (DPS).

B. Procedure for applicants:

(1) If an applicant otherwise meets the application and eligibility requirements, then TRD shall take a full-face or front-view photograph and fingerprints of the applicant and shall submit to DPS and the federal bureau of investigation a request for a current criminal history screening through the national crime information center.

(2) An applicant shall provide to TRD a criminal background screening request, fingerprints, and supporting documentation including an authorization for release of information to TRD in accordance with the procedures of DPS.

(3) DPS will review state records and also transmit the fingerprints to the federal bureau of investigation for a national screening. The results of the screening will be transmitted to TRD for review.

(4)

Applicants and licensees shall bear any costs associated with ordering or conducting criminal history screening. Fees are determined by and payable to TRD. TRD shall timely submit the fees to DPS. Fees cannot be waived by TRD.

(5) TRD

shall comply with applicable confidentiality requirements of the DPS and the federal bureau of investigation regarding the handling and dissemination of criminal history information.

C. TRD review of criminal history information:

(1) TRD shall review the results and shall not issue a driving authorization card if the results show that the applicant has an outstanding criminal arrest warrant for a felony or a misdemeanor charge in any state or country or if the results show that the applicant's fingerprints are associated with any name, date of birth or social security number other than those provided by when the person applied for the driving authorization card.

(2) TRD shall notify the person if the application is denied and the reason for the denial.

(3) TRD shall destroy the results of the screening after it has completed its review and issued the driving authorization card, or one year from the date of the denial, whichever occurs sooner.

D. Evidence of eligibility: A person whose application for a driving authorization has been denied shall become eligible upon submitting evidence that the basis for ineligibility was resolved. Such evidence may include:

(1) documents that demonstrate that the criminal arrest warrant was quashed, withdrawn, or resolved;

(2) documents that demonstrate that there is not a conflict with the name, date or birth or social security number; or

(3) other documents as approved by the director of the motor vehicle division.

[18.19.5.17 NMAC - N, xx/xx/2016]

18.19.5.18 through 18.19.5.29

[RESERVED]

**TRANSPORTATION,
DEPARTMENT OF
NOTICE OF PUBLIC
HEARING**

The New Mexico Department of Transportation (NMDOT) will hold a public hearing for the purpose of receiving oral and written public comment on proposed amendments to 18.31.6 NMAC, State Highway Access Management Requirements. The purpose of the amendments to the rule are to (1) add provisions that clarify the authority of the New Mexico State Transportation Commission to approve all access control changes in addition to requested breaks in interstate access controlled rights of way; and (2) make certain other technical updates to the rule to bring it into compliance with current standards.

The hearing is scheduled on October 20, 2016, from 1:00 p.m. to 4:00 p.m. at the New Mexico Department of Transportation, General Office, Training Rooms 1 and 2, located at 1120 Cerrillos Road, Santa Fe, New Mexico. Please contact Rebecca Romero, State Maintenance Division, New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903 to request a copy of the rule. This Notice and the proposed rule, as amended, are also available on NMDOT's website: <http://dot.state.nm.us/en/public-notices.html>.

The hearing will be held before Andrew Gallegos P.E., Traffic Operations Director, NMDOT. Interested persons may also present their views by written statements submitted on or before October 7, 2016, to New Mexico Department of Transportation, P.O. Box 1149, State Building 4, Santa Fe, New Mexico 87504-1149, Telephone (505) 995-7903.

Any individual with a disability who is in need of an auxiliary aid or service to attend or participate in the hearing, or who needs copies of the proposed rule in an accessible form may contact Rebecca Romero at (505) 995-7903 at least ten (10) days before the hearing.

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

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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 16.30.1 NMAC, Section 7, effective 9/15/2016.

16.30.1.7 DEFINITIONS:

A. "Architect" means an architect [~~legally~~] registered in New Mexico [~~(Subsection A of)~~ as defined in Section 61-15-2 NMSA 1978.

B. "Architectural services" means services for projects located in New Mexico [~~and~~] that shall be performed by a [~~legally~~] registered architect or under the architect's responsible charge [~~(Subsection B of)~~ as defined in Section 61-15-2 NMSA 1978.

C. "Competence" means:

(1) in the practice of architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill that is ordinarily applied by architects of good standing practicing in New Mexico;

(2) an architect shall undertake to perform professional services only when the architect, together with those whom the architect may engage as consultants, is qualified by education, training and experience or ability in the specific technical areas involved; and

(3) an architect shall take into account all applicable state and municipal building codes, laws and regulations. An architect may rely on the opinion of others (example: attorneys, engineers, building officials) as to the intent and meaning of the codes, laws and regulations.

D. "Consulting associate architect" means an architect who is acting in an advisory capacity to a registered architect, and whose present position is subordinate to the registered architect as described in Paragraph (1) of Subsection A [~~(+)~~] of Section 61-15-8 NMSA 1978.

E. "Felony conviction" means conviction of a felony with a copy of the record of conviction, certified by the clerk of the court entering the conviction, serving as conclusive evidence [~~(Subsection B (2) of Section 61-15-12 NMSA 1978)]~~.

F. "Gross negligence" means:

(1) being habitually guilty of neglect toward professional responsibilities in the practice of architecture as determined by the board; or

(2) being found extremely careless and lacking in ordinary care and concern in the practice of architecture [~~(Subsection A (3) of Section 61-15-12 NMSA 1978)]~~. Should the board not discipline an architect for a single act of gross negligence, the board does not waive the right to invoke sanctions against the architect for repeated acts of gross negligence.

G. "Incidental practice of architecture and engineering" means:

(1) architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than [~~four hundred thousand dollars (\$400,000)]~~ six hundred thousand dollars (\$600,000) and having a total occupant load not greater than [fifty] 50;

(2) engineering work incidental to architecture shall be that engineering

work provided on projects with a building construction value not greater than [~~four hundred thousand dollars (\$400,000)]~~ six hundred thousand dollars (\$600,000) and having a total occupant load not greater than [fifty] 50;

(3) all buildings and related structures within the regulatory provisions of the New Mexico Building [~~code (NMUBC)]~~ Codes General, Title 14, Chapter 7 NMAC will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than [~~four hundred thousand dollars (\$400,000)]~~ six hundred thousand dollars (\$600,000) or having a total occupant load greater than [fifty] 50, with the exception of:

(a) single-family dwellings not more than two [(2)] stories in height;

(b) multiple dwellings not more than two [(2)] stories in height containing not more than four [(4)] dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four [(4)] dwelling units each to form apartment or condominium complexes where the total exceeds four [(4)] dwelling units on any lawfully divided lot;

(c) garages or other structures not more than two [(2)] stories in height which are appurtenant to buildings described in Subparagraphs (a) and (b) [~~of Paragraph (3) of Subsection G of 16.30.1.7 NMAC~~] above; or

(d) nonresidential buildings, as defined

in the New Mexico Building [code (NMUBC,)] Codes General, Title 14, Chapter 7 NMAC or additions having a total occupant load of [ten] 10 or less and not having more than two [(2)] stories in height, which shall not include E-3 day care, H (hazardous) or I (institutional) occupancies;

(e)

alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

(4) the owner,

user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the project.

(5) occupant

load shall be defined and determined by the method set forth in the current, adopted code.

H. "Incompetency"

means:

(1) being

adjudicated mentally incompetent by a court; or

(2) engaging

in conduct which evidences a lack of knowledge, ability or fitness to discharge the duty and responsibility owed by the architect to a client and to the public in order to safeguard life, health and property and to promote public welfare [(Subsection A (3) of Section 61-15-12 NMSA 1978)].

I. "Intern architect"

is a person who is actively pursuing completion of the requirements for diversified training in accordance with rules of the board [(Subsection F of Section 61-15-2 NMSA 1978)].

J. "Misconduct"

means:

(1) knowingly

preparing or stamping construction documents in violation of [the] applicable codes, laws or regulations;

(2) stamping

and signing construction documents, specifications, reports or other professional work not prepared under the architect-of record's responsible charge, as defined [in Subsection M of 16.30.1.7 NMAC] herein.

(3) engaging

in any conduct involving fraud or deceit related to the business or

practice of architecture;

(4) making

any false statement or giving any false information in connection with an application for registration or for renewal of registration;

(5) being

convicted of a crime related to the practice of architecture with a copy of the record of the conviction, certified by the clerk of the court entering the conviction, serving as conclusive evidence;

(6) violating

federal or state statute or rule that directly relates to the practice of architecture;

(7) being

unable to practice architecture with reasonable skill and safety to clients by reason of use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;

(8) making

any substantial misrepresentation in the course of practice including, but not limited to, false, misleading or deceptive advertising or fraudulent or misleading claims;

(9) using or

altering material prepared by another person without the knowledge and consent of that person;

(10) using the

professional seal of another person without the knowledge and consent of that person;

(11) engaging

in [any] conduct in conflict with the Code of Conduct for Architects (16.30.4 NMAC);

(12) engaging

in conduct that the architects knows or should know through professional knowledge or experience is not within the acceptable standard for professional conduct that is ordinarily applied by architects of good standing practicing in the state of New Mexico or that is set forth in the board's Minimum Standards for the Practice of Architecture in New Mexico, (16.30.6 NMAC);

(13) [repeatedly

(more than three (3) times)] violating the Architectural Act, Sections 61-15-1 through 13 NMSA 1978, the rules

and regulations of the board, or the architectural laws of any other state or jurisdiction;

(14) incurring

a prior disciplinary action in another state or jurisdiction based upon acts or conduct by the registrant which if committed in this state would subject the registrant to disciplinary action by the board. Certified copies of the record of disciplinary action shall be conclusive evidence thereof; and

(15) failing

to report to the board any adverse action taken against the registrant by [(+) the licensing board of another jurisdiction or [(2) the national council of architectural registration boards (NCARB) for acts or conduct that would constitute grounds for disciplinary action by the board.

K. "NCARB" means

National council of architectural registration boards.

[K:] L. "Practice of

architecture" as defined in Section 61-15-2 NMSA 1978, means rendering or offering to render [those] architectural services [described in Subsection B of Section 61-15-2 NMSA 1978 in connection with the design, construction, enlargement or alteration of a building or group of buildings and the space within the site surrounding those buildings which have as their principal purpose human occupancy or habitation (Subsection G of Section 61-15-2 NMSA 1978)]. "Offering to render" is defined as soliciting or executing architectural services as defined in Section 61-15-2 NMSA 1978.

[E:] M. "Project"

means the building or a group of buildings and the space within the site surrounding the buildings as defined in the construction documents (Subsection H of Section 61-15-2 NMSA 1978). Architectural and engineering stamps are required for any subsequent and physically linked construction to a project which, when seen together with the original construction, would have required architectural and engineering seals.

[M:] N. "Responsible

charge" means that all architectural services have been or will be

performed under the direction, guidance and restraining power of a registered architect who has exercised professional judgment with respect thereto. An architect's placing of the architect registration seal and signature on a document certifies that the architect has exercised direction, guidance and judgment on all issues pertaining to the health, safety and general welfare of the public, and accepts all legal responsibility for all architectural matters embodied within the document which shall meet the acceptable standards of architectural practice in the state of New Mexico as put forth by the board (Subsection I of Section 61-15-2 NMSA 1978).

~~N.~~ O. "Signature" shall mean handwritten or electronic as follows:

- (1) a handwritten identification that represents the act of putting one's name on a document to attest to its validity; the handwritten identification must be:
 - (a) original and written by hand;
 - (b) permanently affixed to the original document(s) being certified;
 - (c) applied to the document by the identified registrant; or
 - (2) an electronic identification that is attached to or logically associated with an electronic document; the electronic identification must be:
 - (a) unique to the person using it;
 - (b) under the sole control of the registrant using it;
 - (c) linked to a document in such a manner that the electronic identification is invalidated if any data in the document is changed.
- [16.30.1.7 NMAC - Rp, 16 NMAC 30.1.7, 9/6/2001; A, 9/15/2002; A, 9/15/2003; A, 9/15/2016]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.2 NMAC, Sections 10, 11, 12 and 13, effective 9/15/2016.

16.30.2.10 DUTIES OF OFFICERS:

- A. The chair shall:
 - (1) preside at all regular and special meetings, when present;
 - (2) appoint all committee members, and subcommittee members, and their chairpersons [~~subject to confirmation vote of the board~~];
 - (3) sign with the secretary/treasurer all approved board meeting minutes, all formal certificates of registration and the annual report to the governor; and
 - (4) perform all other duties ordinarily pertaining to the office of chair or as herein and hereafter prescribed.
- B. The vice chair shall in the absence of the chair, preside at the meeting and execute the duties of the chair.
- C. The secretary/treasurer shall:
 - (1) report on the financial status of the board at each regular meeting and upon request at a special meeting;
 - (2) recommend to the board for its approval all proposed expenditures over the amount authorized by the legislature.
 - (3) approve all transfers of funds within categories and recommend to the board for its approval all budget adjustment requests between the categories or from cash reserves;
 - (4) present a budget for each fiscal year to recommend to the board for its approval at the last meeting of the year;
 - (5) when necessary, appear and represent the board at all hearings where financial issues arise;
 - (6) after each

board meeting, identify activities that shall be completed before the next meeting and the individuals to whom assigned; and

(7) sign with the chair all approved board meeting minutes and all formal certificates of registration.

16.30.2.10 NMAC - Rp, 16 NMAC 30.2.9.1, 9/6/2001; A, 9/15/2016]

16.30.2.11 COMMITTEES:

~~[The chair of the board shall appoint members to the following standing committees:]~~ In addition to committees listed herein, the board may vote to establish subcommittees as it deems necessary.

- A. Rules and regulations committee whose responsibilities shall include:
 - (1) proposed statutory changes;
 - (2) proposed amendments or repeals or changes to ~~[the] board rules [and regulations];~~
 - (3) ~~[responding]~~ review and draft responses, if appropriate, to complaints to the board; and
 - (4) ~~[follow-up on]~~ review investigations of violations of the statute and regulations pertaining to the practice of architecture and refer complaints to the board with its recommendation for subsequent action.
- B. Examination and reciprocity committee whose responsibility shall include:
 - (1) review of applicants for registration to determine if ~~[qualified to take the examination]~~ they meet the requirements of Section 61-15-6 NMSA and recommending board action in accordance with the Uniform Licensing Act;
 - (2) reviewing and recommending board action on applications for reciprocity; and
 - (3) all matters pertaining to examination.
- C. Finance and operations committee whose responsibilities shall include:
 - (1) reviewing the budget, assisting the secretary/

treasurer and board staff in preparing a draft budget annually and making budget recommendations to the board;

(2)

reviewing the expenditures of the agency and assisting the secretary/ treasurer in making regular reports and recommendations to the board regarding expenditures;

(3)

reviewing office operations with the director to determine staffing requirements and recommend personnel actions to the board; and

(4)

reviewing with the director office operations to assure efficiency, economy and security in all board affairs.

D. Committee for planning and development whose responsibilities shall include:

(1)

developing short and long-term goals for board consideration and approval;

(2)

examining ways and methods for improving board services and functions; and

(3)

monitoring the impact of architectural regulation and examine ways in which to increase its effectiveness.

E. Joint practice committee whose responsibilities shall include:

(1)

attending joint practice committee meetings; and

(2)

reporting to the board matters discussed at the joint practice committee meetings.

[16.30.2.11 NMAC - Rp, 16 NMAC 30.2.8.2, 9/6/2001; A, 9/15/2016]

16.30.2.12 [MEETINGS:

A. Types of meetings:

(1)

Regular meetings: The board shall hold at least four (4) regular meetings during each fiscal year; at least one (1) meeting shall be held each quarter. The board shall set the tentative dates for the meetings at its last regular meeting of the fiscal year.

(2)

Special meetings: The board shall call special meetings in accordance with the Open Meetings Act, Sections 10-15-1 through -4 NMSA 1978. The board

shall approve an open meeting notice-resolution in writing and all members shall sign it at the first regular meeting of the fiscal year.

(3)

Last regular meeting: At the last regular meeting of the year the board shall:

(a)

elect officers for the following year;

(b)

adopt an open meetings notice-resolution for public meeting-notification; and

(c)

approve the budget for the following year.

B. Regular meetings shall be conducted in accordance with the latest edition of Robert's Rules of Order.

C. Quorum: To conduct official business and take official action, a majority of the board must be in attendance at any board meeting.

D. Amendments: The rules and regulations may be amended at any regular or special meeting of the board by majority vote after presentation of the proposed changes at a hearing for the public in compliance with the Uniform Licensing Act, Sections 61-1-1 through -33 NMSA 1978.

E. Order of business of the board: Regular meetings of the board shall include:

(1)

roll call;

(2)

approval of the agenda;

(3)

approval of minutes of previous meeting;

(4)

chair's report;

(5)

secretary/ treasurer's report;

(6)

director's report;

(7)

committee reports;

(a)

exam and reciprocity committee;

(b)

rules and regulations committee;

(c)

finance and operations committee;

(d)

committee for planning and

development;

(e)

joint practice committee;

(8)

old business;

(9)

new business;

(10)

adjournment.] **[RESERVED]**

[16.30.2.12 NMAC - Rp, 16 NMAC 30.2.8.3 - 8.5 and 16 NMAC 30.2.9.2, 9/6/2001; Repealed, 9/15/2016]

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 [(Subsection C of) 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.

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

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.3 NMAC, Sections 8, 9, 10, 11, 12, 13, 15, 16, 17, 18 and 19, effective 9/15/2016.

16.30.3.8 GENERAL QUALIFICATIONS:

A. The examination and reciprocity committee shall make its recommendations to the board regarding the qualifications of applicants for registration. A majority vote of the [members of the] board shall be required in determining those applicants qualified for registration.

B. The applicant shall be of good character and repute. Factors that the board may consider under this qualification are:

(1) conviction of a felony;

(2) misstatement or misrepresentation of fact by the applicant in connection with his or her application;

(3) violation of any of the standards of conduct required by registration holders and set forth in the statutes or rules and regulations; or

(4) practicing architecture without a valid and current registration in the jurisdiction in which the practice took place.

C. Rules and procedures set out herein for obtaining registration in New Mexico apply equally to residents of the state and non-residents.

D. An oral interview before the board may be required of any applicant for New Mexico registration.

E. All applicants must pass the New Mexico architectural jurisprudence exam administered by the board. Failure to answer all questions may result in a failing grade. An applicant who has failed two [(2)] successive architectural jurisprudence exams shall not be eligible to apply for architectural registration for a period of one [(1)] year from the date of the last jurisprudence exam failed.

F. All registration and application fees are non-refundable. [16.30.3.8 NMAC - Rp, 16 NMAC 30.3.8, 9/6/2001; A, 9/15/2002; A, 9/15/2016]

16.30.3.9 REGISTRATION THROUGH EDUCATION, TRAINING AND EXAMINATION:

A. Registration standards shall be in accordance with those of the national council of architectural boards (NCARB) as described under "standards of eligibility for council certification" in the latest editions of the NCARB handbook for interns and architects and the NCARB education standard.

B. Training requirements shall satisfy the NCARB standards of training. The applicant shall provide a NCARB [intern development program (IDP)] architectural experience program (AXE) record number showing enrollment in [IDP] AXE. The education standard shall be in accord with the NCARB guidelines as set forth in the latest edition of the NCARB handbook for interns and architects, the NCARB education standard and IDP guidelines. Copies of the latest editions of the NCARB handbook for interns and architects, the NCARB education standard and the IDP guidelines are available from the board office or NCARB.

C. Application for examination:

(1) Individuals applying for registration by examination shall request application forms from the board. The application, together with the application fee, shall be sent to the board office.

(2) Applications will be accepted at any time, for review and approval by the board. Approved examination candidates will schedule examinations with NCARB. The board may require applicants for examination to appear before it for a personal interview.

(3) To pass the architect registration examination (A.R.E.), an applicant must achieve a passing grade on each division. A

passing grade for any division of the A.R.E. shall be valid for five [(5)] years, after which time the division must be retaken unless all divisions have been passed. NCARB, in its discretion, may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, by active duty in military service or by other like causes. [The transition rules are as follows:

(a) ~~for applicants who have passed all divisions of the A.R.E. by January 1, 2006, regardless of the time taken, such applicants will have passed the A.R.E.;~~

(b) ~~for applicants who have passed one or more but not all divisions of the A.R.E. by January 1, 2006, such applicants will have five (5) years to pass all remaining divisions; a passing grade for any remaining division shall be valid for five (5) years, after which time the division must be retaken if the remaining divisions have not been passed; the five (5) year period shall commence after January 1, 2006, on the date when the first passed division is administered;~~

(c) ~~for applicants who have passed no divisions of the A.R.E. by January 1, 2006, such applicants shall be governed by the above five (5) year requirement; the five (5) year period shall commence on the date when the first passed division is administered.]~~

(4) In case an applicant does not qualify for examination, for reason other than failure to submit a valid application, he or she shall be informed of the cause and apprised of his or her rights under the Uniform Licensing Act, Sections 61-1-1 through 31 NMSA 1978. Should the applicant subsequently meet the requirements for examination, he or she may resubmit the application.

D. Examination materials and results shall [~~be confidential and shall~~] not be considered public records pursuant to Section 61-15-5 NMSA 1978. Nothing therein shall prevent the

board from reporting an applicant's scores to the architectural registration boards in other jurisdictions or to the national council of registration boards (NCARB). The board shall give written notification to an applicant no later than ~~[thirty]~~ 30 days after the board receives the results from NCARB.

E. Special provisions for examinees with disabilities:

(1)

Any examinee requiring special examination provisions to accommodate a qualifying temporary or permanent disability as defined by the Americans with Disabilities Act, including any modification of the Architect Registration Examination administration process, must submit a written request for such provisions at least ~~[ninety]~~ 90 days prior to the exam, including documentation justifying such request.

(2) The

board shall have the right to solicit additional information within ~~[thirty]~~ 30 days of such request. The examinee shall provide such additional information within ~~[ten]~~ 10 days following receipt of the board's request.

F. Examination application fee:

(1) in-state.....	\$50.00
(2) out-of-state.....	\$100.00

[16.30.3.9 NMAC - Rp, 16 NMAC 30.3.9, 9/6/2001; A, 9/16/2004; A, 9/22/2007; A, 9/15/2016]

16.30.3.10 REGISTRATION THROUGH RECIPROCITY:

A. An individual who holds a current NCARB certificate and is seeking registration through reciprocity ~~[or endorsement]~~ shall return a completed application and all fees to the board for processing. The application shall be valid for six ~~[(6)]~~ months from the time the board receives it.

B. A person currently registered as an architect in another jurisdiction who is not certified by NCARB may apply for a New Mexico architectural license upon receiving

an NCARB broadly experienced architect certificate or an NCARB broadly experienced foreign architect certificate. An individual who does not hold an NCARB certificate and is seeking registration through reciprocity as a broadly experienced architect must hold a current and valid registration issued by the licensing authority of another jurisdiction and have held such registration with no disciplinary action for at least five years. The broadly experienced category applicant shall return to the board a completed application, on a form prescribed by the board, along with other pertinent documents and the application fee. The board shall have the right to institute procedures for the broadly experienced architect process as it deems necessary. Each broadly experienced category applicant shall provide the board evidence of academic training and work experience directly related to architecture and demonstrating minimum competencies as described in 16.30.6 NMAC including, but not limited to, evidence of training or experience in the following areas:

- (1) design and construction documents;
- (2) construction administration;
- (3) management; and
- (4) related activities. This provision, Subsection B of 16.30.3.10 NMAC will expire on January 1, 2018.

C. Each applicant must attest on an affidavit that the applicant:

- (1)** has not performed or offered to perform, and will not perform or offer to perform, architectural services in the state of New Mexico until such time as the applicant becomes a New Mexico registered architect;
- (2)** is in good standing and has disclosed all requested information on disciplinary proceedings in any other jurisdiction; and
- (3)** has secured a copy and has read the Architectural Act, Sections 61-15-1 through 13

NMSA 1978 and the New Mexico board of examiners for architects rules and regulations, and ~~[shall]~~ agrees to comply with the same.

D. All applicants must pass a New Mexico architectural jurisprudence exam administered by the board. An applicant who has failed two ~~[(2)]~~ successive architectural jurisprudence exams shall not be eligible to apply for architectural registration for a period of one ~~[(1)]~~ year from the date of the last jurisprudence exam failed.

E. Applicants for registration through reciprocity ~~[or endorsement]~~ shall present a certificate of good standing from a jurisdiction in which a current and valid registration is held.

F. ~~[Seismic design requirements]~~ Comprehensive design requirements: Applicants for registration through reciprocity ~~[or endorsement]~~ shall present evidence satisfactory to the board of their qualification in comprehensive design. ~~[for seismic forces. The evidence shall be based on NCARB requirements existing at the time of application.]~~

G. The board may require an applicant for registration through reciprocity ~~[or endorsement]~~ to appear before the board for a personal interview and to complete a written or oral examination.

H. The board shall review all applications on a case-by-case basis.

I. Provisional registration:

(1) An applicant for registration through reciprocity or endorsement may be issued a provisional registration prior to full registration upon satisfaction of the following requirements:

- (a)** the applicant has complied with all requirements prescribed in ~~[Subsections A-G of 16.30.3.10 NMAC above]~~ these rules;
- (b)** the board director has certified that the application is complete and there are no apparent disciplinary actions pending or in force in any jurisdiction

at the time of the application; and
 (c) the exam and reciprocity committee has reviewed the application and will recommend registration at the next board meeting.

(2) The board may issue provisional registration to an applicant upon the review and recommendation of the application by the exam and reciprocity committee.

(3) Any provisional registration shall be valid only from the date of issuance through the date of the next regularly scheduled board meeting.

(4) An applicant for registration through reciprocity [~~or endorsement~~] who has received provisional registration and who engages in the practice of architecture during the term of provisional registration shall do so under the regulatory authority of the Architectural Act, Sections 61-15-1 through 13 NMSA 1978 and these rules and regulations.

J. Upon approval of the board, a new registrant will receive a wall certificate within a reasonable period following the board's decision.
 [16.30.3.10 NMAC - Rp, 16 NMAC 30.3.10, 9/6/2001; A, 9/15/2003; A, 9/16/2004; A, 9/9/2005; A, 12/23/2005; A, 6/1/2009; A, 9/15/2016]

16.30.3.11 REGISTRATION RENEWAL:

A. Fees: Renewal fees are paid biennially [~~in even-numbered years. New registrations occurring in a non-renewal year shall be prorated on a yearly basis and shall expire on December 31st of that odd-numbered year.~~] The number of registrants to renew every two years will be divided to allow half of the registrations to expire each year. Beginning in December 2017, registrants whose birth year ends in an even number shall be required to renew their registrations for a single year, expiring in December 2018, and pay half of the two-year registration fee. Thereafter, the registration of those whose birth year ends in an even

numbered year shall renew every two years. An individual whose birth year ends in an odd numbered year shall be required to renew their registration by December 31st of the odd numbered year. New registrations shall be pro-rated on a yearly basis and shall expire on December 31st of the year designated by the last digit of the applicant's birth year. The fees for two [(2)] years are:

- (1) in state \$225.00
- (2) out-of-state \$325.00

B. Continuing education: [~~Effective December 31, 2001, all~~] Architects registered in New Mexico will be required to show compliance with [~~these~~] mandatory education requirements as a condition for renewing registration:

(1) Purpose and scope:

(a) These rules provide for a continuing education program to insure that all architects remain informed of these technical subjects necessary to safeguard life, health, property, and promote the public welfare.

(b) Continuing education is post licensure learning that enables a registered architect to increase or update knowledge of and competence in technical and professional subjects related to the practice of architecture to safeguard the public's health, safety and welfare.

(c) These rules apply to all architects registered in New Mexico.

(2) Definitions:

(a) "Continuing education hour [(CEH)]" is one continuous instructional hour (minimum 50 minutes [~~of contact~~]) spent in structured educational activities intended to increase or update the architect's knowledge and competence in health, safety and welfare subjects. If the provider of the structured educational activities prescribes a customary time for completion of such an activity, then such prescribed time shall, unless the board finds the prescribed time

to be unreasonable, be accepted as the architect's time for continuing education hour purposes irrespective of actual time spent on the activity.

(b) "Health, safety and welfare in architecture" is anything that relates to the structure or soundness of a building or site or its role in promoting the health, safety or [~~well-being~~] well-being of its occupants.

(c) "Health, safety and welfare subjects" are technical and professional subjects in continuing education that the board deems appropriate to protect the public and that are within the following enumerated areas necessary for the proper evaluation, design, construction and utilization of buildings and the built environment.

(i) Building systems: structural, mechanical, electrical, plumbing, communications, security, fire protection.

(ii) Construction contract administration: contracts, bidding, contract negotiations.

(iii) Construction documents: drawings, specifications, delivery methods.

(iv) Design: urban planning, master planning, building designs, site design, interiors, safety and security measures.

(v) Environmental: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation.

(vi) Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public.

(vii) Materials and methods: construction systems, products, finishes, furnishings, equipment.

(viii) Pre-design: land use analysis, programming, site selection, site and soils analysis, surveying.

(ix) Preservation: historic, reuse,

adaptation.

(d) “Structured educational activities” are educational activities in which at least [75] seventy-five percent of an activity’s content and instruction time must be devoted to health, safety and welfare subjects related to the practice of architecture, including courses of study or other activities under the areas identified as health, safety and welfare subjects and provided by qualified individuals or organizations, whether delivered by direct contact or distance learning methods.

(3) Requirements:

(a) In addition to all other requirements for registration renewal, an architect must complete a minimum of 12 continuing education hours each calendar year or be exempt from these continuing education requirements as provided below [~~to begin January 1, 2014~~]. Failure to complete these requirements may result in non-renewal of the architect’s registration or other disciplinary action by the board.

(b) Continuing education hours must be completed in health, safety and welfare subjects acquired in structured education activities. Continuing education hours may be acquired at any location, whether delivered by direct contact or distant learning methods. Excess continuing education hours may not be credited to a future calendar year.

(4) Activities: The following list shall be used by all registrants in determining the types of activities that would fulfill continuing education requirements:

(a) continuing education hours in attendance at short courses or seminars dealing with architectural subjects and sponsored by academic institutions;

(b) continuing education hours in attendance at technical presentations on architectural subjects which are held in conjunction with conventions or at seminars related to materials

use and functions; such presentations as those sponsored by the American institute of architects, construction specifications institute, construction products manufacturers council or similar organizations devoted to architectural education may qualify;

(c) continuing education hours in attendance at short courses or seminars related to new technology and offered by colleges, universities, professional organizations or system suppliers;

(d) continuing education hours spent in self-study courses such as those sponsored by the national council of architectural registration boards, American institute of architects or similar organizations;

(e) up to three preparation hours may be credited for each class hour spent teaching architectural courses or seminars; college or university faculty may not claim credit for teaching regular curriculum courses;

(f) up to three [(3)] continuing education hours spent in architectural research that is published or formally presented to the profession or public;

(g) college or university credit courses dealing with architectural subjects; each semester hour shall equal [fifteen] 15 continuing education hours; a quarter hour shall equal [ten] 10 continuing education hours;

(h) up to four [(4)] continuing education hours in service to the public that is directly related to the practice of architecture in the area of [~~public-protection, also known as~~] health, safety and welfare.

(5) Records and record-keeping:

(a) A registered architect shall complete and submit forms prescribed or accepted by the board certifying to the architect’s having obtained the required continuing education hours. Documentation of reported continuing education hours shall be maintained by the architect for three years from

the date of award.

(b) One [(1)] continuing education hour shall represent a minimum of actual course time. No credit will be allowed for introductory remarks, meals, breaks or administrative matters related to courses of study.

(c) Failure to fulfill the continuing education requirements [~~or file the required biennial report, properly and completely signed,~~] shall result in non-renewal of an architect’s certificate of registration. Certification of fulfillment of continuing education requirements without completion of the continuing education may result in disciplinary action.

(d) Any untrue or false statements or the use thereof with respect to course attendance or any other aspect of continuing education activity is fraud or misrepresentation and [will] may subject the registrant to [~~revocation of registration or other~~] additional disciplinary action.

(6) Initial registration: An architect whose initial registration occurs less than [~~twelve~~] 12 months from the December 31st deadline of the next renewal cycle shall not be required to report continuing education hours for that calendar year. An architect whose initial registration occurs more than 12 months prior to the December 31st deadline of the next renewal cycle shall be required to complete 12 continuing education hours within the final calendar year prior to renewal.

(7) Reinstatement: Pursuant to Section 61-15-7 NMSA 1978, a former registrant may only apply for reinstatement and renewal of an expired certificate under 16.30.3.13 NMAC if [all] delinquent continuing education hours are earned [~~within the twenty-four (24) months preceding the application to renew. However, if the total number of continuing education hours required to become current exceeds twenty-four (24), then twenty-four (24) shall be the maximum number of contact hours~~]

required] as required by Subparagraph (a) of Paragraph (3) of Subsection B of 16.30.3.11 NMAC, i.e. 12 continuing education hours each calendar year while registration is expired or be exempt from these continuing education requirements as provided below.

(8)

Exemptions: A registrant shall be deemed to have complied with the foregoing continuing education requirements if the architect attests in the required affidavit that for not less than [twenty-one] 21 months of the preceding two-year-period of registration, the architect:

(a)

has served honorably on active duty in the military service (exceeding [ninety] 90 consecutive days); or

(b)

is a government employee working as an architect and assigned to duty outside the United States, or outside the jurisdiction established by the national council for architectural registration boards.

(9)

The board may consider a hardship case under extenuating circumstances to modify the requirements established by these rules.

(10)**Audit:**

A number of registrants shall be selected at random to submit substantiating information to support their continuing education claim. If any credits are disallowed by the board, then the registrant shall have [sixty] 60 calendar days after notification to substantiate the original claim or obtain other continuing education hours to meet the minimum requirements. Such continuing education hours shall not be used again in the next renewal cycle. Additional audits may be conducted at the board's discretion.

(11)**Non-**

compliance: Failure to comply with the requirements of this section shall result in non-renewal of registration and forfeit of the renewal fee. [16.30.3.11 NMAC - Rp, 16 NMAC 30.3.11, 9/6/2001; A, 9/15/2003; A, 4/15/2004; A, 9/16/2004; A, 3/12/2006; A, 5/4/2008; A, 6/1/2009;

A, 3/13/2013; A, 9/15/2016]

16.30.3.12 EXPIRATION OF A CERTIFICATE:

A. [A#] Certificates of registration shall expire [in the same year] on December 31st as prescribed by these rules.

B. A certificate expires upon the death of a registrant. [16.30.3.12 NMAC - Rp, 16 NMAC 30.3.11.2, 9/6/2001; A, 9/15/2016]

16.30.3.13 RENEWAL OF AN EXPIRED CERTIFICATE:

A. A registrant whose license has expired for no more than one [(+)] month shall be required to pay the registration fee and a late fee of fifty [(50)] dollars (\$50).

B. A reinstatement applicant whose license has been expired for more than one [(+)] month shall be required to:

(1) pay a registration fee and a penalty equal to one [(+)] year's registration fee for each year expired but in no case shall the penalty exceed three times the annual registration fee;

(2) submit a signed and notarized reinstatement affidavit as provided by the board; and

(3) complete continuing education requirements as [stated in Paragraph (7) of Subsection B of 16.30.3.11 NMAC] required by these rules; at the board's discretion, the former registrant may be required to present evidence to the board of continued proficiency, complete additional requirements, and appear personally before the board in order that the board may determine whether to renew the lapsed certificate.

C. Reinstatement of a certificate that has been lapsed for more than three [(3)] years requires submittal of an NCARB certificate and required application forms as a new applicant. [16.30.3.13 NMAC - Rp, 16 NMAC 30.3.11.3, 9/6/2001; A, 9/15/2002; A, 4/15/2004; A, 5/4/2008; A, 9/15/2016]

16.30.3.15 ARCHITECT EMERITUS: Upon written request

to the board, any architect registered in New Mexico [who is sixty (60)-years of age or older] may renew his or her registration as an architect emeritus for a biennial fee of twenty dollars (\$20.00) if the following requirements are met.

A. The registrant shall be [sixty] 60 years of age or older and retired from the practice of architecture on the date of his or her registration renewal. Retired means that the architect no longer practices architecture in New Mexico and no longer stamps and certifies construction documents with his or her seal for projects located in New Mexico that are subject to the jurisdiction of the board.

B. The registrant shall have [ten] 10 years of continuous registration as an architect, five [(5)] years as a registered architect in New Mexico, unless practicing under a specific exemption authorized by law.

C. In the event an architect emeritus wishes to reinstate a registration to practice architecture, the board may require proof of proficiency and the fulfillment of additional requirements deemed necessary, such as providing proof of continuous architectural registration elsewhere with the registration in good standing. Reinstatement of the license following the request to terminate an architect emeritus status shall include completion of continuing education requirements per Subsection B of 16.30.3.12 NMAC. [16.30.3.15 NMAC - Rp, 16 NMAC 30.3.11.5, 9/6/2001; A, 9/15/2003; A, 9/15/2016]

16.30.3.16 DUPLICATE WALL CERTIFICATES: The board may, after consideration of a written request from a registrant outlining the circumstances supporting the request, authorize the issuance of a duplicate wall certificate of registration. The fee for supplying such a certificate shall be thirty-five dollars (\$35) [and the duplicate certificate will be clearly marked as such].

[16.30.3.16 NMAC - Rp 16 NMAC 30.3.12, 9/6/2001; A, 9/15/2016]

16.30.3.17 DISPLAY OF A CERTIFICATE OF REGISTRATION: The board requires that each registrant shall display his or her certificate of registration in a conspicuous location in his or her primary place of business.

[16.30.3.17 NMAC - Rp 16 NMAC 30.3.13, 9/6/2001; A, 9/15/2016]

16.30.3.18 INDIVIDUAL SEAL AND DOCUMENT IDENTIFICATION:

A. Registration seal specifications: Each architect registered [~~for practice within~~] in the state of New Mexico shall secure a registration seal of the following design: [~~The seal shall secure a registration seal of the following design~~] The seal shall have two [(2)] concentric circles with the outer circle measuring 1-3/4 inches in diameter and the inner circle being 1-1/4 inches in diameter. The upper portion of the annular space between the two circles shall bear the words "STATE OF NEW MEXICO" and the lower portion shall bear the words "REGISTERED ARCHITECT". The space enclosed by the inner circle shall bear the name of the architect and his or her registration number. In no event shall the seal contain more than one name of an architect. By placement of a seal and signature on a drawing, an architect verifies that his or her registration is valid and that he or she is practicing in accordance with the Architectural Act, Sections 61-15-1 through 13 NMSA 1978 and these rules and regulations.

B. Use of registration seal:

(1) Each original sheet of construction drawings and each cover sheet of specifications, submitted for permitting, and reports, prepared by or under the responsible charge of an individual architect, must bear the imprint of the seal with the signature of that architect and the date of the signature closely aligned to the seal. The name and address of the architect must also appear on the sealed page. A registrant may

apply a seal, signature and date of signature by hand. A registrant may affix an electronically-generated seal, signature, and date of signature. An electronic signature may be utilized provided the registrant utilizes a secure method of affixation; the registrant does not authorize any other person to so affix; and the registrant and client have agreed to conduct transactions by electronic means. Drawings, reports or documents that are signed using an electronic signature shall employ an authentication procedure to ensure the validity of the electronic signature. Signature [~~shall be as defined in Subsection N of~~] must satisfy requirements defined in 16.30.1.7 NMAC.

(2) As provided in the Architectural Act, Subsection A of Section 61-15-7 NMSA 1978, all plans, specifications, plats and reports prepared by an architect or under the architect's responsible charge shall be signed and sealed by that architect, including all plans and specifications prepared by the architect or under the architect's responsible charge on work described in [~~Subsection B,~~] project exemptions, [~~of~~] under Section 61-15-9 NMSA 1978.

(3) Placing of multiple architectural seals on plans, specifications or reports shall not be permitted. The architect-of-record must seal, sign and date all construction drawings, specifications, and reports prepared by or under the supervision of that architect. In doing so, the architect-of-record assumes full responsibility for these documents.

(4) Reviewing, or reviewing and correcting, technical submissions after they have been prepared by others does not constitute the exercise of responsible charge because the reviewer has neither control over nor detailed knowledge of the content of such submissions throughout their preparation. Any registered architect signing or sealing technical submissions not prepared by that architect but prepared under the architect's responsible charge by

persons not employed in the office where the architect is resident, shall maintain and make available to the board upon request for at least five [(5)] years following such signing and sealing, adequate and complete records demonstrating the nature and extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation. An exception is made for:

~~[(5) An exception to Paragraph (4) of Subsection B of 16.30.3.18 NMAC above is made for architects who review, adapt, and seal prototypical projects provided that:]~~

(a) architects who review, adapt, and seal prototypical projects provided that the project qualifies as a prototypical project meaning the original plans were designed by other architects, engineers or architects and engineers with the intent of being used in several diverse locations with local adaptations;

~~[(b) the New Mexico registered architect has permission of the plan owner to adapt the documents; and~~

~~[(c) all previous title blocks and seals have been removed; in applying his or her seal, the New Mexico registered architect assumes full responsibility for the documents as if prepared by or under the architect's responsible charge.~~

~~[(6) An exception to Paragraph (4) of Subsection B of 16.30.3.18 NMAC above is made for kit-of-parts. A kit-of-parts is a manufactured item and the New Mexico registered architect is not responsible for the components:]~~

(b) a kit-of-parts that is a manufactured item and the New Mexico registered architect is not responsible for the components.

~~[(7)] (5) Architectural and engineering seals are required for any subsequent and physically linked construction to a project which, when seen together~~

with the original construction, would have required both seals.

~~(8)~~ (6) A

legally applied seal and signature is a permanent part of construction documents and may not be removed for non-payment of fees or other civil action.

C. Assumption of projects:

(1) Sealed

work: Prior to sealing, signing and dating work, a successor registered architect shall be required to notify the original architect, his successors, or assign, by certified letter to the last known address of the original registered architect, of the successor's intention to use or reuse the original registered architect's work. A successor registered architect must use his or her own title block, seal and signature and must remove the title block, seal and signature of the original architect before sealing, signing and dating any sealed construction drawings and specifications. The successor registered architect shall take full responsibility for the drawings as though they were the successor's original product.

(2) Unsealed

work: When an architect assumes responsibility of an incomplete project, the following evaluation must occur before the architect can be said to have exhibited responsible charge over the project:

(a)

Program: the architect shall meet with the client to assure that the client's needs are met.

(b)

Codes: the architect shall assure that the project is in compliance with all federal, state, and local regulation.

(c)

Coordination: the architect shall assure coordination with the other professionals in a multi-seal project.

(d)

Analysis: the architect shall assure the project meets all technical, aesthetic, and quality requirements and that site and environmental issues have been addressed.

(e)

The architect of record who assumes

the incomplete project shall be charged with keeping records of the project for five years.

D. Plan checking:

Any authorized person checking documents for compliance with any applicable statutes, codes, ordinances, rules or regulations such as building codes, fire codes or zoning ordinances may "red-line" and list changes to meet such applicable statutes, codes, ordinances, rules and regulations, as this is not the practice of the profession. However, a person may not modify a professional document submitted for review unless that modification is supported by reference to an applicable code or standard. A non-registrant shall not modify, in any manner, a document embodying the discretion or judgment of a registrant without the express permission of the architect who is in responsible charge. [16.30.3.18 NMAC - Rp, 16 NMAC 30.3.14, 9/6/2001; A, 9/15/2002; A, 9/16/2004; A, 9/15/2016]

16.30.3.19 CHANGE OF ADDRESS:

~~[A.]~~ Registrants shall notify the board of a change of primary address ~~[to either their business address or residential address]~~ within 30 days of a move.

~~[B.]—Registrants who fail to notify the board of a change of address to either their business address or residential address shall be subject to a penalty of twenty-five dollars (\$25.00)~~

[16.30.3.19 NMAC - N, 9/15/2002; A, 9/16/2004; A, 9/15/2016]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.4 NMAC, Section 10, effective 9/15/2016.

16.30.4.10 FULL DISCLOSURE:

A. An architect, making public statements on architectural questions, shall disclose whether the architect is being compensated for making such a

statement.

B. An architect shall accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which he or she is claiming credit.

C. If, in the course of an architect's work on a project, the architect becomes aware of a decision taken by the architect's employer or client, against the architect's advice, which violates applicable state or municipal building laws, codes and regulations and which will, in the architect's judgment, materially affect adversely the safety to the public of the finished project, the architect shall:

(1) notify the

employer or client in writing;

(2) report

the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws, codes and regulations;

(3) refuse to

consent to the decision; or

(4)

in circumstances where the architect reasonably believes that such decisions will be taken notwithstanding the architect's objection, terminate the architect's services with reference to the project and have no liability to the architect's client or employer on account of the termination.

D. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with the architect's application for registration or renewal.

E. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience or character.

F. An architect possessing knowledge of a violation of these rules by another architect or an applicant for registration shall report such knowledge to the board. [16.30.4.10 NMAC - Rp, 16 NMAC

30.4.8.3, 9/6/2001; A, 9/15/2016]

ARCHITECTS, BOARD OF EXAMINERS FOR

This is an amendment to 16.30.5 NMAC, Sections 8, 9 and 11, effective 9/15/2016.

16.30.5.8 COMPLAINTS:

Disciplinary proceedings against a registered New Mexico architect, applicant, or unlicensed individual may be ~~instituted~~ 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 such sufficient evidence exists, the enforcement subcommittee may vote to issue a notice of contemplated action.~~] 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. [16.30.5.8 NMAC - Rp, 16 NMAC 30.5.8, 9/6/2001; A, 9/15/2016]

16.30.5.9 SETTLEMENT AGREEMENTS: For all non-parental responsibility actions:

A. The enforcement subcommittee may ~~enter into a~~ negotiate a proposed settlement agreement at any time prior to the issuance of a notice of contemplated action. The proposed settlement agreement is subject to approval by ~~the rules and regulations committee~~ vote of the board and consent of the respondent.

B. The board ~~shall~~ may require an acknowledgement of

disciplinary action for ~~all violations~~ any violation.

C. The board ~~shall~~ may require an admission of guilt in a settlement agreement for any non-minor violation.

D. The board may report the settlement agreement to the relevant computer database(s). [16.30.5.9 NMAC - N, 9/6/2001; A, 9/16/2004; A, 5/4/2008; A, 9/15/2016]

16.30.5.11 VIOLATIONS:

~~Architect, as defined in Subsection A of 61-15-2 NMSA 1978, means any individual registered under the Architectural Act to practice architecture. A person using any designation tending to imply to the public that the person is an architect is in violation of Subsection B (5) of Section 61-15-10 NMSA 1978 unless:~~

~~**A.** that person is duly registered to do so under the provisions of the Architectural Act;~~

~~**B.** the title containing the designation is allowed by rule of the board; or~~

~~**C.** the title containing the designation does not imply that the person using the designation, when describing occupation, business name or services, is offering to perform architectural services.]~~

A person using any designation tending to imply to the public that the individual is registered under the Architectural Act to practice architecture; such as architect, architectural services, or words to that effect, is in violation of Section 61-15-10 NMSA 1978.

[16.30.5.11 NMAC - Rp 16 NMAC 30.5.9, 9/6/2001; A, 9/15/2016]

NURSING, BOARD OF

The Board of Nursing approved, at its 8/11/2016 hearing, to repeal its rule 16.12.1 NMAC, Nursing And Health Care Related Providers - General Provisions (filed 6/12/2001) and replace it with 16.12.1 NMAC, Nursing And Health Care Related Providers - General Provisions, effective 10/1/2016.

The Board of Nursing approved, at its 8/11/2016 hearing, to repeal its rule 16.12.2 NMAC, Nurse Licensure (filed 6/12/2001) and replace it with 16.12.2 NMAC, Nurse Licensure, effective 10/1/2016.

The Board of Nursing approved, at its 8/11/2016 hearing, to repeal its rule 16.12.3 NMAC, Nursing Educational Programs (filed 6/12/2001) and replace it with 16.12.3 NMAC, Nursing Educational Programs, effective 10/1/2016.

The Board of Nursing approved, at its 8/11/2016 hearing, to repeal its rule 16.12.4 NMAC, Hemodialysis Technicians (filed 12/21/2005) and replace it with 16.12.4 NMAC, Hemodialysis Technicians, effective 10/1/2016.

The Board of Nursing approved, at its 8/11/2016 hearing, to repeal its rule 16.12.5 NMAC, Medication Aides (filed 6/29/2005) and replace it with 16.12.5 NMAC, Medication Aides, effective 10/1/2016.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 1 GENERAL PROVISIONS**

16.12.1.1 ISSUING

AGENCY: New Mexico Board of Nursing.

[16.12.1.1 NMAC - Rp, 16.12.1.1 NMAC, 10/1/2016]

16.12.1.2 SCOPE: These rules apply to all nurses licensed in New Mexico and all nurses not licensed in this state whose home state is not New Mexico and who wish to practice in New Mexico pursuant to a multi-state license privilege as provided in the nurse licensure compact; certified medication aides, and programs serving persons

with developmental disabilities in programs that are funded by the department of health and related training programs, hemodialysis technicians and training programs, and nursing education programs. [16.12.1.2 NMAC - Rp, 16.12.1.2 NMAC, 10/1/2016]

16.12.1.3 STATUTORY AUTHORITY: Nursing Practice Act, Sections 61-3-10, 61-3-10.1, 61-3-10.2, and 61-3-10.3 NMSA 1978 Comp.

[16.12.1.3 NMAC - Rp, 16.12.1.3 NMAC, 10/1/2016]

16.12.1.4 DURATION: Permanent.
[16.12.1.4 NMAC - Rp, 16.12.1.4 NMAC, 10/1/2016]

16.12.1.5 EFFECTIVE DATE: October 1, 2016, unless a later date is cited at the end of a section.
[16.12.1.5 NMAC - Rp, 16.12.1.5 NMAC, 10/1/2016]

16.12.1.6 OBJECTIVE: To promote, preserve and protect the public health, safety and welfare by regulating the practice of nursing, certified medication aides, certified hemodialysis technicians, approve schools of nursing and medication aide and hemodialysis technician training programs in the state, as well as the authority to take action against any of the above for failure to meet set minimum standards for licensure, certification or approval as promulgated by the board.
[16.12.1.6 NMAC - Rp, 16.12.1.6 NMAC, 10/1/2016]

16.12.1.7 DEFINITIONS:
A. "Abandonment": occurs when the nurse has accepted the assignment to provide care, service or treatment to the consumer thus establishing relationship and then abruptly severed the relationship/disengaged from the relationship without giving reasonable notice to a qualified person who can make arrangements for the continuation of care by others; consists of one

or more of the following elements, which, as result of departure from assigned care, caused or may have caused harm; failure to provide observation to include but not limited to assessment and intervention; failure to assure competent intervention at any time to include but not limited to delayed treatment, insufficient treatment, or refusal to treat; failure to provide for provision of qualified coverage including but not limited to adequate time to arrange nursing coverage of assigned care. This is to be distinguished from employment abandonment, such as, but not limited to, contract issues, no call, no show; refusal to work mandatory overtime; refusal to float to unfamiliar areas, or resignation from a position; the board has no jurisdiction over employment issues.

B. "Board": the New Mexico board of nursing.

C. "Certificate": a legal document granting permission to an unlicensed person to perform specific functions generally considered the practice of nursing.

D. "Consumer": means any person domiciled, residing or receiving care, service or treatment from a licensed nurse or certified unlicensed assistive person. This includes but is not limited to patients, residents, or clients.

E. "Complaint": means to declare in writing an allegation of a violation of the Nursing Practice Act or rules.

F. "License": legal document granting an individual the privilege and authority to engage in practice of an occupation/profession.

G. "Notice of contemplated action": a written notice indicating the board's intent to take disciplinary action against the license/certificate of an individual within its jurisdiction.

H. "Notice of hearing": a written notice indicating the date, time and place for an appearance before the board.

I. "Nursing Practice Act": NM statute which governs the regulations and licensing of nurses or certification of hemodialysis

technicians/medication aides and training programs thereof.

J. "Probation": subjecting a licensee/certificate holder to specific conditions for a stated period of time to determine fitness.

K. "Reasonable notice": the process of notifying a supervisor or manager of leaving the work site. The process allows for the supervisor or manager to locate a replacement therefore not jeopardizing the consumer's nursing care.

L. "Reinstatement": the process whereby a license/certificate, which has been subject to disciplinary action by the board, is returned to its former status.

M. "Reprimand": a written censure.

N. "Revocation": to prohibit the conduct authorized by a license or certificate.

O. "Stipulation and agreement": an agreement made by the attorneys on opposite sides of a cause or the prosecuting attorney and licensee, concerning disposition of relevant issues to eliminate the need for a formal hearing.

P. "Suspension": to prohibit, for a stated period of time, the conduct authorized by a license or certificate.

Q. "Uniform Licensing Act": NM statute which provides procedures to be utilized in disciplinary proceedings.
[16.12.1.7 NMAC - Rp, 16.12.1.7 NMAC, 10/1/2016]

16.12.1.8 ADMINISTRATION:

A. Members of the board are appointed by the governor and are accountable to the governor for the enforcement of the Nursing Practice Act, Section 61-3-1 NMSA 1978.

(1) Rules are adopted by the board to further define the Nursing Practice Act and the functions of the board.

(2) A code of conduct shall be adopted by the board, and shall be reviewed annually at a regularly scheduled meeting of the board.

(3) The board shall meet at least once every three months.

(a) A meeting notice resolution, consistent with the Open Meetings Act, Section 10-15-1 NMSA 1978 shall be adopted by the board and shall be reviewed annually at a regularly scheduled board meeting.

(b) A schedule of regular meeting dates shall be approved by the board at a regular meeting prior to the beginning of the next calendar year, and shall be published in the board's newsletter, and on the board's website.

(4) The board may appoint advisory committees consisting of at least one member who is a board member and at least two members expert in the pertinent field of health care to assist it in the performance of its duties, Subsection M of Section 61-3-10 NMSA 1978.

(a) Exception: no current board members shall be appointed to an advisory committee for the diversion program, Subsection B of Section 61-3-29 NMSA 1978.

(b) Members of advisory committees who fail to attend three consecutive committee meetings shall automatically be removed as a member of the committee.

(c) Advisory committee members may be reimbursed as provided in the Per Diem and Mileage Act, Section 10-8-8 NMSA 1978 for travel to a committee meeting or function.

(i) Mileage may be paid when there is a total of 60 miles or more traveled.

(ii) Per diem may be paid for overnight stays only upon prior approval of the executive director or assistant director.

(5) The board shall elect a chairman, vice-chairman and secretary annually. The term of office begins with the meeting subsequent to the election. Any member of the board may serve as an officer of the board.

(6) Board may appoint site visitors who have expertise in the pertinent field of education/health care to accompany board staff on visits to educational programs, health care institutions/facilities, etc., to assist it in the performance of its duties and responsibilities. Site visitors may be reimbursed as provided in the Per Diem and Mileage Act, Section 10-8-1 to 10-8-8 NMSA 1978 for travel to a committee meeting or function.

(a) Mileage may be paid when there is a total of 60 miles or more traveled.

(b) Per diem may be paid for overnight stays only upon prior approval of the executive director or assistant director.

B. The board shall hire an executive director who is accountable to the board for the administration and management of the board office, including but not limited to the fiscal operation, records, hiring and firing of personnel. The operation of the board office shall be in accordance with the state of New Mexico statutes and rules.

(1) The executive director shall not have the power to grant, deny or withdraw approval for schools of nursing or to revoke, suspend or withhold any license authorized by the Nursing Practice Act (NPA).

(2) The executive director, or designee, shall represent the board to the public.

C. Honorarium: members of the board and board staff, when speaking on behalf of the board of nursing, may accept an honorarium. The honorarium shall be made in the name of the New Mexico board of nursing and deposited in the nursing fund with the state of New Mexico.

D. Verification of license/certificate.

(1) Employers and other interested persons may request verification of the status of a license/certificate.

(2) Verification of relicensure/recertification status is

available immediately by phone and 24 hours on board website.

(3) Requests for verification of licensure/certification to other boards of nursing should be submitted through the national council of state boards of nursing (NCSBN) web based system.

E. Reimbursement for disciplinary witnesses and experts on behalf of the state.

(1) Individuals subpoenaed as a disciplinary witness for the state may be reimbursed for mileage as provided for in the Per Diem and Mileage Act, when 60 miles or more are traveled to a disciplinary hearing.

(2) Individuals who serve as an expert witness for the state in a disciplinary matter may be reimbursed by the board in an amount not to exceed: two hundred dollars (\$200) for reviewing the file, research and advisement in the matter, and three hundred dollars (\$300) for testifying at a disciplinary hearing.

(3) The executive director may approve additional reimbursement for the review of files and testimony of expert witnesses when such reimbursement is essential to the prosecution of the case.

F. Telephonic attendance at board meetings by board members.

(1) Pursuant to the provisions of the Open Meetings Act, Subsection C of Section 10-15-1 NMSA 1978, as amended, board members may participate in a meeting of the board by means of a conference telephone or similar communications equipment.

(2) Board members participation in meeting telephonically shall constitute presence in person at the meeting. Telephonic participation may only occur when it is difficult or impossible for the person to be physically present. That is, there are circumstances beyond the member's control which make attendance in person extremely burdensome.

(3) Each board member participating telephonically

must be identified when speaking and all participants must be able to hear all other participants.

(4) Members of the public attending the meeting must be able to hear all members of the board and members of the public who speak during the meeting.

G. Use of fax: The board of nursing may accept and send facsimile of documents. Faxes of communications related to participants of the diversion program are accepted to the confidential fax number only.

[16.12.1.8 NMAC - Rp, 16.12.1.8 NMAC, 10/1/2016]

16.12.1.9 DISCIPLINARY ACTION:

A. Authority of board of nursing: The board may deny, revoke, or suspend any license or certificate held or applied for under the Nursing Practice Act (NPA), or reprimand or place a license or certificate on probation on the grounds stated in Section 61-3-28 NMSA 1978.

B. Disciplinary philosophy: the board of nursing accepts its mandate to regulate nursing, medication aides and hemodialysis technicians for the protection of the citizens of New Mexico. In its role as a regulatory body, the board recognizes that it is responsible for conducting hearings upon charges related to violations of the Nursing Practice Act, Section 61-3-1 through 61-3-30 NMSA 1978 or its rules, and to take disciplinary actions against licensees or certificate holders who violate the statute or rules. The board considers all alleged violations based on the merits of each case and the potential danger to the public. The board will consider remedial measures of corrective action rather than denial, suspension or revocation of a license or certificate except in cases where there is a real or potential danger to the public. The board will deny, suspend or revoke a license or certificate when it has evidence that the public's health, safety and welfare may be in danger. The board is responsible for

promoting, preserving and protecting the public health, safety and welfare through the adoption of rules that allow licensees and certificate holders to function safely and competently within the parameters of their license/certificate. The board is also responsible for ensuring that licensees and certificate holders have access to the laws and rules governing nursing in order that they may function within the legal boundaries of the nursing practice act and its rules.

C. Grounds for action.

(1) For purposes of Paragraph (3) of Subsection A of Section 61-3-28 NMSA 1978, supra, "incompetence" is defined as follows: In performing nursing functions, whether direct patient care or the administration/management of that care, a nurse is under a legal duty to possess and to apply the knowledge, skill and care that is ordinarily possessed and exercised by other nurses of the same licensure status and required by the generally accepted standards, of the profession including those standards set forth in 16.12.2.12 NMAC of these rules. The failure to possess or to apply to a substantial degree such knowledge, skill and care constitutes incompetence for purposes of disciplinary proceedings. Charges of incompetence may be based on a single act of incompetence or on a course of conduct or series of acts or omissions, which extend over a period of time and which, taken as a whole, demonstrates incompetence. It shall not be necessary to show that actual harm resulted from the act or omission or series of acts or omissions, so long as the conduct is of such a character that harm could have resulted to the patient/client or to the public from the act or omission or series of acts or omissions.

(2) For the purpose of Paragraph (6) of Subsection A of Section 61-3-28 NMSA 1978 supra, "unprofessional conduct" includes, but is not limited to, the following:

(a) dissemination of a patient/client's health information or treatment

plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law or hospital/agency policy from disclosure;

(b) falsifying or altering patient/client records or personnel records for the purpose of reflecting incorrect or incomplete information;

(c) misappropriation of money, drugs or property;

(d) obtaining or attempting to obtain any fee for patient/client services for one's self or for another through fraud, misrepresentation, or deceit;

(e) aiding, abetting, assisting or hiring an individual to violate the nursing practice act or duly promulgated rules of the board of nursing;

(f) obtaining, or attempting to obtain possessing, administering or furnishing prescription drugs to any person, including but not limited to one's self, except as directed by a person authorized by law to prescribe;

(g) failure to follow established procedure and documentation regarding controlled substances;

(h) failure to make or keep accurate, intelligible entries in records as required by law, policy and standards for the practice of nursing;

(i) obtaining or attempting to obtain a license to practice nursing for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the licensure by examination or endorsement process, or relicensure process;

(j) practicing nursing in New Mexico without a valid, current New Mexico license or permit, or aiding, abetting or assisting another to practice nursing without a valid, current New Mexico license;

(k) failure to report a nurse(s) who

is suspected of violating the New Mexico Nursing Practice Act or rules;

(l) intentionally engaging in sexual contact with or toward a patient/client in a manner that is commonly recognized as outside the scope of the individual nurse’s practice;

(m) abandonment;

(n) engaging in the practice of nursing when judgment or physical ability is impaired by alcohol or drugs or controlled substances;

(o) committing acts which constitute grounds for disciplinary action pursuant to Paragraph (1) and (2) of Subsection A of Section 61-3-28 NMSA 1978 where the conviction arises from employment as a nurse, Paragraph (3) and (4) of Subsection A of Section 61-3-28 NMSA 1978 where the intemperance, addiction, incompetence or unfitness has manifested itself during the course of employment as a nurse in a fashion which is contrary to the provision of good health care, Paragraph (5) of Subsection A of Section 61-3-28 NMSA 1978 where the mental incompetence has manifested itself during the course of employment as a nurse in a fashion which is contrary to the provisions of good health care, and Paragraph (7) of Subsection A of Section 61-3-28 NMSA 1978;

(p) failure to follow state and federal laws, policies and procedures for the prescription and distribution of dangerous drugs including controlled substances;

(q) practice which is beyond the scope of licensure;

(r) inappropriate delegation of medication administration, evaluation and nursing judgment to non-licensed persons;

(s) verbally or physically abusing a patient/client or colleague; or

(t) failure to maintain appropriate professional boundaries which may

cause harm to the patient.

D. Grounds
for disciplinary action against hemodialysis technicians and medication aides listed under 16.12.4.11 NMAC and 16.12.5.11 NMAC.

E. Parental Responsibility Act compliance: This subsection is adopted pursuant to the Parental Responsibility Act, Section 40-5A-1 through 40-5A-13 NMSA 1978.

(1) All terms defined in the Parental Responsibility Act shall have the same meanings in this subsection.

(a) “HSD” means the New Mexico human services department.

(b) “Statement of compliance” means a certified statement from HSD stating that an applicant or licensee/certificate holder is in compliance with the judgment and order for support.

(c) “Statement of non-compliance” means a certified statement from HSD stating that an applicant or licensee/certificate holder is not in compliance with a judgment and order for support.

(2) If an applicant or licensee/certificate holder is not in compliance with a judgment and order for support, the board:

(a) shall deny an application for a license/certificate;

(b) shall deny the renewal of a license/certificate; and

(c) has grounds for suspension or revocation of the license/certificate.

(3) Upon receipt of HSD’s certified list of obligors not in compliance with a judgment and order for support; the board shall match the applicant against the current certified list of board licensees/certificate holders and applicants.

(a) Upon the later receipt of an application for licensure, certification or renewal, the board shall match the

applicant against the current certified list.

(b) By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants and licensees/certificate holders who are on the certified list and the action the board has taken in connection with such applicants and licensees/certificate holders.

(4) Upon determination that an applicant or licensee/certificate holder appears on the certified list, the board shall issue a notice of contemplated action (NCA) in accordance with the Uniform Licensing Act (UCLA), Section 61-1-1 NMSA 1978, to take the appropriate action.

(a) The (NCA) shall state that the board has grounds to take such action unless the licensee/certificate holder or applicant:

(i) mails a letter (certified mail return receipt requested) within 20 days of receipt of the notice of contemplated action requesting a hearing; and

(ii) provides the board, prior to the scheduled hearing date, with a statement of compliance from (HSD).

(b) If the applicant or licensee/certificate holder disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee/certificate holder should contact the (HSD) child support enforcement division.

(5) In any hearing under this subsection, relevant evidence is limited to the following:

(a) a statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under Paragraph (2) of Subsection E of 16.12.1.9 NMAC, unless;

(b) the applicant or licensee/certificate holder provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under this section.

(6) When disciplinary action is taken under this subsection solely because the applicant or license/certificate holder is not compliance with a judgment and order for support, the order shall state that the applicant or licensee/certificate holder shall be reinstated upon presentation of a subsequent statement of compliance. Reinstatement following board action under this subsection shall require the licensee or certificate holder to meet the requirements for reinstatement and payment of the appropriate reinstatement fee.

F. Disciplinary proceedings: are conducted in accordance with the Uniform Licensing Act, Section 61-1-1 NMSA 1978 and Open Meetings Act, Section 10-15-1 NMSA 1978.

(1) Filing of a complaint.

(a) A written complaint must be filed with the board of nursing before a disciplinary proceeding can be initiated.

(i) A complaint is an allegation of a wrongful act(s) or an omission(s).

(ii) A complaint may include knowledge of a judgment or settlement against a licensee.

(b) A written complaint may be filed by any person, including a member of the board.

(c) A nurse who suspects that a nurse or certificate holder has violated any provision of the Nursing Practice Act or rules of the board must file a written complaint with the board of nursing; except when the nurse or certificate holder suspected of violating the Nursing Practice Act or rules of the board is a patient and patient confidentiality is involved.

(2) Investigation of a complaint.

(a) complaints alleging a violation of the Nursing Practice Act or rules adopted by the board may be investigated to determine whether a violation of

applicable law or rule has occurred;

(b) the investigation may result in one following inter alia:

(i) a board motion to issue a notice of contemplated action (NCA) if a violation exists; or

(ii) a board motion to dismiss the complaint because no violations exists.

(3) Notice of contemplated action (NCA).

(a) the NCA shall be drafted by the administrative prosecuting attorney;

(b) the executive director of the board, or an assistant director in the director's absence, shall sign all NCAs on behalf of the board;

(c) NCAs are served on the licensee or certificate holder in accordance with the (ULA).

(4) Request for a hearing, notice of hearing, and request for continuance.

(a) notice of hearing, designating the date, time and place of the hearing, shall be mailed to the licensee or certificate holder via certified mail upon receipt of a written request for a hearing;

(b) the licensee or certificate holder may request to explore a settlement by negotiating a stipulation and agreement with the administrative prosecuting attorney at any time prior to the hearing.

(i) if a settlement is negotiated, the proposed stipulation and agreement shall be presented to the board for final approval;

(ii) the proposed stipulation and agreement does not divest the board of its authority to require a formal hearing or final approval, amendment, or rejection;

(iii) if a settlement is not reached, a hearing shall be held.

(c)

once a hearing has been scheduled, a request for a continuance must be presented, along with evidence to support the request to the board, in writing, at least 10 days prior to the scheduled hearing. The board may approve or deny the request;

(i) a motion to continue the hearing must contain an affirmative statement that the licensee or applicant waives his or her right to a hearing held not more than 60 days from the date of service of the notice of hearing;

(ii) one continuance may be granted in each case if proof is submitted to verify good cause such as illness, availability of new evidence or unavailability of the licensee or licensee's attorney. The board may approve or deny the request.

(d) if a person fails to appear before the board after requesting a hearing, the board may proceed to consider the matter as a default and make a decision;

(e) if no request for a hearing is made within the time and manner required by the (ULA), the board may take the action contemplated in the NCA at its next regularly scheduled meeting. Such action shall be final and is not subject to judicial review.

(5) Administrative hearing.

(a) all hearings shall be conducted by the board or, at the direction of the board by a hearing officer. The hearing officer shall have authority to rule on all motions. If the board does not appoint a hearing officer or if the hearing officer is unavailable or unable to proceed, the board chair or other board member designated by the board shall have the authority to decide pre-hearing or preliminary matters on behalf of the board. This authority shall be in accordance with the requirements of the case in a manner that ensures an efficient and orderly hearing and expedites the final resolution of the case;

(b) all hearings before the board shall

be conducted in the same manner as a hearing in a court of law with the exception that the rules of evidence may be relaxed in the board hearing;

(i) hearsay evidence is admissible if it is of a kind commonly relied upon by reasonable prudent people in the conduct of serious affairs;

(ii) disciplinary action against a nursing license or certificate holder must not be based solely on hearsay evidence.

(c) the board may take testimony, examine witnesses and direct a continuance of any case;

(d) the board may hold closed, or open, deliberations before or during a hearing for the settlement or simplification of issues with the consent of the person whose license or certificate is involved;

(e) the executive director, or in the director's absence, an assistant director or designee shall have the power to issue subpoenas to compel the attendance of witnesses or the production of books, documents or records pertinent to the matter of a case before the board.

G. Decision of the board.

(1) the decision must be rendered by the board at a public meeting where a quorum of the members are present and participating in the decision;

(2) a copy of the written decision shall be mailed via certified mail to the applicant/ licensee or certificate holder in accordance with the Uniform Licensing Act, Section 61-1-14 NMSA 1978.

H. Request/motion to reopen disciplinary proceedings: An applicant who has been denied a license or certificate in New Mexico or a licensee or certificate holder who has had disciplinary action taken by the board and who wishes to have the case reopened must submit a written request/motion to reopen their case prior to filing a petition for review with the district court.

(1) the board shall be polled to consider whether to grant or refuse the applicant/licensee or certificate holder request/motion to reopen the case, Uniform Licensing Act 61-1-21 and Open Meetings Act 10-15-1 NMSA 1978. Uniform Licensing Act 61-1-21 NMSA 1978 and Open Meetings Act Subsection E of Section 10-15-1 NMSA 1978;

(2) the board's decision to grant or refuse the request/motion to reopen the case shall be made, signed by the executive director or an assistant director in the director's absence, and sent to the applicant/licensee or certificate holder within 15 days after receipt of the request/motion. The administrative prosecuting attorney shall be apprised of any decision of the board to reopen a case and shall be given an opportunity to respond to the motion;

(3) the formal hearing of the case shall be scheduled for the board's next regularly scheduled meeting. A notice of hearing shall be mailed, by certified mail, to the applicant/licensee or certificate holder within 15 days after service of the decision to grant the request/motion to reopen;

(4) the decision to grant or refuse the reopening of a case shall be in the discretion of the board, and the decision shall not be reviewable except for an abuse of discretion.

I. Public notification of disciplinary action: The disciplinary action of the board shall be made public in accordance with the Open Meetings Act, Section 10-15-1 NMSA 1978 by the following means:

(1) information regarding disciplinary action shall be coded in computer, license or certificate file;

(2) submission of disciplinary action to the *national council of state board's disciplinary data bank/national practitioner data bank* (NPDB);

(3) publication of the disciplinary action in the board's newsletter and on the board's website.

J. Reinstatement of

license or certificate.

(1) individuals who request reinstatement of their license or certificate or who request that their probation be lifted must be prepared to provide the board with evidence to support their request. This evidence may be in the form of written reports or verbal testimony from individuals who have knowledge of the licensee's or certificate holder's activities and progress during the period of probation, suspension or revocation;

(2) requests for reinstatement of a revoked license or certificate shall not be considered by the board prior to the expiration of one year from the date of the order of revocation, unless provided for in the order of revocation. The date at which time the board chairman's signature is affixed to the order of revocation or suspension is the controlling date, unless otherwise specified in the order;

(3) requests for reinstatement of a suspended license or certificate shall be considered at such time as provided by the board in the order of suspension;

(4) reinstatement of a revoked or suspended license requires proof of meeting the renewal requirements as set forth in these rules adopted by the board, and payment of the reinstatement of current or lapsed license fee.

K. Complaints regarding firms, associations, institutions and corporations violating the nursing practice act.

(1) the board of nursing shall accept and determine the disposition of written complaints regarding firms, associations, institutions and corporations violating the nursing practice act, causing the violation of the nursing practice act, or asking employees to violate the nursing practice act by policy or directive;

(2) the agency shall be given the opportunity to respond in writing to the allegations in the complaint;

(3) if the board of nursing determines a violation of the nursing practice act has occurred, the board of nursing shall identify and refer the complaint in writing to the appropriate authority for prosecution with a request to be kept apprised of the disposition of the case;

(4) if it is determined by the board of nursing that a violation Subsection A through H of Section 61-3-30 NMSA 1978 of the Nursing Practice Act has occurred, the board of nursing shall inform the agency to whom the complaint is referred of the requirements set out in Section 61-3-30 NMSA 1978 of the Nursing Practice Act.

(5) the board shall keep a record of the number of complaints received and the disposition of said complaints. [16.12.1.9 NMAC - Rp, 16.12.1.9 NMAC, 10/1/2016]

16.12.1.10 EXCEPTIONS: Nursing Practice Act, Section 61-3-2, NMSA, 1978. The Nursing Practice Act does not apply to or affect caring for the sick provided in accordance with a religious practice so long as the caregiver does not claim to be a licensed practical nurse or a registered nurse or advanced practice nurse, or use of their authorized abbreviations or any title that could lead a person to believe the individual is a licensed nurse. [16.12.1.10 NMAC - Rp, 16.12.1.10 NMAC, 10/1/2016]

16.12.1.11 SEVERABILITY: If any part or application of the board's rules is held invalid, the remainder, or its application to other situations or persons, shall not be affected. [16.12.1.11 NMAC - Rp, 16.12.1.11 NMAC, 10/1/2016]

HISTORY of 16.12.1 NMAC:
Pre-NMAC History:
 The material in this part was derived from that previously filed with the state records center & archives under: BON 70-2, Administrative Policy, filed 7/17/1970; BON 73-1, Rules and Regulations

of the Nursing Practice Act, filed 3/13/1973; BON 78-1, Administrative Rules and Regulations of the New Mexico Board of Nursing, filed 11/02/1978; BON MANUAL #83-1, Administrative Rules and Regulations of the Board of Nursing, filed 6/13/1983; BON MANUAL #85-1, Administrative Rules and Regulation of the Board of Nursing, filed 8/13/1985; BON MANUAL 91-2, Administrative Rules and Regulations of the New Mexico board of nursing, filed 10/09/1991.

History of Repealed Material:

16.12.1 NMAC, Nurse Licensure, filed 6/12/2001 - Repealed effective 10/1/2016.

Other History: 16 NMAC 12.1, Nursing and Health Care Related Providers - General Provisions, filed 12/10/1997, renumbered, reformatted and amended to 16.12.1 NMAC, General Provisions effective 7/30/2001.

NURSING BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
 CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
 PART 2 NURSE LICENSURE**

16.12.2.1 ISSUING AGENCY: New Mexico Board of Nursing. [16.12.2.1 NMAC - Rp, 16.12.2.1 NMAC, 10/1/2016]

16.12.2.2 SCOPE: This rule applies to all nurses licensed in New Mexico and all nurses not licensed in this state whose home state is not New Mexico and who wish to practice in New Mexico pursuant to a multi-state license privilege as provided in the nurse licensure compact. [16.12.2.2 NMAC - Rp, 16.12.2.2

NMAC, 10/1/2016]

16.12.2.3 STATUTORY AUTHORITY: Section 61-3-1 NMSA 1978 authorized the board of nursing to regulate the practice of nursing in the state. [16.12.2.3 NMAC - Rp, 16.12.2.3 NMAC, 10/1/2016]

16.12.2.4 DURATION: Permanent. [16.12.2.4 NMAC - Rp, 16.12.2.4 NMAC, 10/1/2016]

16.12.2.5 EFFECTIVE DATE: October 1, 2016 unless a later date is cited at the end of a section. [16.12.2.5 NMAC - Rp, 16.12.2.5 NMAC, 10/1/2016]

16.12.2.6 OBJECTIVES: To promote, preserve and protect the public health, safety and welfare of the citizens of the state of New Mexico. [16.12.2.6 NMAC - Rp, 16.12.2.6 NMAC, 10/1/2016]

16.12.2.7 DEFINITIONS:
A. Definitions beginning with the letter A:

(1) **“actually engaged in nursing”**, employed, engaged, or holding a position which requires licensure or in which the maintenance of licensure as a nurse is expected;

(2) **“administration of medications”**, a process whereby a prescribed drug or biological agent is given to a patient/client by a person licensed or certified by the board to administer medications;

(3) **“advanced practice registered nurse” (APRN)**, a graduate level prepared registered nurse who has completed a program of study in a specialty area in an accredited nursing program, taken a certification examination in the same area, and been granted a license to practice as an advanced practice nurse with an expanded scope of practice; individuals are authorized to practice in the roles of certified

nurse practitioner (CNP), certified registered nurse anesthetist (CRNA) and clinical nurse specialist (CNS);

(4) “**affidavit**”,

a sworn written statement made to affirm a statement of fact;

(5)

“**anesthetics**”, means a drug-induced loss of consciousness, otherwise known as general anesthesia, during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory support is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. General anesthesia is used for those procedures when loss of consciousness is required for the safe and effective delivery of surgical services.

(6) “**approval**”,

the review and acceptance of a specific activity;

(7) “**approval agency**”,

agency, institution or organization with the authorization to award CE credit;

(8) “**approved equivalent**”,

a program reviewed and accepted by the board of nursing as meeting necessary regulatory/statutory requirements;

(9)

“**assessment**”, the review and interpretation by a licensed individual of specific data necessary to determine the patient/client’s care and treatment needs; (also see data collection);

(10)

“**assignment of nursing activity**”, assignment of nursing activity involves appointing or designating another licensed nurse or assistive personnel that is consistent with his/her scope of practice (licensed person) or role description (unlicensed person);

(11) “**audit**”,

an examination and verification of CE and practice documents.

B. Definitions

beginning with the letter B:

(1) “**basic nursing education**”,

the scholastic route to initial licensure;

(2) “**board**”,

the New Mexico board of nursing.

C. Definitions

beginning with the letter C:

(1)

“**certificate**”, a legal document granting permission to an unlicensed person to perform specific functions generally considered the practice of nursing under the direction of a licensed nurse;

(2)

“**certification re-activation**”, the process of reactivating a lapsed national advanced practice registered nurse certification program in the specialty area;

(3)

“**collaboration**”, practice in conjunction with another health professional;

(4)

“**competency**”, competency in nursing is the ability to perform skillfully and proficiently the role of the licensee; the role encompasses essential knowledge, judgment, attitudes, values, skills and abilities, which are varied in range and complexity; competency is a dynamic concept and is based on educational training, preparation, and expertise;

(5)

“**consultation**”, to communicate regularly to set goals and objectives and to review and document outcomes;

(6) “**contact hours**”,

a unit of measurement to describe an approved, organized learning experience;

(7)

“**continuing education**”, planned learning experiences beyond a basic nursing education program; these experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of nursing practice, thus improving health care to the public;

(8)

“**continuing education unit (CEU)**”, ten contact hours of participation in an organized CE experience under

responsible sponsorship, capable direction, and qualified instruction.

D. Definitions

beginning with the letter D:

(1) “**data collection**”,

the process of obtaining information, material, fact or clinical observations which will be used in the assessment process; data collection is not limited to licensed individuals;

(2)

“**delegation**”, the transferring to a competent individual the authority to perform a selected nursing task in a selected situation. The nurse retains accountability of the delegation;

(3)

“**department of public safety**”, the New Mexico department of public safety or other state’s department of public safety;

(4) “**direct supervision for graduate permit holders**”,

at a minimum, the person responsible for the direct supervision must be in the facility or on the unit with the graduate permit holder observing, directing and evaluating the performance of the permit holder; the supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

E. Definitions

beginning with the letter E:

(1)

“**educational institution**”, refers to an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution);

(2) “**eligible for graduation**”,

individual who has met all the requirements of an educational program.

F. “Final transcript”,

an official record of course work and grades, issued by a school, which indicates date of program completion and certificate or degree awarded.

G. “Generally recognized organization”,

an association of nurses with common goals and concerns expressed through structured by laws. Rules and regulations, and whose recognition

derives from both the profession and the public.

H. “Health care work force data collection”, an electronic survey, designed to be completed by applicants for licensure or renewal, which includes questions regarding a core essential data set.

I. Definitions beginning with the letter I:

(1) **“inactive list”**, compilation of those licenses that are in good standing but not current;

(2) **“initial license”**, the process of achieving the legal privilege to practice within a professional category upon the completion of all educational requirements and the successful writing of the national licensing examination;

(3) **“institution of higher education”**, college or university.

J. “Jurisdiction”, the licensure or regulatory authoritative body for nursing within a specific geographic area for which there is endorsement in New Mexico.

K. Definitions beginning with the letter K:
[Reserved]

L. Definitions beginning with the letter L:

(1) **“lapsed status”**, a license which was not renewed by the expiration date on the license;

(2) **“legal guardian”**, a person lawfully invested with the power, and charged with the duty, of taking care of the person and managing the property and rights of another person who is considered incapable of administering his own affairs;

(3) **“letter of authorization”**, a document issued by the board which authorizes an individual to practice nursing in New Mexico under the auspices of an approved preceptorship for an advanced nursing expanded scope of practice prescriptive authority or for an advanced practice nurse from a compact state;

(4) **“license”**,

a legal document granting an individual the privilege and authority to engage in the practice of an occupation/profession;

(5) **“licensure by endorsement”**, the process of achieving the legal privilege to practice within a professional category, in New Mexico, by individuals licensed in other jurisdictions, upon fulfilling all requirements set by this state.

M. Definitions beginning with the letter M:

(1) **“medical emergency”**, a situation resulting from a disaster in which the number of persons requiring nursing care exceeds the availability of New Mexico registered nurses or licensed practical nurses;

(2) **“monitoring system”**, a mechanism whereby programs may be approved for CE hours within a geographic area;

(3) **“must”**, a requirement.

N. Definitions beginning with the letter N:

(1) **“national licensing examination”**, examination for licensure as provided by the national council of state boards of nursing, inc.;

(2) **“nationwide criminal history record”**, information concerning a person’s arrests, indictments or other formal criminal charges and any dispositions arising there from, including convictions, dismissals, acquittals, sentencing and correctional supervision, collected by criminal justice agencies and stored in the computerized databases of the federal bureau of investigation, the national law enforcement telecommunications systems, the department of public safety or the repositories of criminal history information of other states;

(3) **“nationwide criminal history screening”**, a criminal history background investigation of an applicant for licensure by examination or endorsement through the use of fingerprints reviewed by the

department of public safety and submitted to the federal bureau of investigation, resulting in the generation of a nationwide criminal history record for that applicant.

O. Definitions beginning with the letter O:
[Reserved]

P. Definitions beginning with the letter P:

(1) **“permit-to-practice for GCNSs”**, a document conferring the privilege to practice as a graduate clinical nurse specialist, at a specific place of employment, under the direct supervision of a licensed CNS, CNP or physician; such permits will carry set expiration dates, are not renewable and are not transferable;

(2) **“permit-to-practice for GNs and GPNs”**, a document conferring the privilege to practice nursing at a specific place of employment, under direct supervision of a RN only; such permits will carry set expiration dates, are not renewable or transferable;

(3) **“permit-to-practice for GNPs”**, a document conferring the privilege to practice as a graduate nurse practitioner, at a specific place of employment, under the direct supervision of a physician or a certified nurse practitioner; direct supervision of a physician, licensed CNP or CNS is required for prescription writing; such permit will carry set expiration dates, are not renewable and are not transferable;

(4) **“permit-to-practice for GRNAs”**, a document conferring the privilege to administer anesthesia to any person, as a GRNA, at a specific place of employment, functioning in an interdependent role under the direction of and in collaboration with a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico; such permits will carry set expiration dates, and are not renewable or transferable;

(5) **“post-graduate program”**, any specialized knowledge and skills sought after completion of a basic nursing educational program which does not necessarily lead to an advanced

degree;

(6)

“**preceptor**”, an individual at or above the level of licensure that an assigned student is seeking, who may serve as a teacher, mentor, role model or supervisor in a clinical setting;

(7)

“**prescriptive authority**”, the power to determine the need for drugs, immunizing agents or devices; selecting the remedy and writing a prescription;

(8) “**private**

practice”, employment status of an individual nurse who is self-employed.

(9)

“**procedural sedation**”, a technique of administering sedatives or dissociative agents with or without analgesics to induce a state that allows the patient to tolerate unpleasant procedures while maintaining cardio respiratory functions.

Q. Definitions

beginning with the letter Q:
[Reserved]

R. Definitions

beginning with the letter R:

(1)

“**reactivation**”, the process of making current a license which has been in abeyance as a result of failure to comply with the necessary renewal requirements; this process does not involve board action at any juncture;

(2)

“**recognized national or state institutions/organizations**”, institutions and organizations recognized as providers of CE for nurses;

(3) “**refresher**

course”, a formal program that has both didactic and clinical components designed to prepare a nurse who has been out of practice to re-enter the profession;

(4)

“**reinstatement**”, the process whereby a license which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action, and requires filing of a form and payment of the reinstatement fee;

(5)

“**relicensure**”, the process of renewal, reactivation or reinstatement of a New Mexico nursing license.

S. Definitions

beginning with the letter S:

(1) “**shall**”,

mandatory; a requirement;

(2) “**should**”,

a suggestion or recommendation; not a requirement;

(4) “**sponsor/**

provider”, any person, organization, agency, or institution which organizes, develops, implements, and evaluates a CE activity;

(5) “**state**

approved program”, a basic nursing education program approved or accredited by a state board of nursing or a nationally recognized nursing education accreditation body;

(6)

“**supervision/direction**”, initial verification of a person’s knowledge and skills in the performance of a specific function or activity followed by periodic observation, direction and evaluation of that person’s knowledge and skills as related to the specific functions or activity;

(7)

“**surrogate**”, an individual, other than a patient’s agent or guardian, authorized under the uniform health-care decisions act to make a health-care decision for the patient.

T. “Temporary

license”, a non-renewable, non-transferable document indicating a legal privilege to practice as a RN, LPN, CNP, CNS or CRNA, on a conditional basis for a specific period of time.

U. “Uniform

Licensing Act”, New Mexico statute which provides procedures to be utilized in disciplinary proceedings.

V. “Valid

practitioner-patient relationship” means a professional relationship between the practitioner and the patient for the purpose of maintaining the patient’s well-being. At minimum, this relationship is an interactive encounter between the practitioner and patient involving an appropriate history and physical or

mental examination, ordering labs or diagnostic tests sufficient to make a diagnosis and providing, prescribing or recommending treatment, or referring to other health care providers. A patient record must be generated by the encounter.

[16.12.2.7 NMAC - Rp, 16.12.2.7 NMAC, 10/1/2016]

16.12.2.8 GLOSSARY OF ABBREVIATIONS:

A. APRN: Advanced practice registered nurse (i.e. CNP, CNS, CRNA).

B. CE: Continuing education.

C. CNP: Certified nurse practitioner.

D. CNS: Clinical nurse specialist.

E. COA: Council on accreditation of nurse anesthesia educational program.

F. CRNA: Certified registered nurse anesthetist.

G. DNP: Doctor of nursing practice.

H. GCNS: Graduate clinical nurse specialist.

I. GN: Graduate nurse.

J. GNP: Graduate nurse practitioner.

K. GPN: Graduate practical nurse

L. GRNA: Graduate registered nurse anesthetist.

M. LPN: Licensed practical nurse.

N. MN: Master’s in nursing.

O. MSN: Master of science in nursing.

P. NBCRNA: National board on certification & recertification of nurse anesthetists.

Q. NCLEX-RN/PN: National council licensing examination - RN/PN.

R. NCSBN: National council of state boards of nursing.

S. NLNAC: National league for nursing accrediting commission.

T. NMSA: New Mexico statutes annotated.

U. NPA: Nursing

Practice Act.

V. RN: Registered nurse.

W. ULA: Uniform Licensing Act of NM. [16.12.2.8 NMAC - Rp, 16.12.2.8 NMAC, 10/1/2016]

16.12.2.9 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

- A.** Licensure by examination \$110
- B.** Reexamination fee registered nurse (RN) \$60
- C.** Reexamination fee licensed practical nurse (LPN) \$60
- D.** Licensure by endorsement (RN/LPN) \$110
- E.** Renewal \$93
- F.** Reactivation from lapsed status; inactive or returning to state (includes renewal fee) \$110
- G.** Reactivation from lapsed status; renewing late (includes renewal fee) \$200
- H.** Reinstatement of lapsed license following board action \$150
- I.** Reinstatement of current license following board action \$100
- J.** Initial advanced practice licensure (CNP, CRNA, CNS) \$100
- K.** Advanced practice renewal \$100
- L.** Reactivation from lapsed status advanced practice, inactive, returning to state \$110
- M.** Reactivation from lapsed status advanced practice license; renewing late \$200
- N.** Temporary license \$50

[16.12.2.9 NMAC - Rp, 16.12.2.9 NMAC, 10/1/2016]

16.12.2.10 LICENSURE REQUIREMENTS FOR REGISTERED AND PRACTICAL NURSES: Licensure with the

New Mexico board of nursing is mandatory and is the responsibility of the individual nurse, pursuant to the Nursing Practice Act. For states who are a part of the nurse licensure compact, licensure in New Mexico can only be issued to applicants who declare New Mexico as their primary state of residence.

A. Prerequisites for licensure of RNs and LPNs by examination in New Mexico.

(1)

Completion of and eligible for graduation from a board approved course of study for the preparation of registered nurses or practical nurses, or an acceptable level of education as determined by the board or graduation from a program which is equivalent to an approved program of nursing in the United States:

(a)

minimum acceptable level of education for LPN licensure by examination for candidates enrolled in RN programs with LPN programs embedded include:

(i)

minimum of 500 hours, 250 didactic, 250 (clinical and lab) which includes the minimum as follows; OB/Peds - 30 hours didactic/40 hours clinical; medical-surgical - 60 hours didactic/90 hours clinical; pharmacology - 45 hours didactic; and psych - 60 contact hours;

(ii)

LPN transition course approved by the New Mexico board of nursing.

(b)

request to New Mexico board of nursing for LPN licensure examination by acceptable level of education from an approved program of nursing should include:

(i)

transcripts with minimum of 500 hours in nursing education and proof of successful completion of board approved LPN transition course;

(ii)

written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

(c)

certification of eligibility for LPN licensure examination by students enrolled in a nursing program with a LPN track will need to include:

(i)

transcripts with minimum of 500 hours in nursing education and board approved LPN transition course passed successfully on completion of board approved LPN transition course;

(ii)

written communication from the director of the approved nursing program requesting permission for nursing students to test for LPN licensure.

(2) RN and

PN graduates from non-U.S. nursing programs:

(a)

shall have an evaluation of their nursing education credentials sent to the New Mexico board directly from a board recognized educational credentialing agency;

(i)

the credentialing agency must be a member of a national credentialing organization and must be monitored by an external committee of credentialing experts and nursing educators;

(ii)

the credentialing agency must demonstrate the ability to accurately analyze academic and licensure credentials in terms of U.S.

comparability, with course-by-course analysis of nursing academic records;

(iii)

the credentialing agency must manage the translation of original documents into English;

(iv)

the credentialing agency will inform the board of nursing in the event of fraudulent documents;

(v)

the credentials report must state the language of nursing instruction and language of textbooks for nursing education; and

(vi)

the credentialing agency must only use original source documents in evaluating nursing education and must compare the foreign education to the U.S. education standards.

(b)

Puerto Rico applicants who are graduates of National league for nursing accrediting commission (NLNAC) accredited registered nurse program are eligible to sit National council licensure examination for registered nurses (NCLEX-RN) exam;

(c) successful completion of any one of the approved English competency examinations with:

(i) a minimum score of 540 (207 on computerized version) on the test of English as a foreign language (TOEFL) or test of English as a foreign language - internet based test (TOEFL IBT) minimal passing standard of 84 overall, with a minimum speaking score of 26, a minimum score of 725 on test of English for international communication test of English for international communication (TOEIC) or a minimum score of 6.5 overall with a 7.0 on the spoken portion on the academic version of international English language testing system international English language testing system (IELTS);

(ii) completion of a nursing program given in English in another country;

(iii) a passing score on a nursing licensure examination which is given in English.

(3) Completion of the required board of nursing application for licensure by examination according to instructions and including the required fee.

(4) Completion of NCLEX application for the testing service according to instructions.

(5) Graduates who have compact state addresses or who declare another compact state as their state of residence on their application will have their application for examination, and appropriate fees returned to them.

(6) The board shall not approve an application for a license until the applicant provides the following information:

(a)

demographics, including race, ethnicity and primary and other languages spoken;

(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(c) education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

B. Nationwide criminal background check. Applicants for licensure in New Mexico are subject to a state and national criminal background check at their cost.

(1) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent.

(2) Applications for exam or endorsement will not be processed without results of a criminal background check.

(3) If the criminal background check reveals a felony or violation of the Nursing Practice Act, the applicant/licensee will be notified to submit copies of legal documents and other related information to the board that will make the determination if the applicant is eligible for licensure or if disciplinary action will be taken.

C. Complete application for licensure by examination, certification of eligibility for graduation completed by nursing education program or official transcript, and an approved

criminal background check must be received by the board office prior to being granted permission to take the national licensing examination (NCLEX). Certification of eligibility for graduation completed by nursing education program or official transcript, indicating date requirements for graduation from the nursing program were met and certificate or degree awarded must be received in the board office directly from the registrar's office.

D. Results of the examination shall be reported to the individual applicant within four weeks following the applicant's examination date. Examination results shall be released to the applicant's nursing program and boards of nursing unless otherwise instructed, in writing, by applicant.

E. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

F. Applications containing fraudulent or misrepresented information could be the basis for denial or revocation of licensure.

G. If the licensure process is not completed, the application becomes null and void one year after date of the application being received at the board.

H. Permits-to-practice may be issued for employment at a specific institution(s) in New Mexico. Permits-to-practice can be emailed, faxed or mailed directly to the New Mexico employing institution(s).

(1) To be eligible for a permit-to-practice, the applicant must:

(a) complete the application process to take the NCLEX within 12 weeks of graduation; the permit to practice for RN and PN graduates of U.S. schools may be issued for a period not to exceed six months from the receipt date of application; permits to practice may not be issued by the New Mexico board of nursing for employment at specific institution(s) in compact states; permits-to-practice will not be issued for applicants who declare

residency in other compact states;

(b) RN and PN graduates from non-U.S. nursing programs may be issued a permit-to-practice in New Mexico for a period not to exceed six months from the date of application when requirements are met according to Paragraph (2) of Subsection A of 16.12.2.10 NMAC;

(c) assure that prospective New Mexico employer(s) submit a letter of intent to employ to the board office, on agency letterhead, indicating the name of a specific New Mexico employer and name and nursing license number of the RN who is responsible for assuring direct supervision by a registered nurse;

(d) have an approved criminal background check results.

(2) Permits-to-practice cannot be transferred or renewed.

(3) Written notification from employer must be made to the board office in case of lost or stolen permit-to-practice.

(4) Permits-to-practice shall be valid until the examination results are disseminated but shall not exceed the expiration date on the permit.

(a) Applicants who fail the first or any subsequent examination shall not practice nursing until such time as the applicant passes a nursing licensing examination.

(b) Any applicant who is eligible to write the professional examination but elects to write the practical examination on the basis of practical nursing education equivalency and fails the practical examination shall not be granted graduate nurse status when the applicant applies to write the professional registered nurse examination.

(c) Any applicant who fails to appear for the first examination for which applicant is eligible shall not practice nursing until such time as the applicant passes a licensing

examination.

(5) Candidates who were not successful on the *national licensure examination* will receive the results as soon as they are available.

(6) Applicants who hold a graduate permit-to-practice and do not become licensed prior to the expiration date of the permit may not continue to practice as a graduate nurse or graduate practical nurse.

I. Direct supervision for graduate permit holders:

(1) at a minimum, the RN responsible for direct supervision must be in the facility or on the unit with the graduate;

(2) the RN is responsible for observing, directing and evaluating the performance of the graduate;

(3) the RN supervisor must not be engaged in other activities that would prevent them from providing direct supervision.

J. Applicants educated in the United States who fail the examination may apply to retake the examination:

(1) Up to eight times in two years. The applicant must wait 45 days to retest after failing the exam.

(2) An application expires after six months and a new application and all the supporting documentation must be submitted.

(3) Applicants for re-examination must meet all NCLEX requirements for retaking the examination.

(4) If the applicant did not pass the exam in eight attempts or within two years of graduating, or did not attempt the exam within two years of graduating;

(a) the applicant must submit an individualized remediation plan within six months of the last date of taking the NCLEX to the nurse education advisory committee for consideration;

(b) the applicant has one year to fully execute the approved plan;

(c) upon full execution of the plan, the board's designee will authorize the applicant to take the exam four more times within one year before becoming indefinitely ineligible to sit NCLEX based on nursing program graduation. Subsequent graduations will reset the applicant's NCLEX eligibility;

(d) applicants educated outside of the United States who have practiced nursing for any time may petition the nursing education advisory committee for an alternative schedule for successful completion of the NCLEX not based on graduation date;

(e) graduates who have not passed the NCLEX within two years of graduation and who graduated prior to July 1, 2014 may submit a remediation plan by December 31, 2016.

K. National council licensing examination.

(1) Applicants for licensure as registered nurses shall be required to pass the NCLEX-RN.

(2) Applicants for licensure as licensed practical nurses shall be required to pass the NCLEX-PN.

(3) Applicants observed giving or receiving unauthorized assistance during the taking of the national licensing examination shall be referred to the board by a sworn complaint.

L. Prerequisites for licensure of registered nurses and licensed practical nurses by endorsement.

(1) Verification *directly* from the licensing authority which shall include:

(a) graduation from an approved nursing program or an acceptable level of education as determined by the board or a nursing program which is equivalent to an approved program of nursing in the United States; and

(b)

initial licensure by passing a national licensure examination in English or a state constructed licensure examination prior to October 1986.

(2) Applicants from licensing authorities which do not verify graduation from a nursing education program, must assure that a final transcript is sent to the board of nursing *directly* from the educational institution or custodian of records verifying graduation from an approved nursing program or equivalent, or

(3) Canadian applicants who have been endorsed by another state after passing the Canadian nursing exam in English or the NCLEX are eligible for endorsement into NM.

(4) Complete and submit the required application for licensure by endorsement in accordance with all instructions, including the required fee.

(5) The board shall not approve an application for endorsement until the applicant provides the following information:

(a) demographics, including race, ethnicity and primary and other languages, spoken;

(b) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(c) education, training and primary and secondary specialties;

(d) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(e) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(f) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(6) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check approved.

M. Qualifications for licensure as a RN or LPN are pursuant to the Nursing Practice Act.

(1) LPN applicants initially licensed after July 1, 1969 must meet the educational requirements;

(2) Military personnel, licensed as LPNs by successful writing of the national licensing examination prior to July 1, 1977, may be licensed in New Mexico by endorsement providing their DD-214 shows the related civilian occupation to be "LPN";

(3) Continuing education (CE) is not required for initial licensure by endorsement. CE requirements must be met at the time of the first renewal. CE may be prorated to commensurate with the length of the renewal period;

(4) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

N. A temporary license may be issued to an endorsee upon submission of:

(1) a completed endorsement application and required fee in accordance with all instructions;

(2) applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a criminal background check result approved.

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

O. An initial license shall be valid until the last day of the applicants' birth month after the first anniversary of the initial license.

P. If the licensure process is not completed in one year after date application received by the board, the application becomes null and void.

Q. In case of a medical emergency (as defined in these rules), nurses currently licensed to practice as a RN or LPN in a jurisdiction of the United States may practice in New Mexico without making application for a New Mexico license for a period not to exceed 30 days.

R. Requirements for relicensure and reactivation. Applicants for relicensure and reactivation must meet CE requirements as stated in these rules, pursuant to the Nursing Practice Act Section 61-3-24 NMSA 1978. The CE may be prorated to commensurate with the length of the renewal period.

(1) Licensed nurses shall be required to complete the renewal process by the end of their renewal month every two years.

(2) A renewal notice shall be mailed to the licensee at least six weeks prior to the end of the renewal month.

(a) Renewal of license may be accepted no more than 60 days prior to the expiration date of the license.

(b) The board shall not approve an application for a renewal of license until the applicant provides the following information:

(i) demographics, including race, ethnicity and primary and other

languages spoken;

(ii) practice status, including but not limited to: active practices in New Mexico and other locations; practice type, practice settings, such as hospital, clinic or other clinical settings;

(iii) education, training and primary and secondary specialties;

(iv) average hours worked per week and the average number of weeks worked per year in the licensed profession;

(v) percentage of practice engaged in direct patient care and in other activities, such as teaching, research and administration in the licensed profession;

(vi) practice plans for the next five years, including retiring from the health care profession, moving out of state or changing health care work hours.

(c) Failure to receive notice renewal shall not relieve the licensee of the responsibility of renewing the license by the expiration date.

(d) If the license is not renewed by the end of the renewal month, licensee does not hold a valid license and shall not practice nursing in New Mexico until the lapsed licensed has been reactivated.

(e) A reactivation fee will be charged when license has lapsed.

(f) **Exception:** if renewing, nurses who are mobilized for active duty are not required to renew their license while on active duty, other than training, during a military action. A copy of the mobilization orders must be submitted to the board office prior to expiration of the license. The license extension shall end one month after deployment is concluded. No reactivation fee will be charged when the license is renewed.

(3) 30 hours of approved CE must be accrued within the 24 months immediately preceding expiration of license. CE may be

prorated to commensurate with the length of the renewal period.

(a) Certified nurse practitioners must complete a total of 50 hours of approved CE each renewal. CE may be prorated to commensurate with the length of the renewal period. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(b) Certified registered nurse anesthetists must submit a copy of the recertification card issued by NBCRNA for renewal of the CRNA license.

(c) Clinical nurse specialist must complete a total of 50 hours of approved continuing education each renewal. CE may be prorated to commensurate with the length of the renewal period. A copy of the specialty certification/recertification card or certificate shall be presented at the time of each subsequent renewal.

(d) **Exception:** if renewing, nurses mobilized for military action are not required to meet the CE requirements while on active duty, other than training, during a military action. A copy of the mobilization order must be submitted along with the renewal application.

(4) Individuals who reside out-of-state who do not hold primary residence in a nurse licensure compact state, but wish to maintain a current, valid New Mexico license, must meet the same requirements for licensure as licensees residing within the state who have declared New Mexico as their primary residence.

(5) **Penalty:** failure of licensee to meet the CE requirement for licensure shall result in the license not being renewed, reinstated, or reactivated. When the CE requirement has been met, an application for licensure may be submitted for consideration.

(6) Licenses can be verified by phone verification, on the board website or www.nursys.

com.

(7) Individuals who are reactivating a license which has been lapsed for four or more years must complete a refresher course that includes both a didactic and clinical component designed to prepare a nurse who has been out of practice to re-enter into practice.

(a) Applicants will follow the criminal background check process required by the New Mexico department of public safety or its agent and have a new criminal background check result approved.

(b) A temporary license will be issued not to exceed six months unless the board of nursing approves an extension to allow the individual to complete the refresher course clinical component. If documentation is not received by the board verifying successful completion of the refresher course prior to the temporary license expiration date, the individual will not be allowed to practice nursing.

(c) Advanced practice nurses who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their specific advanced practice knowledge, skills and expertise. A temporary license will be issued not to exceed one year unless board of nursing approves an extension.

S. Requirements for name-address change:

(1) **Address change:** Immediate notification of address change *must be made* to the board office.

(2) **Name change:** Nurse must use name as it appears on current license until name change is in effect. Name change can be submitted with license renewal or at any given time. Submit a copy of the legal document required for name change (*only* recorded marriage certificate, divorce decree or court order accepted).

T. Reactivation/ reinstatement of a lapsed license must

meet the requirements for relicensure pursuant to the Nursing Practice Act and these rules. A reactivated or reinstated license shall be valid for two years.

U. Inactive status.

Licensee may request her/his license be placed on inactive status during the renewal cycle only; however, the licensee may not function in a nursing capacity as a New Mexico licensed nurse until the license is reactivated.

V. The board will

collect a standardized core essential data set as required in regulation for examinations and renewals which will be entered into the internal licensing database at the board of nursing. [16.12.2.10 NMAC - Rp, 16.12.2.10 NMAC, 10/1/2016]

16.12.2.11 CONTINUING EDUCATION:

A. Introduction.

(1) Pursuant to the provision of the Nursing Practice Act, the board of nursing prescribes the following regulations establishing requirements for CE to be met by the licensee to protect the health and well-being of the citizens of New Mexico and to promote current nursing knowledge and practice.

(2) Philosophy

of CE: The members of the New Mexico board believe that CE is one of the most important responsibilities of the nurse and is a lifelong process. The primary responsibility for CE rests with the individual nurse. A diversity of nursing-related learning activities is recommended to enhance the scope of professional development.

B. Requirements and rules.

(1) Records.
(a)

All licensees must indicate compliance with the CE required by these rules on the renewal application. All information must be completed as requested.

(b)

Licensees are responsible for maintaining their own CE records and for keeping the certificates of verification of attendance of CE

activities for at least one year after the license is renewed. Photocopies of certificates must be submitted to the board office only if audited and requested.

(2) CE Audit.
(a)

Continuing education records are subject to audit by the board.

(b)

Licensee may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of audit.

(c)

When audited, CE may be prorated to commensurate with the length of the renewal period.

C. Approved

continuing education. To be acceptable in New Mexico, the CE activity must have been approved by a recognized approval body and must enhance the licensee's scope of professional development as related to his/her activities in nursing. The participant must receive a certificate of attendance which validates the number of approved CE hours awarded, name of the participant, sponsoring agency, approval body and date attended. Correspondence courses and home-study programs are acceptable, if approved.

(1)

Recognized approval bodies for CE for nurses.

(a)

National or state recognized nursing organizations.

(b)

Other state boards of nursing.

(c)

New Mexico board-approved local monitoring systems.

(2) Other CE

which may be accepted as approved CE for nurses:

(a)

academic credit, computation: one academic credit equals 15 contact hours;

(b)

CE units (CEUs) or contact hours awarded by CE divisions within educational institutions of higher learning;

(c)

educational offerings approved through other generally recognized health care or professional organizations as related to licensee's nursing practice.

D. Monitoring system.

CE hours accrued through educational offerings approved by a local monitoring system shall be accepted as meeting the CE requirements for licensure in New Mexico but may not be accepted by other state boards of nursing as approved CE.

(1) Local

monitoring systems must be approved initially and annually by the board of nursing. A guideline for the establishment and operation of a local monitoring system is available in the board office.

(2) The

approval of educational offerings shall be determined on the approval criteria developed by the board.

E. Certification or

recertification in the registered nursing specialty area. Certification or recertification granted by a national professional organization which uses criteria designed to recognize competence in a specialized area of nursing practice may be used as approved CE. Verification of certification or recertification within the current renewal period is accepted in lieu of the 30 hours of CE required for licensure.

[16.12.2.11 NMAC - Rp, 16.12.2.11 NMAC, 10/1/2016]

16.12.2.12 STANDARDS OF NURSING PRACTICE:

A. The nurse shall

maintain individual competence in nursing practice, recognizing and accepting responsibility for individual actions and judgments.

(1) Competent

nursing practice requires that the nurse have the knowledge and skills to practice nursing safely and properly in accordance with his/her licensure status and to perform specific functions or procedures required in his/her particular area of practice. Competent nursing practice also requires that the nurse have the knowledge to recognize and respond

to any complication(s) which may result from the function or procedure the nurse performs.

(2) To maintain the requisite knowledge and skills, the nurse shall engage in CE specific to his/her particular area of practice.

(3) The nurse shall use individual competence as a criterion in accepting assigned responsibilities.

(4) The nurse contributes to the formulation, interpretation, implementation and evaluation of the objectives and policies to nursing practice within his/her employing setting.

B. The nurse shall assign/delegate to licensed and unlicensed persons only those nursing actions which that person is prepared, qualified or licensed or certified to perform.

(1) The nurse is accountable for assessing the situation and is responsible for the decision to delegate or make the assignment.

(2) The delegating nurse is accountable for each activity delegated, for supervising the delegated function or activity, and for assessing the outcome of the delegated function or activity.

(3) The nurse may not delegate the specific functions of nursing assessment, evaluation and nursing judgment to non-licensed persons.

(4) Registered nurses engaged in school nursing practice may delegate medication administration, including emergency medication, to adults affiliated with school operations.

C. The nurse shall have knowledge of the laws and rules governing nursing and function within the legal boundaries of nursing practice.

(1) The nurse must report incompetent and unprofessional conduct to the appropriate authorities.

(2) The nurse must report violations of the Nursing

Practice Act and administrative rules of the board of nursing to the board of nursing.

D. The nurse acts to safeguard the patient/client when his care and safety are affected by incompetent, unethical, or illegal conduct of any person by reporting the conduct to the appropriate authorities.

E. The nurse shall recognize the dignity and rights of others regardless of social or economic status and personal attributes, shall conduct practice with respect for human dignity, unrestricted by considerations of age, race, religion, sex, sexual orientation, national origin, disability or nature of the patient/client's health problems.

F. The nurse safeguards the individual's right to privacy by judiciously protecting information of a confidential nature, sharing only that information relevant to his care.

G. The nurse shall identify herself/himself by name and licensure category and shall permit inspection of their license when requested.

H. Standards for professional registered nursing practice. Registered nurses practice in accordance with the definition of professional registered nursing in the NPA. Subsection J of Section 61-3-3 NMSA 1978.

(1) RNs may assume specific functions and perform specific procedures which are beyond basic nursing preparation for professional registered nursing Subsection J of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from a recognized body of knowledge and practice of nursing, and the function or procedure is not prohibited by any law or statute.

(2) When assuming specific functions and performing specific procedures, which are beyond the nurse's basic educational preparation, the RN is responsible for obtaining the appropriate knowledge, skills and

supervision to assure he/she can perform the function/procedure safely and competently.

I. Standards for licensed practical nursing practice. Licensed practical nurses practice in accordance with the definition of licensed practical nursing in the NPA Subsection G of Section 61-3-3 NMSA 1978.

(1) LPNs may assume specific functions and perform specific procedures which are beyond basic preparation for licensed practical nursing Subsection G of Section 61-3-3 NMSA 1978 provided the knowledge and skills required to perform the function and procedure emanates from the recognized body of knowledge and practice of nursing, and the functions or procedure is not prohibited by any law or statute. LPNs who perform procedures which are beyond basic preparation for practical nursing must only perform these procedures under the supervision/direction of a RN.

(2) LPNs may perform intravenous therapy, including initiation of IV therapy, administration of intravenous fluids and medications, and may administer medications via the intraperitoneal route provided the LPN has the knowledge and skills to perform IV therapy safely and properly.

(3) When assuming specific functions and performing specific procedures which are beyond the LPN's basic educational preparation, the LPN is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently.

J. Educational program criteria. Educational programs preparing either RNs or LPNs to perform specific functions and procedures that are beyond basic educational preparations should:

(1) prepare the nurse to safely and properly perform the function and procedures;

(2) prepare the nurse to recognize and respond to any complication(s) which may result

from the procedure, and;

(3) verify the nurse's knowledge and the ability to perform the specific functions and procedures.

K. Nursing practice advisory committee. Board of nursing may appoint a minimum of a seven-member advisory committee to assist the board in regulating the practice of nursing. The committee shall assist and advise the board in the review of issues related to the practice of nursing.

[16.12.2.12 NMAC - Rp, 16.12.2.12 NMAC10/1/2016]

16.12.2.13 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED NURSE PRACTITIONER (CNP):

A. Requirements for licensure of nurse practitioners.

(1) Hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2) Successfully complete a graduate level nursing program designed for the education and preparation of nurse practitioners as providers of primary, or acute, or chronic, or long-term, or end of life health care.

(a) The program must be offered through an accredited institution of higher education or through the armed services.

(b) If the applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001 the program must be at the master's in nursing level or higher. Applicants who do not hold a master's level or higher degree from a nurse practitioner program and were initially licensed by any board before January 1, 2001, must provide verification of NP licensure.

(c) The educational documentation shall verify the date of graduation, credentials conferred and number of supervised clinical hours as a nurse practitioner in the education program.

(3) Provide

evidence of successful accomplishment of national certification as a nurse practitioner.

(4) It is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure.

(5) Applicants who meet the minimum didactic and pharmacology requirements, but lack the required preceptorship, may be considered for licensure in New Mexico if the applicant provides satisfactory evidence of two years nurse practitioner experience in another jurisdiction.

(6) Nurse practitioners who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate nurse practitioner. The applicant seeking licensure as a nurse practitioner shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico nurse practitioner licensure application and submit it along with all required documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Nurse practitioners are not eligible to practice in New Mexico as a certified nurse practitioner until so licensed in accordance with the licensure procedures.

(5) The board may appoint nurse practitioners to the advanced practice committee. These nurse practitioners will provide advice regarding licensure and practice of nurse practitioners.

C. Graduate nurse

practitioners (GNP) permit-to-practice may be issued, upon written request, provided all requirements have been met except national nursing certification.

(1) GNPs must practice under the direct supervision of a physician or New Mexico Certified Nurse Practitioner (NCP) or Certified Nurse Specialist (CNS) in the specialty.

(2) GNPs may prescribe medications only under the direct supervision of a licensed CNP, CNS or a physician, in compliance with these rules. GNPs must fulfill the requirements in this section to prescribe controlled substances.

(3) GNP permits will be issued to the employer.

(4) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor, is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(5) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GNP permit.

(6) GNP permits cannot be transferred or renewed.

(7) GNP permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GNP. It is the responsibility of the GNP to request that the national certifying organization notify the board of nursing of the results of the examination.

D. An initial license to practice as a CNP shall be issued only after receipt by the board of proof of national certification. Such

proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

E. Prerequisites for licensure of CNP by endorsement.

(1) Verification *directly* from the licensing authority, which shall include graduation from a nurse practitioner program.

(2) In lieu of verification of advanced practice licensure for the licensing authority the board will accept:

(a) documentation directly from that licensing authority that the state does not issue advanced practice licensure;

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with the year practice began, and;

(c) if applicant was licensed by another board after January 1, 2001, submit a transcript from the program directly to the board documenting completion of a nurse practitioner program on the master's or higher level.

(3) Verification from applicant of national certification as a nurse practitioner.

(4) Nurse practitioners who are requesting prescriptive authority must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application from licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNP licensure by endorsement.

F. Qualifications for licensure as CNP are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.13 NMAC for licensure requirements.

(2) CE requirements must be met at the time of the first renewal;

(a) Advanced practice registered nurse (APRN) newly licensed in New

Mexico may have their 20 CE requirements prorated at a ratio of five contact hours for each six months of licensure leading up to the expiration date;

(b) the five contact hours of the 15 currently required in pharmacology to include management of non-cancer pain shall not be prorated. It shall be required for renewal periods of any length;

(c) APRNs with less than six months of licensure prior to renewal at the time of initial licensure shall complete at least five continuing education contact hours.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. A CNP temporary license may be issued to an endorsee awaiting results on successful completion of national certification.

H. A temporary nurse practitioner license may be issued to an endorsee who:

(1) submits a completed endorsement application and fee in accordance with all instructions;

(2) submits a copy of current national certification as a nurse practitioner; the following exceptions can be made;

(a) nurse practitioners who were licensed by any jurisdiction before December 2, 1985 are not required to hold national certification; or

(b) when the state of former advanced practice licensure does not require national certification; proof of national certification as a nurse practitioner must be submitted to the board before a license will be issued;

(3) the board will issue the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-

renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

I. An initial nurse practitioner license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, an NM advanced practice license will be issued with the same expiration date as the RN compact license. A letter of authorization will be issued to NPs who have RN multi-state licensure privileges from another nurse licensure compact state. Official verification to practice is located on the board website.

J. If the licensure process is not completed, the application becomes null and void one year after the date of application being received at the board.

K. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNPs who through additional formal education have expanded their practice into another area of NP practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a physician or licensed New

Mexico CNP or CNS in the specialty.
(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a)
 A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNP to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b)
 A letter of authorization shall be valid for six months for those applicants recertifying.

(c)
 A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship expansion of scope of practice or recertification required hours of practice.

L. Maintaining licensure as a nurse practitioner.

(1) National certification: NPs must maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal. Nurse practitioners licensed by the NM board, after December 2, 1985 are required to be nationally certified in their specialty.

(2) Continuing education.

(a)
 The CNP shall accrue a total of 50 contact hours of approved CE each renewal period. National certification

or recertification as a NP may not be used to fulfill any portion of the CE requirement:

(i)
 30 contact hours shall meet the requirements for licensure as a RN, and

(ii)
 an additional 20 contact hours, 15 of which must be pharmacology are required.

(iii)
 CNP's with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours of the 15 currently required in pharmacology to include management of non-cancer pain.

(iv)
 CNP's from compact states are only required to fulfill CE requirements listed under item (ii) and (iii) of this subparagraph.

(v)
 CE may be prorated to commensurate with the length of the renewal period.
(b)

The CE shall be in accordance with the requirements as set forth in these rules.

M. Reactivation. To reactivate or reinstate licensure as a nurse practitioner, the nurse must provide evidence of meeting the CE requirements.

(1) NPs licensed by the board after December 2, 1985 must also provide evidence of current national certification.

(2) CNPs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

N. Nurse practitioner practice.

(1) The CNP makes independent decisions regarding the health care needs of the client and also makes independent decisions in carrying out health care regimens.

(2) The CNP

provides primary or acute, or chronic, or long-term, or end of life health care to meet the health care needs of individuals, families and communities in any health care setting.

(3) The CNP may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNP provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions and performing specific procedures, which are beyond the CNP's advanced educational preparation and certification, the CNP is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CNP collaborates as necessary with other healthcare providers. Collaboration includes discussion of diagnosis and cooperation in managing and delivering healthcare.

(5) CNPs who have fulfilled requirements for prescriptive authority may prescribe and distribute dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act within their clinical specialty and practice setting.

(a)
 Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNP who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i)
 Verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years

immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a licensed CNP, CNS or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii)

In order to prescribe controlled substances, the CNP must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNP has met registration waiver criteria from the New Mexico board of pharmacy as provided under Subsection I of 16.19.20.8 NMAC. CNPs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii)

Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b)

Formulary. It is the CNP's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed; the only drugs to be included in the formulary are those relevant to the CNP's specialty and practice setting. The board of nursing reserves the right to audit the formulary of the CNP. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c)

Prescription records; written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address, and phone number of the prescribing advanced practice registered nurse.

(d)

Distributing: CNPs, who have

fulfilled requirements for prescriptive authority as stated in these rules, and defined by the board of pharmacy may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-12 NMSA 1978 and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e)

Labeling: CNPs may label only those drugs which the CNP prescribes and distributes to patients under the CNP's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, number dispensed and name, address and telephone number of the CNP. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f)

CNPs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(g)

CNPs may prescribe, provide samples of and dispense any dangerous drug to a patient where there is a valid practitioner-patient relationship as defined in 16.12.2.7 NMAC.

(6) Graduate

nurse practitioner (GNP) practice.

(a)

GNPs may not distribute medications.

(b)

GNPs may practice or prescribe medications only under the direct supervision of a licensed CNP, CNS or physician in the specialty.

(7) To insure

competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a)

a list of current CNPs and their status with regard to prescription writing shall be distributed at least annually and upon request to the board of pharmacy;

(b)

violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c)

the board of nursing shall appoint qualified CNPs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

[16.12.2.13 NMAC - Rp, 16.12.2.13 NMAC, 10/1/2016]

16.12.2.14 ADVANCED PRACTICE REGISTERED NURSE (APRN) CERTIFIED REGISTERED NURSE ANESTHETIST (CRNA):

A. Requirements for

licensure as a CRNA.

(1) Hold a

current, unencumbered RN license from New Mexico or hold a compact multi-state RN license.

(2)

Successfully complete a formal program designed for the education and preparation of certified registered nurse anesthetist. The COA *council on accreditation of nurse anesthesia educational programs* must accredit the program.

(3) If the

applicant is initially licensed by any board of nursing including the New Mexico board of nursing after January 1, 2001, the program must be at the master's level or higher. Applicants who do not hold a master's or higher degree from a nurse anesthetist program and were initially licensed by any board before January 2, 2001, must provide verification of CRNA licensure.

(4) Provide

evidence of successful completion of a national certification examination as described by the NBCRNA.

(5) It is the

responsibility of the applicant to

provide documented evidence of his/her qualification for licensure.

(6) Applicants who will be requesting prescriptive authority must also comply with the requirements for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate. The applicant seeking licensure as a certified registered nurse anesthetist shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico certified registered nurse anesthetist licensure application and submit it along with all required documents, and fee in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or its designee.

(4) Certified registered nurse anesthetists are not eligible to practice in New Mexico as certified registered nurse anesthetist until so licensed in accordance with the licensure procedures.

(5) The board may appoint certified registered nurse anesthetists to the advanced practice committee. These nurse anesthetists will provide advice regarding licensure and practice of certified registered nurse anesthetists.

C. Graduate registered nurse anesthetist permit-to-practice may be issued, upon written request, provided all requirements have been met except NBCRNA certification.

(1) A permit may be issued following graduation from an approved school of nurse anesthesia to afford the applicant the opportunity for employment pending dissemination of the national qualifying examination results by the NBCRNA.

(2) GRNAs

must function in an interdependent role as a member of a health care team and practice at the direction of and in collaboration with a physician, osteopathic physician, dentist or podiatrist.

(3) GRNAs may prescribe and administer medications only in collaboration with a physician, osteopathic physician, dentist or podiatrist in compliance with these rules.

(4) GRNAs permits will be issued to the employer(s).

(5) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor(s) and name of prescription supervisor(s), is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice for the new place of employment. The permit will be issued directly to the new employing agency.

(6) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GRNA permit.

(7) GRNA permits cannot be transferred or renewed.

(8) GRNA permits expire on the date specified on the permit.

(a) Permits shall be valid for approximately 12 months subsequent to the date of graduation from the nurse anesthesia program.

(b) Written proof of application to write the national qualifying exam must be received in the board office within 12 weeks of graduation from the nurse anesthesia program.

(c) Verification that applicant wrote the national qualifying examination, must be received in the board office within three weeks subsequent to the date of the examination.

(d) Failure of applicant to write the scheduled qualifying examination

or if the exam is failed, will render the applicant ineligible to practice anesthesia in New Mexico and the employer must immediately return the permit-to-permit to the board office. It is the responsibility of the GRNA to request that the national certifying organization notify the board of the results of the examination.

D. A license to practice as a CRNA shall be issued only after receipt by the board of proof of NBCRNA certification. Such proof must be submitted to the board by the certifying agency.

E. Prerequisites for licensure of CRNA by endorsement.

(1) Verification *directly* from the licensing authority, which shall include graduation from a COA *council on accreditation of nurse anesthesia educational program* and a graduate level degree after January 1, 2001.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept documentation directly from that licensing authority that the state does not issue advanced practice licensure and a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of National board of certification and recertification for nurse anesthetists (NBCRNA) certification/recertification.

(4) Certified registered nurse anesthetists must comply with the requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial certified registered nurse anesthetists (CRNA) licensure by endorsement.

F. Qualifications for licensure as CRNA are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.14 NMAC

for licensure requirements.

(2) CE requirements must be met at the time of first renewal. Recertification by NBCRNA will meet the mandatory CE requirements for CRNA licensure. CRNA's with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours to include the management of non-cancer pain.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

G. A CRNA temporary license may be issued, to an endorsee awaiting results on successful completion of NBCRNA certification.

H. A temporary certified registered nurse anesthetist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with instructions and fee;

(2) submits a copy of current NBCRNA council of recertification of nurse anesthetist;

(3) the board will mail the temporary license to the endorsee;

(4) a temporary license is valid for a period not to exceed six months from the date of application;

(5) a temporary license is not renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(6) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(7) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

I. An initial certified registered nurse anesthetist license

shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact RN license. A letter of authorization will be issued to CRNAs who have RN multi-state licensure privileges from another nurse licensure compact states. Official verification of authorization to practice is available through the board website.

J. If the licensure process is not completed, the application becomes null and void one year after the date received at the board of nursing.

K. Maintaining licensure as a certified registered nurse anesthetist.

(1) National certification: CRNAs must maintain NBCRNA. A copy of the recertification card must be presented at the time of each subsequent renewal.

(2) Continuing education: recertification by NBCRNA is accepted for meeting mandatory CE requirement.

L. Reactivation: to reactivate or reinstate licensure as a certified registered nurse anesthetist.

(1) The nurse must provide evidence of current recertification by the NBCRNA.

(2) CRNAs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless board of nursing approves an extension.

M. Certified registered nurse anesthetist practice.

(1) The CRNA provides pre-operative, intra-operative and post-operative anesthesia care and related services, including ordering of diagnostic tests, in accordance with the current *American association of nurse anesthetists'* guidelines for

nurse anesthesia practice.

(2) The CRNA functions in an interdependent role as a member of a health care team in which the medical care of the patient is directed by a licensed physician, osteopathic physician, dentist or podiatrist licensed in New Mexico.

(3) The CRNA may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CRNA provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CRNA's advanced educational preparation and certification, the CRNA is responsible for obtaining the appropriate knowledge, skills and supervision to ensure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) The CRNA collaborates as necessary with the licensed physician, osteopathic physician, dentist or podiatrist concerning the anesthesia care of the patient. Collaboration means the process in which each health care provider contributes his/her respective expertise. Collaboration includes systematic formal planning and evaluation between the health care professionals involved in the collaborative practice arrangement.

(5) CRNAs who have fulfilled requirements for prescriptive authority may prescribe and administer therapeutic measures, including dangerous drugs and controlled substances included in Schedules II through V of the Controlled Substances Act within the specialty of anesthesia and practice setting.

(a) Requirements for prescriptive authority: in accordance with

applicable state and federal laws, the CRNA who fulfills the following requirements may prescribe and administer dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act.

(i) Verifies 400 hours of work experience in which prescribing and administering dangerous drugs has occurred within the two years immediately preceding the date of the application. Individuals who have not fulfilled this requirement must provide documentation of successful completion of 400 hours of prescribing dangerous drugs in a preceptorship with a CRNA or physician. The preceptorship must be completed within six months and a letter of authorization will be issued for the duration of the preceptorship.

(ii) In order to prescribe controlled substances, the CRNA must provide the board of nursing with verification of current state controlled substances registration and current drug enforcement administration (DEA) number, unless the CRNA has met registration waiver criteria from the New Mexico board of pharmacy (Subsection I of 16.19.20.8 NMAC). CRNAs may not possess or prescribe controlled substances until they have both a current state controlled substances registration and a current DEA registration.

(iii) Once prescriptive authority requirements are met, the board will notify the board of pharmacy of completion of prescriptive authority requirements.

(b) Formulary: the formulary will include agents related to the administration of anesthesia and Advanced Cardiac Life Support (ACLS) protocol agents.

(i) All CRNAs must adhere to the current formulary approved by the board of nursing.

(ii) The initial formulary or a formulary with changes will be submitted to

the board of medical examiners for a review.

(c) Prescription records: written, verbal or electronic prescriptions and order will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d) Prescribing and administering: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules as defined by the board of pharmacy may prescribe and administer to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act, which have been prepared, packaged or fabricated by a registered pharmacist or doses or drugs that have been prepackaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act Section 61-11-22 NMSA 1978 and the New Mexico Drug, Device and Cosmetic Act for the benefit of the public good.

(e) Distributing: CRNAs who have fulfilled requirements for prescriptive authority as stated in these rules may *not* distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substances Act.

(f) CRNAs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate registered nurse anesthetist practice.

(a) GRNAs may NOT distribute medications.

(b) GRNAs may practice or prescribe/ administer medications only in collaboration with a physician, osteopathic physician, dentist or

podiatrist.

(7) To insure competency and safe practice in specific regard to prescription writing practices in the state of NM.

(a) A list of current CRNAs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy.

(b) Violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy.

(c) The board of nursing shall appoint as requested, qualified CRNAs to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

N. A CRNA business entity formed pursuant to the laws of the state of New Mexico is authorized to provide health care services in the state of New Mexico if the health care services are provided by persons who are duly licensed to engage in the practice of nursing pursuant to the provisions of the Nursing Practice Act.

[16.12.2.14 NMAC - Rp, 16.12.2.14 NMAC, 10/1/2016]

16.12.2.15 ADVANCED PRACTICE REGISTERED NURSE (APRN) CLINICAL NURSE SPECIALIST (CNS):

A. Requirements for licensure as a CNS:

(1) hold a current, unencumbered RN license from New Mexico or hold a compact multi-state RN license;

(2) successfully complete a clinical nurse specialist program at the master's or doctoral level in a defined clinical nursing specialty through an accredited institution of higher education; and

(3) provide evidence of successful accomplishment of certification by a national nursing organization, consistent with the defined clinical nursing specialty, which meets criteria

as listed below:

(a) successfully complete a national certifying examination in the applicant's area of specialty;

(b) is certified by a national nursing organization;

(4) it is the responsibility of the applicant to provide documented evidence of his/her qualifications for licensure;

(5) any CNS requesting prescriptive authority must also comply with the regulations for prescriptive authority as outlined in these rules.

B. Procedure for licensure as a graduate CNS: applicant seeking licensure as a CNS shall be responsible for providing proof of meeting the requirements for licensure.

(1) The applicant shall complete the New Mexico CNS application and submit it along with all requested documents in accordance with the instructions.

(2) Upon acceptance of the completed application and receipt of all required supporting documents, the file is reviewed for qualifications and compliance with the requirements.

(3) Applicants who do not meet the requirements for licensure may request or be requested to meet with the board or their designee.

(4) CNSs are not eligible to practice in New Mexico as a CNS until so licensed by the New Mexico board in accordance with licensure procedures.

(5) The board may appoint CNSs to the advanced practice committee. These CNSs will provide advice regarding the licensure and practice of the CNS.

C. Graduate clinical nurse specialist (GCNS) permit to practice.

(1) GCNS permits may be issued upon written request, provided all requirements have been met except certification by a national nursing organization.

(a)

GCNSs practice under the direct supervision of another CNS, CNP or physician in the specialty.

(b) GCNSs may prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in compliance with these rules.

(c) GCNS permits will be issued to the employer.

(d) A letter of verification of intent to employ, on official letterhead including the name of the practice supervisor and the name of the prescription supervisor is required from each employer. Upon change in employment, the new employer must send the board a letter of intent to employ. The board will then issue a permit to practice at the new place of employment. The permit will be issued directly to the new employing agency.

(e) The name of the employment institution and the name(s) of the supervisor(s) shall be indicated on the GCNS permit.

(f) GCNS permits cannot be transferred or renewed.

(g) GCNS permits expire on the date specified on the permit. Permits shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice as a GCNS. It is the responsibility of the GCNS to request that the national certifying organization notify the board of the results of the examination.

(2) An initial license to practice as a CNS shall be issued only after receipt by the board of proof of certification by a national nursing organization. Such proof must be submitted to the board directly from the certifying agency prior to the expiration of the permit or temporary license.

D. Prerequisites for licensure of CNS by endorsement.

(1) Verification

directly from the licensing authority which shall include graduation from a clinical nurse specialist program in a defined clinical nursing specialty.

(2) In lieu of verification of advanced practice licensure from the licensing authority, the board will accept:

(a) documentation directly from the licensing authority that the state does not issue advanced practice licensure; and

(b) a sworn affidavit from applicant that they practice as an advance practice nurse with year practice began.

(3) Verification by applicant of national certification in a clinical specialty area.

(4) Clinical nurse specialist must comply with requirements for prescriptive authority as outlined in these rules.

(5) Complete and submit the required application for licensure by endorsement in accordance with all instructions including the required fee.

(6) Continuing education is not required for initial CNS licensure by endorsement.

E. Qualifications for licensure as a CNS are pursuant to the Nursing Practice Act.

(1) Refer to Subsection A of 16.12.2.15 NMAC for licensure requirements.

(2) CE requirements must be met at the time of the first renewal.

(3) Disciplinary action taken or pending against a nursing license in another jurisdiction, or a conviction of a felony, may result in denial of a license.

F. A CNS temporary license may be issued to an endorsee awaiting results on successful completion of national certification.

G. A temporary clinical nurse specialist license may be issued to an endorsee who:

(1) submits a completed endorsement application in accordance with all instructions and

fee;

(2) submits a copy of current national certification in a nursing specialty; when the state of former advanced practice licensure does not require national certification; national certification in a nursing specialty must be submitted to the board before a license will be issued;

(3) the board will mail the temporary license to the applicant;

(4) a temporary license is valid for a period not to exceed six months from the date of application, is non-renewable and becomes null and void upon issuance of a current license, expiration, or withdrawal by board action;

(5) applicant is responsible for assuring that all requirements have been met and all documents have been received prior to the expiration date of the temporary license;

(6) the discovery of inaccurate or false information, on the licensure application, may be subject to recall of the temporary license by the board and denial of licensure.

H. An initial clinical nurse specialist license shall be valid until the last day of the applicant's birth month after the first anniversary of the initial license. For nurses from compact states, a New Mexico advanced practice license will be issued with the same expiration date as the compact license. A letter of authorization will be issued to CNSs who have RN multi-state licensure privilege from another nurse licensure compact state. Official verification to practice is located on the board website.

I. If the licensure process is not completed, the application becomes null and void one year after the date of application being received at the board.

J. Authorization to expand scope of practice or who need recertification.

(1) A letter of authorization will be issued for the CNSs who through additional

formal education have expanded their practice into another area of CNS practice or who need practice hours to recertify provided all requirements have been met except national certification.

(2) A letter of verification of intent to provide a preceptorship, on official letterhead including the name of the practice preceptor and the name of the prescription preceptor must be submitted to the board of nursing.

(3) Practice must be under the direct supervision of a New Mexico CNS or CNP or physician in the specialty.

(4) Prescribing may be done only under the direct supervision of a licensed CNP or CNS or a physician in compliance with these rules.

(5) A letter of authorization will be issued to the preceptor.

(6) A letter of authorization cannot be transferred, renewed or a duplicate issued.

(7) A letter of authorization will expire on the date specified.

(a) A letter of authorization shall be valid not to exceed six months after the date of the national certifying examination. Those who fail the national certifying examination are rendered ineligible to practice in that area. It is the responsibility of the CNS to request that the national certifying organization notify the board of the results of the examination. A letter of authorization may be valid for a period not to exceed two years.

(b) A letter of authorization will be valid for six months for those applicants recertifying.

(c) A letter of authorization shall be issued for the prescriptive authority preceptorship. This letter will only be valid for the duration of the preceptorship for expansion of scope of practice or recertification required hours of practice.

K. Maintaining licensure as a clinical nurse specialist.

(1) The CNS shall be nationally certified in the specialty by a nursing organization and maintain national certification. A copy of the specialty certification/recertification card shall be presented at the time of each subsequent renewal.

(2) Continuing education.

(a) The CNS shall accrue a total of 50 contact hours of approved CE each renewal period. National certification or recertification as a CNS may not be used to fulfill any portion of the CE requirement.

(b) 30 contact hours, shall meet the requirements for licensure as an RN, and

(c) An additional 20 contact hours, 15 of which must be pharmacology are required.

(d) CNSs with DEA registration and licensure that permits prescribing opioids shall obtain five contact hours of the 15 currently required in pharmacology to include management of non-cancer pain

(e) CNSs from compact states are only required to fulfill CE requirement listed under (c) and (d).

(f) The CE shall be in accordance with the requirements as set forth in these rules.

(g) CE may be prorated to commensurate with the length of the renewal period.

(3) Reactivation.

(a) To reactivate or reinstate licensure as a CNS, the nurse must provide evidence of meeting the CE requirements: evidence of current national certification must also be provided.

(b) CNSs who are reactivating an advanced practice license which has been lapsed for four or more years must also complete a refresher course or certification reactivation that is

reflective of their knowledge, skills and expertise. A temporary license will be issued not to exceed one year, unless the board of nursing approves an extension.

L. Clinical nurse specialist practice.

(1) The CNS is a nurse who through graduate level preparation has become an expert in a defined area of knowledge and practice in a selected clinical area of nursing.

(2) The CNS makes independent decisions in a specialized area of nursing practice, using knowledge about the health care needs of the individual, family and community. The CNS collaborates as necessary with other members of the health care team, when the needs are beyond the scope of practice of the CNS.

(3) The CNS may assume specific functions or perform specific procedures which are beyond the advanced educational preparation and certification for the CNS provided the knowledge and skills required to perform the function or procedure emanates from a recognized body of knowledge or advanced practice of nursing and the function or procedure is not prohibited by any law or statute. When assuming specific functions or performing specific procedures, which are beyond the CNS's advanced educational preparation and certification, the CNS is responsible for obtaining the appropriate knowledge, skills and supervision to assure he/she can perform the function/procedure safely and competently and recognize and respond to any complications that may arise.

(4) Carries out therapeutic regimens in the area of the specialty.

(5) The CNS who has fulfilled the requirements for prescriptive authority in the specialty area may prescribe and distribute therapeutic measures including dangerous drugs and controlled substances contained in Schedules II through V of the Controlled Substance

Act within the scope of the specialty practice and setting.

(a) Requirements for prescriptive authority: In accordance with applicable state and federal laws, the CNS who fulfills the following requirements may prescribe and distribute dangerous drugs including controlled substances included in Schedules II through V of the Controlled Substance Act:

(i) verifies 400 hours of work experience in which prescribing dangerous drugs has occurred within the two years immediately preceding the date of application and provide a copy of a transcript documenting successful completion of the a three credit hour pharmacology course, a three credit hour assessment course and a three credit hour pathophysiology course included as part of a graduate level advanced practice nursing education program; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; or

(ii) if 400 hours of work experience in which prescribing dangerous drugs cannot be verified, provide a copy of a transcript documenting successful completion of a three credit hour pharmacology course that is included as part of a graduate level advanced practice nursing education program within five years immediately prior to the date of application to the board; 45 contact hours of advanced level pharmacology continuing education course may be substituted for the academic pharmacology; a certificate of completion must be provided that verifies continuing education; the course must be related to the specialty and contain content in pharmacokinetics, pharmacodynamics, pharmacology of current/commonly used medications and application of drug therapy to the treatment of disease or the promotion of health; and

(iii)

provide a copy of a transcript documenting successful completion of a three credit hour assessment course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content supported by related clinical experience such that students gain knowledge and skills needed to perform comprehensive assessments to acquire date, make diagnoses of health status and formulate effective clinical management plans; and

(iv) provide a copy of a transcript documenting successful completion of a three credit hour pathophysiology course that is included as part of a graduate level advanced practice nursing education program; the course must be related to the specialty and include content in physiology and pathophysiology;

(v) provide a copy of a transcript documenting successful completion of a 400 hour university/college associated preceptor experience in the prescription of dangerous drugs within the two years immediately prior to the date of application to the board; or

(vi) after fulfilling ii, iii, and iv above, upon application to the board, a letter of authorization for a prescriptive authority preceptorship will be issued to complete a preceptorship, which must be completed within six months;

(vii) in order to prescribe controlled substances, the CNS must provide the board of nursing with verification of current state controlled substances registration and current DEA number, unless the CNS with prescriptive authority has met registration waiver criteria from the New Mexico board of pharmacy; CNSs may not possess, prescribe or distribute controlled substances until they have both a current state controlled substances registration and a current DEA registration;

(viii) once prescriptive authority requirements are met, the board will

notify the board of pharmacy of completion of prescriptive authority requirements.

(b)

Formulary. It is the CNS's responsibility to maintain a formulary of dangerous drugs and controlled substances that may be prescribed. The only drugs to be included in the formulary are those relevant to the CNS's area of specialty practice, scope of practice and clinical setting. The board of nursing reserves the right to audit the formulary. Licensees may be subject to disciplinary action by the board of nursing if non-compliant with the audit.

(c)

Prescription records: written, verbal or electronic prescriptions and orders will comply with state board of pharmacy and federal requirements. All prescriptions will include the name, title, address and phone number of the prescribing advanced practice registered nurse.

(d)

Distributing: CNSs who have fulfilled requirements for prescriptive authority as stated in these rules, may distribute to their patients dangerous drugs including controlled substances contained in Schedules II through V of the Controlled Substance Act, which have been prepared, packaged, or fabricated by the registered pharmacist or doses which have been pre-packaged by a pharmaceutical manufacturer in accordance with the Pharmacy Act and the Drug, Device and Cosmetic Act for the benefit of the public good.

(e)

Labeling: CNSs may label only those drugs which the CNS prescribes and distributes to patients under the CNS's care. The medication shall be properly labeled with the patient's name, date of issue, drug name and strength, instructions for use, drug expiration date, telephone number of the CNS. Labeling may be handwritten or a pre-printed fill-in label may be used. All information shall be properly documented in the patient record.

(f)

CNSs who do not plan to prescribe controlled substances but do plan to prescribe dangerous drugs must meet the requirements relative to prescriptive authority except those specifically required for controlled substances.

(6) Graduate

clinical nurse specialist (GCNS) practice.

(a)

GCNSs may not distribute medications.

(b)

GCNSs may practice or prescribe medications only under the direct supervision of a licensed CNS, CNP or physician in the specialty.

(7) To insure

competency and safe practice in specific regard to prescription writing practices in the state of NM:

(a)

a list of current CNSs and their status with regard to prescription writing shall be distributed upon request to the board of pharmacy;

(b)

violation of these rules or disciplinary action taken by the board of nursing with regard to controlled substances shall be reported to the board of pharmacy;

(c)

the board of nursing shall appoint qualified CNSs in each specialty to serve on the board of pharmacy disciplinary panel as requested by the board of pharmacy.

M. Advanced practice committee.

(1) The board

may appoint a minimum of a six member advisory committee to assist the board in regulating the advanced practice of nursing.

(2) The

committee shall assist and advise the board in the review of issues related to the advanced practice of nursing.

(3) The

committee shall be composed of representatives from each advanced practice area regulated by the board. [16.12.2.15 NMAC - Rp, 16.12.2.15 NMAC, 10/1/2016]

16.12.2.16 DIVERSION PROGRAM FOR CHEMICALLY DEPENDENT NURSES:

A. Purpose. The

diversion program is a voluntary alternative to traditional disciplinary action for a nurse whose competencies may be impaired because of the habitual use of drugs or alcohol. Individuals may request admission into the program following the filing of a complaint against their nursing license or by self-referral.

(1) Admission

into the diversion program.

(a)

Nurses licensed in New Mexico who have had a complaint filed against their nursing license alleging the use or abuse of drugs/alcohol, or who voluntarily submit a written request shall be given an opportunity to be admitted into the diversion program.

(i)

Following a complaint, individuals who do not accept the opportunity for admission into the program shall be processed as a disciplinary case.

(ii)

Individuals who voluntarily requested admission and do not complete the admission process within 30 days of request may be subject to disciplinary action by the board.

(iii)

It may be recommended that individuals obtain a professional evaluation for chemical dependency or mental health diagnosis and submit a copy of the evaluation to the diversion program.

(iv)

The initial contract is a "no use" contract to include prescription medications unless written notification is given by the physician prescribing the medication.

(v)

Signatures on the initial contract and amendments constitute a release of information for the diversion program to contact all supporting individuals.

(b)

Request for admission shall be made, in writing, to the diversion program coordinator or executive director of the board of nursing.

(c)

Each nurse requesting admission shall be scheduled for an admission interview and preparation of an initial contract.

(i)

The initial contract shall include conditions which must be met by a participant.

(ii)

The contract may be individualized but the form may not be substantially changed without the approval of the board.

(iii)

The initial preparation of the contract will be done by the diversion program coordinator, executive director, or experienced regional advisory committee member.

(iv)

Participants may be prohibited from access to narcotics, overtime, night shift work and agency/home health care work.

(2) Monitoring

participants in the diversion program.

(a)

Participants must assure that required written reports and drug screens are submitted in accordance with the provisions of the diversion program contract and contract amendments.

Written reports and drug screens *must* be received regularly by the program.

(i)

Written reports of the same type and several drug screens received together are not acceptable and may result in the participant being noncompliant.

(ii)

Drug screens shall be scheduled randomly and shall be observed in accordance with the guidelines and protocols approved by the board.

(iii)

Drug screens must include participant's drugs of choice.

(b)

Participants are required to meet with representatives of the program periodically for an evaluation of their progress in recovery and participation in the program.

(i)

After one year of acceptable compliance, amendments may be made in the participant's contract based on the participant's progress

in recovery and participation in the program.

(ii)

Contracts and contract amendments must be submitted with all required signatures within two weeks of the meeting date.

(iii)

Failure to meet regularly as scheduled may result in being reported to the board for noncompliance.

(c)

Participant shall notify the diversion program coordinator and the executive director of the board, immediately, of a pending relocation out-of-the state of New Mexico. The participant shall complete and submit the out of state relocation form. The executive director shall notify the board of nursing in the state in which participant intends to practice that the licensee is a participant in the New Mexico board of nursing's diversion program for chemically dependent nurses. Participants who relocate out-of-state must comply with the NM diversion program requirements until participants have been discharged from the program.

(d)

The confidential provisions of Section 61-3-29.1 NMSA 1978 are not in effect if the participant leaves New Mexico prior to discharge from the program or has disciplinary action taken or pending by the board.

(3) Relapses

and noncompliance with the diversion program contract.

(a)

Participants who are noncompliant with their contract and who do not cooperate with the program shall be reported to the board of nursing.

(i)

Reports shall be made to the board using the participant's confidential file number.

(ii)

The participant's name shall not be disclosed to the board until formal disciplinary proceedings occur.

(b)

The diversion program coordinator or the executive director shall file a sworn complaint after a verbal or written report of a relapse, positive

drug screen or no verbal or written communication with the diversion program for three months.

(i)

A relapse is defined as the unauthorized use of any mind-altering drug or alcohol.

(ii)

The relapse shall be reported to the board of nursing at its next regularly scheduled meeting.

(c)

The board shall move for a **notice of contemplated action** (NCA) and may summarily suspend the license of the participant for a period not to exceed 90 days pending the completion of a formal disciplinary proceeding before the board of nursing for relapse or positive drug screen.

(d)

An individual whose license is reinstated following a summary suspension shall remit the required reinstatement fee.

(e)

Participants who appear before the board for a disciplinary hearing may be required to enter into a new diversion program contract.

(4) Discharge

from the diversion program.

(a)

Participants who remain drug and alcohol free for three full years and comply with all conditions of their diversion program contract for at least 24 months may request discharge from the diversion program.

(b)

Participants must be evaluated for discharge by a quorum of advisory committee members or the diversion program coordinator and must submit letters of recommendation from supervisor, sponsor, counselor (if applicable), and self.

(c)

The diversion program coordinator shall make a recommendation to the board of nursing at its next regularly scheduled meeting regarding the approval/disapproval of discharge for the participant.

(5) Regional

advisory committees.

(a)

The board shall establish regional

advisory committees throughout the state in accordance with Section 61-3-29.1 NMSA 1978 for the purpose of assisting the program coordinator to conduct admission interviews, prepare initial contract and to periodically evaluate participant's progress in recovery and participation in the program.

(b)

Members of advisory committees shall be appointed by the board and shall function under the direction of the board. No current member of the board shall be appointed to an advisory committee.

(6) Diversion

program participant's records.

(a)

All program participants' records are confidential and are maintained in accordance with Section 61-3-29.1 NMSA 1978.

(b)

Upon discharge from the program, all files and records shall be destroyed.

(c)

Records concerning licensees who violate the diversion program contract shall become a matter of public record upon disciplinary action by the board of nursing. This disciplinary record may contain complaint, investigation report, documentary evidence, contract, drug screen reports, documents relevant to the hearing, notice of contemplated action, notice of hearing.
[16.12.2.16 NMAC - Rp, 16.12.2.16 NMAC, 10/1/2016]

HISTORY of 16.12.2 NMAC:

Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center and archives under: BON 73-1, rules and regulations of the Nursing Practice Act, filed 3/13/1973; BON 78-1, administrative rules and regulations of the New Mexico board of nursing, filed 11/2/1978; Bon Manual #83-1, administrative rules and regulations of the New Mexico board of nursing, filed 6/13/1983; BON Manual #85-1, administrative rules and regulations of the New Mexico board of nursing, filed 8/13/1985; BON Manual #91-2,

administrative rules and regulations of the New Mexico board of nursing, filed 10/9/1991.

History of the Repealed Material:

16.12.2 NMAC, Nurse Licensure, filed 6/12/2001 - Repealed effective 10/1/2016.

Other History: 16 NMAC 12.2, Nursing and Health Care Related Providers & Nurse Licensure filed 12/10/1997, renumber, reformatted and amended to 16.12.2 NMAC effective 7/30/2001.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 3 NURSING EDUCATIONAL PROGRAMS**

16.12.3.1 ISSUING

AGENCY: New Mexico Board of Nursing.
[16.12.3.1 NMAC - Rp, 16.12.3.1 NMAC, 10/1/2016]

16.12.3.2 SCOPE: Programs of nursing education preparing individuals for licensure in the state of New Mexico.

[16.12.3.2 NMAC - Rp, 16.12.3.2 NMAC, 10/1/2016]

16.12.3.3 STATUTORY

AUTHORITY: Nursing Practice Act, Section 61-3-26 NMSA 1978 Comp.
[16.12.3.3 NMAC - Rp, 16.12.3.3 NMAC, 10/1/2016]

16.12.3.4 DURATION:

Permanent.
[16.12.3.4 NMAC - Rp, 16.12.3.4 NMAC, 10/1/2016]

16.12.3.5 EFFECTIVE

DATE: October 1, 2016, unless a later date is cited at the end of a section.
[16.12.3.5 NMAC - Rp, 16.12.3.5

NMAC, 10/1/2016]

16.12.3.6 OBJECTIVE:

To safeguard life and health and promote the public welfare by regulating programs of nursing in the state of New Mexico as promulgated by the board. To promote the safe and effective practice of nursing by graduates of nursing education programs. To provide guidance for developing new nursing education programs. To facilitate continued improvement of established nursing education programs. To provide criteria for the evaluation of new and established nursing education programs. To grant recognition and approval that a program of nursing is meeting the required minimal standards and rules as determined by the board. To establish eligibility of graduates of programs of nursing to apply for licensure by examination.
[16.12.3.6 NMAC - Rp, 16.12.3.6 NMAC, 10/1/2016]

16.12.3.7 DEFINITIONS:

A. "Application",

form provided by the Board of Nursing (BON) to any potential nursing program to be used as the first process in opening a new program.

B. "Approval",

official or formal consent, confirmation or sanction.

C. "Associate

degree program", a formalized program of study, usually organized for completion within a two-year academic period, which prepares graduates for an associate degree in nursing and eligibility to take the national examination for registered nurses. The program is conducted as an integral department or division within a college or university.

D. "Baccalaureate

degree program", a formalized program of study, usually organized for completion within a four-year academic period, which prepares graduates for a degree in nursing and eligibility to take the national licensing examination for registered nursing. The program is conducted as an integral department or division within a university or college.

E. “Board”, New Mexico board of nursing.

F. “Clinical facilities”, institutions which are established for the delivery of nursing care services (hospital, extended care facilities, nursing homes, medical clinics, public health facilities, physician’s offices, out-patient clinics, etc.).

G. “Clinical preceptors”, nurses who have demonstrated competencies related to the area of assigned clinical teaching responsibilities and will serve as a role model and educator to the student.

H. “Clock/contact hour”, unit of measurement used by educational institutions to determine work load.

I. “Curriculum”, a course of study which is offered within a particular program.

J. “Director”, the nurse educator (regardless of the official title assigned by any specific institution who is delegated the administrative responsibility and authority for the direction of the basic educational program in nursing. An “administrator” shall be considered synonymous with “director” unless the institution has divided up authority between a program “director” and an administrator.

K. “Educational institution”, an institution within the educational system which is organized and accredited for teaching and study (university, high school, post-secondary, approved area vocational institution).

L. “High-fidelity”, provides the highest levels of realism. Scenarios may incorporate the above low- and medium-fidelity plus the use of computer-based equipment with automatic cues and responses.

M. “Involuntary closure”, mandatory closure by the board for failure of a program to meet the minimum requirements as established by the board.

N. “Low-fidelity”, the least realistic of available options. Scenarios may include but not limited to the use of static manikins, written

case studies, simulated medication administration and other nursing tasks.

O. “Medium-fidelity”, scenarios may include use of low-fidelity resources noted above plus standardized (live) patients incorporation with increased realism. Automatic cues and responses (aside from simulation faculty & staff) remain absent.

P. “Must”, a requirement.

Q. “National licensing examination”, examination for licensure as provided by the national council of state boards of nursing.

R. “National nursing accreditation”, recognition of an institution of learning by a board recognized national nursing organization as maintaining prescribed standards requisite for its graduates to gain admission to other reputable institutions of higher learning or achieve credentials for professional practice.

S. “Parent institution”, an institution within the educational system which is organized and accredited for teaching and study (university, college, high school).

T. “Practical nurse program”, a formalized program, which prepares a graduate for a diploma or certificate and eligibility to take the national licensing examination for practical nursing. The program is conducted as an integral part of an educational institution.

U. “Pre-licensure program”, nursing education program that prepares an individual for the national licensing examination for registered nursing or practical nursing.

V. “Program”, the curriculum and all of the activities/functions that take place which are necessary to fulfill the purpose of nursing education.

W. “Recommendations”, statements which should guide programs of nursing in the development and direction of the program but which are not mandatory.

X. “Regulation and policies”, statements governing practice of the board of nursing in the approval of a program of nursing.

Y. “Requirements”, conditions which any program of nursing shall meet to obtain approval.

Z. “Shall”, mandatory; a requirement.

AA. “Should”, a suggestion or recommendation; not a requirement.

BB. “Simulation”, an experience that imitates the real environment, requiring individuals to demonstrate the procedural techniques, decision-making, and critical thinking needed to provide safe and competent patient care.

CC. “Supervision of part-time faculty without msn”, initial verification of instructor’s knowledge and skills in supervision of students in clinical settings, followed by periodic observation, direction and evaluation of instructor’s knowledge and skills related to supervision of students in clinical settings.

[16.12.3.7 NMAC - Rp, 16.12.3.7 NMAC, 10/1/2016]

16.12.3.8 TYPES OF APPROVAL:

A. Initial approval.
(1) Initial approval shall be granted as outlined in numbers 16.12.3.11 NMAC “requirements for the establishment of new programs and 16.12.3.12 NMAC “minimum standards for nursing programs” of these rules. Initial approval is valid from the time granted through the graduation of the first nursing class.

(2) The program shall have initial approval prior to recruiting and enrolling students into the nursing program.

(3) Immediately preceding graduation of the first nursing class, an approval site visit shall be made by representatives of the board to determine compliance with “minimum standards for nursing programs” and for consideration of continued approval.

(4) When a program fails to meet the minimum

standard requirements with the initial graduating class then an initial approval with warning will be granted.

(5) Initial approval with warning.

(a) The program must correct all the identified deficiencies of the minimum standards not met.

(b) The board of nursing will evaluate the program for deficiencies of minimum standards.

(c) Initial approval with warning shall not exceed two years.

B. Full approval.
(1) Full approval status shall be granted after the board verifies through a site visit that the “minimum standards for nursing programs” have been met.

(2) Full approval for a continuing period not to exceed ten years, shall be granted to nursing education programs if, in the opinion of the board, the program continues to demonstrate compliance with minimum standards for nursing programs.

(3) National nursing accreditation.

(a) All currently board approved nursing programs shall achieve national nursing accreditation by January 1, 2018.

(b) New programs shall be required to achieve national nursing accreditation by two years after the graduation of the first cohort.

(c) Programs which have received accreditation from a board-recognized national nursing accreditation agency shall file evidence of initial accreditation with the board, and thereafter shall file notice of any change in program accreditation status and report from accrediting agency’s board of review; the board shall grant approval based upon evidence of such accreditation.

(d) Programs holding approval based upon national accreditation are also

responsible for complying with “minimum standards for nursing programs”.

(e) Full approval for a continuing period not to exceed ten years, shall be granted to nursing programs with full national nursing accreditation.

(f) Programs that do not meet or maintain this requirement will be placed on full approval with warning.

(g) Full approval with warning.

(i) the program must correct all the identified deficiencies of the minimum standards not met;

(ii) nursing programs shall provide a corrective action plan (CAP);

(iii) full approval with warning shall not exceed two years;

(iv) any other discretion or conditions deemed necessary by the board may be imposed.

C. Conditional approval.

(1) The nursing education program shall be placed on conditional approval not to exceed two years when there is evidence of substantial non-compliance with the “minimum standards for nursing programs” as specified in these rules.

(2) When on conditional approval status, the nursing program shall cease admissions.

(3) The following situations are cause for review or a site visit by the board to determine if the minimum standards for nursing programs are being met:

(a) complaints relating to violations of the “minimum standards for nursing programs”;

(b) denial, withdrawal or change of program accreditation status by a board-recognized national nursing accreditation agency or general academic accreditation agency;

(c)

failure to obtain board approval of changes that require approval of the board under “program changes”;

(d) providing false or misleading information to students or the public concerning the nursing program;

(e) violation of the rules 16.12.3 NMAC;

(f) continuous disruptions in retaining a qualified director or faculty, resulting in disorganization and breakdown of supervision and teaching of students;

(g) non-compliance with the program’s stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory faculty/student achievement;

(h) failure to provide clinical experiences necessary to meet the objectives of the nursing program;

(i) less than a passing rate of eighty percent of first time writers of the national licensing examination;

(i) when a program fails to maintain a passing rate of eighty percent of first time writers for one calendar year from January 1st through December 31st of the same year, a letter will be sent to the program notifying them that they are not in compliance with the rules and to provide the board with an assessment of possible problem areas within six months;

(ii) when a program fails to maintain a passing rate of eighty percent of first time writers for two consecutive calendar years, a report addressing areas of concern with a plan for corrective action will be submitted to the board within six months and an evaluation visit may be required.

(4) Conditional approval is not renewable. Failure to correct deficiencies within the designated time period will result in withdrawal of approval and involuntary closure of the program by the board. Full approval status shall be granted after the board verifies through a site visit that correction of deficiencies have

occurred within the designated time period.

(5) The board may deny approval or withdraw approval of a nursing education program that does not meet the "minimum standards for nursing programs."

[16.12.3.8 NMAC - Rp, 16.12.3.8 NMAC, 10/1/2016]

16.12.3.9 TYPES OF BOARD VISITS TO NURSING PROGRAMS:

A. Approval visit - visits made to programs of nursing by board representative(s) for the sole purpose of granting board approval.

B. Evaluation visit - visits made to programs of nursing by board representative(s), at the request of the board, for the purpose of evaluating a program's progress and approval status.

C. Consultation visit - visits made to programs of nursing by the board representative(s), at the request of the program of nursing or educational institution. Requests to the board for consultation must be made, in writing, to the executive director of the board of nursing. Consultation visits are made at the expense of the program of nursing or educational institution.

D. Survey visit - may be done at the discretion of the board during any national accreditation visit. [16.12.3.9 NMAC - Rp, 16.12.3.9 NMAC, 10/1/2016]

16.12.3.10 GENERAL REQUIREMENTS:

A. Prior to the end of the approval period, a site visit shall be made by board representatives to all nursing education programs not nationally accredited or an evaluative visit may be conducted at the discretion of the board with any nursing program, as needed.

B. Representatives of the parent institution and nursing program shall be notified, in writing, regarding the approval status of the program.

C. A report of any official visit, made by board

representative(s), shall be provided to the program of nursing and officials of the institution.

D. In the event that deficiencies are found, the board shall designate a reasonable time period to correct the deficiencies.

E. An annual report which includes information regarding compliance with 16.12.3.12 NMAC, *minimum standards for nursing programs* shall be submitted to the board by the nursing education program.

[16.12.3.10 NMAC - Rp, 16.12.3.10 NMAC, 10/1/2016]

16.12.3.11 REQUIREMENTS FOR THE ESTABLISHMENT OF NEW NURSING PROGRAMS:

A. All programs not previously approved by the board are required to be approved by the board under the procedures prescribed in this section. Feasibility studies, proposals, and initial approvals shall be considered during a regularly scheduled board meeting.

B. Any institution considering the establishment of a pre-licensure nursing education program shall submit, a letter of intent, the resume and transcripts of the nursing program administrator, complete application form and feasibility study, at least 12 months in advance of the proposed opening date. The application, feasibility study and program proposal shall be prepared by a qualified nurse educator.

(1) The letter of intent shall state the parent institution's intention of opening a nursing program and verify approval of the proposed program by the highest governing body of the institution.

(2) The completed application shall include attached evidence of national or regional accreditation of the parent institution.

(3) The feasibility study shall contain the following:

(a) rationale for the establishment of the nursing program;

(b) documentation of the need/demand for a new nursing program;

(c) nursing manpower needs in the state and region;

(d) impact on other nursing education programs in the state;

(e) definition of the target region from which the student population will be drawn;

(f) availability of the proposed number of faculty and director; and

(g) proposed clinical facilities detailing accessibility and documenting the plan for clinical facility use to provide educationally sound experiences. The effect on other nursing programs utilizing the facility must also be documented.

C. The feasibility study must be approved by the board before the proposal is submitted.

D. The proposal shall be submitted at least six months prior to the proposed opening date. The board of nursing shall approve the proposal upon submission of evidence that verifies the following:

(1) compliance with "minimum standards for nursing programs;"

(2) documentation of the parent institution to support the program in relation to:

(a) plans for providing adequate support services including library audio/visual resources; classrooms, laboratory, offices, secretaries, and counseling; and

(b) evidence of financial resources for planning, implementing and continuing the program.

(3) tentative timetable for planning and implementing the entire program;

(4) appointment of a qualified nurse director, as specified in the "minimum standards for nursing programs," to be active full-time in the position six

months prior to the starting date;
 (5) evidence of a sufficient number of qualified faculty, as specified in “*minimum standards for nursing programs*”; faculty shall be active in their positions no later than two months before the start of the first class.

E. Requirements for approval.
 (1) Following approval of the proposal, arrangements will be made for the initial approval visit for the purpose of verifying compliance with the minimum standards for nursing programs. A written report of the visit will be submitted to the board and to the institution.

(2) The board shall advise the institution, in writing, regarding the approval/disapproval of the feasibility study, proposal, initial approval status, and may include specific requirements that must be met during the approval period.

(3) The board of nursing may deny approval to a program that does not meet the “minimum standards for nursing programs.”
 [16.12.3.11 NMAC - Rp, 16.12.3.11 NMAC, 10/1/2016]

16.12.3.12 MINIMUM STANDARDS FOR NURSING PROGRAMS:

A. Administration and organization.
 (1) The nursing education program shall be an integral part of an institution of higher education that is authorized by this state to confer credentials in nursing and that is also accredited by an accreditation agency recognized by the US department of education.

(2) The nursing program shall obtain national nursing accreditation within two years of the first graduating class.

(3) The nursing programs shall have status comparable with other academic units. There shall be an organizational chart which identifies the relationships, within and between the program and other administrative

areas of the parent institution.
 (4) The administration of the parent institution shall provide adequate financial support for the nursing program.

(5) The parent institution shall designate a qualified, nursing director who is licensed to practice as a registered nurse in New Mexico or in a compact state. The nursing program director shall have responsibility and authority comparable with the administrative position including but not limited to development, implementation, evaluation, administration and organization of the nursing program.

(6) The nursing program shall have specific written policies available to students and the public regarding, but not limited to, admission, readmission, transfer, advanced placement, progression, graduation, withdrawal, dismissal, student rights and responsibilities, grievances, health and safety.

(7) The nursing program shall provide accurate, complete and appropriate information to all students and prospective students about the program including, but not limited to:

- (a) nature of the program, including course sequence, prerequisites, co-requisites and academic standards;
- (b) length of the program;
- (c) current cost of the program;
- (d) transferability of credits to other public and private educational institutions in New Mexico;
- (e) program teaching methods and supporting technology;
- (f) current standing and any change in regional or national institutional accreditation status and national nursing accreditation status and board approval status.

(8) Faculty and students shall participate in program planning, implementation, evaluation and continuous

improvement.
 B. Curriculum.
 (1) The mission of the nursing unit shall be consistent with that of the parent institution.
 (2) A nursing program shall develop and implement a curriculum that includes level objectives, course objectives; measurable learning outcomes for each course that:
 (a) reflect its mission and goals;
 (b) are logically consistent between and within courses;
 (c) are designed so that the students who complete the program will have the knowledge and skills necessary to function in accordance with the definition and scope of practice specified in New Mexico Nurse Practice Act.

(3) The curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop nursing competence and shall evidence an organized pattern of instruction consistent with principles of learning and educational practice.

(4) Clinical experience shall provide opportunities for application of theory and for achievement of the stated objectives in a client care setting or simulation learning settings, and shall include clinical learning experience to develop nursing skills required for safe practice. In the client care clinical setting, the student/faculty ratio shall be based upon the level of students, the acuity level of the clients, the characteristics of the practice setting and shall not exceed 8:1. In the simulation setting there shall be nursing faculty who has received focused training in simulation pedagogy and techniques. Clinical evaluation tools for evaluation of students’ progress, performance and learning experiences shall be stated in measurable terms directly related to course objectives. Simulation learning experiences

may concurrently include the use of low, medium, and high fidelity experiences. Nursing programs shall:

- (a) establish clearly-defined simulation learning outcomes incorporating objective measures for success;
- (b) incorporate written, planned design of individual training experiences and shall include consideration of the educational and experiential levels of the learners;
- (c) make use of checklists for pre- and post-experience analysis and review;
- (d) may substitute up to a maximum of fifty percent of a clinical education experiences using simulation programs and practices;
- (e) have written simulation policies and procedures specific to the nursing education available to all faculty and pertinent staff. Simulation learning policies and procedures shall include evaluative feedback mechanisms for ongoing program improvement;
- (f) incorporate facilitated student-centered debriefing sessions upon the conclusion of simulation-based activities.

(5) The curriculum shall provide instruction in the discipline of nursing across the lifespan and include content relevant to national and local health care needs. Support courses shall be an integral part of the nursing curriculum.

(6) The nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program outcomes and incorporates continuous improvement.

C. Faculty requirements.

(1) The administrator of the nursing program and all nursing program faculty shall hold current licenses to practice as registered nurses in New Mexico or in a compact state.

(2) The nurse administrator shall hold at least one

graduate degree in nursing and shall have experience in nursing practice, nursing education, curriculum and nursing administration.

(a) A formal plan will be in place which will include an orientation to college administration and nursing program development, implementation and evaluation.

(b) Nursing faculty who teach full-time shall hold a graduate degree in nursing; faculty without a graduate degree may be employed for one year and then are required to complete a graduate degree within the next five years, an educational contract with evidence of progression will be submitted with program annual report.

(c) Nursing faculty who teach part time shall hold a minimum of a bachelor's degree in nursing; faculty without a BSN may be employed for one year and then are required to complete a BSN completion program or msn program within five years, an educational contract with evidence of progression will be submitted with program annual report.

(i) Part time faculty without a graduate degree in nursing shall report to a master's prepared faculty and evidence of routine supervision shall be documented.

(ii) Part-time faculty shall be oriented to the curriculum, and provided with instruction in didactic and clinical teaching strategies.

(3) Clinical preceptors are licensed as a nurse at or above the educational level for which the student is preparing.

(4) Personnel policies for nursing faculty shall be the same as those in effect for other faculty with the exception of:

(a) at least eighty percent of the administrator assignment shall be spent in administration of the nursing program; additional administrative time should be given when preparing for accreditation, curriculum revision and other administrative related

activities;

(b) nursing faculty workload shall be calculated by teaching clock/contact hour;

(c) evidence of full time and part time faculty evaluation shall be in place.

(5) A nursing program shall maintain current and accurate faculty and student records.

(6) The nursing program will retain a qualified director and a sufficient number of qualified faculty to meet the outcomes and purposes of the nursing education program.

D. Resources: The parent institution shall provide sufficient resources, services and facilities to operate the nursing program.

E. The nursing education program will maintain a passing rate of eighty percent or above of first time writers of the national licensing exam.

[16.12.3.12 NMAC - Rp, 16.12.3.12 NMAC, 10/1/2016]

16.12.3.13 PROGRAM CHANGES REQUIRING BOARD OF NURSING APPROVAL: Major changes that affect the program's compliance with the "minimum standards for nursing programs" require board approval.

[16.12.3.13 NMAC - Rp, 16.12.3.13 NMAC, 10/1/2016]

16.12.3.14 REQUIREMENTS FOR CLOSURE OF APPROVED NURSING PROGRAMS: Upon voluntary or involuntary closure, the school shall:

A. notify the board of the closure date of the program;

B. make provision for students to complete their nursing education;

C. notify the board of the location of the permanently stored program records;

D. discontinue admissions; and

E. a contingency closure plan which includes date of closure, provisions that will be made

for students to complete their nursing education and the location of the permanently stored program records will be submitted to the board six months after the program is placed on a conditional approval.

F. the nursing program shall wait 12 months before the program can re-apply for initial nursing program approval. [16.12.3.14 NMAC - Rp, 16.12.3.14 NMAC, 10/1/2016]

16.12.3.15 NURSING EDUCATION ADVISORY COMMITTEE:

The board of nursing may appoint a minimum of a seven-member advisory committee to make recommendations to the board regarding nursing education.

A. The advisory committee shall review applications for initial approval, survey/evaluation reports, annual reports, major curriculum changes, and shall submit reports and recommendations to the board.

B. The advisory committee shall provide consultation to nursing programs as requested or as directed by the board. [16.12.3.15 NMAC - Rp, 16.12.3.15 NMAC, 10/1/2016]

HISTORY OF 16.12.3 NMAC:

Pre-NMAC History:

The materials in this part was derived from that previously filed with the state records center and archives under: BON Manual 70-1, A Manual for schools of nursing in New Mexico, filed 05-26-1970; BON Manual 73-1, Rules and Regulations of the Nursing Practice Act, filed 03/13/1973; BON Manual 76-1 Regulations and Policies for school of nursing, filed 12-13-1976; BON Manual 82-1, Regulations and Polices for programs of nursing of the New Mexico board of nursing, filed 04/06/1982; BON Manual 87-1, Regulations and Policies for nursing programs, filed 02/27/1987; BON Manual 90-2, Regulations and Policies for nursing programs, filed 07/10/1990; and BON Manual 93-1, Regulations and Policies for nursing Programs, filed 08/25/1993.

History of the Repealed Material:

16.12.3 NMAC, Nurse Licensure, filed 6/12/2001 - Repealed effective 10/1/2016.

Other History: 16 NMAC 12.3, Nursing and Health Care Related Providers & Nursing Educational Programs filed 12/10/1997 Renumbered, reformatted and amended to 16.12.3 NMAC effective 7/30/2001.

NURSING, BOARD OF

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 4 HEMODIALYSIS TECHNICIANS**

16.12.4.1 ISSUING

AGENCY: New Mexico Board of Nursing. [16.12.4.1 NMAC - Rp, 16.12.4.1 NMAC, 10/1/2016]

16.12.4.2 SCOPE:

All New Mexico board of nursing approved hemodialysis programs and hemodialysis technicians certified by the New Mexico board of nursing. [16.12.4.2 NMAC - Rp, 16.12.4.2 NMAC, 10/1/2016]

16.12.4.3 STATUTORY

AUTHORITY: Nursing Practice Act, 61.3.10, 1 NMSA 1978 Comp. [16.12.4.3 NMAC - Rp, 16.12.4.3 NMAC, 10/1/2016]

16.12.4.4 DURATION:

Permanent. [16.12.4.4 NMAC - Rp, 16.12.4.4 NMAC, 10/1/2016]

16.12.4.5 EFFECTIVE

DATE: October 1, 2016, unless a later date is cited at the end of a section. [16.12.4.5 NMAC - Rp, 16.12.4.5 NMAC, 10/1/2016]

16.12.4.6 OBJECTIVE:

Pursuant to the Nursing Practice Act, this part establishes the requirements for fees, examinations, endorsement, recertification standards and functions, supervision/director and disciplinary action for hemodialysis technicians. It also establishes requirements for approval of hemodialysis technician programs, minimum standards for hemodialysis training programs, and the hemodialysis technician advisory committee.

[16.12.4.6 NMAC - Rp, 16.12.4.6 NMAC, 10/1/2016]

16.12.4.7 DEFINITIONS:

A. "Additional certification": certified hemodialysis technicians who have a current CHT certificate and successfully complete the board requirements to function as a CHT II.

B. "Approval": action taken by the board to accept and grant specific recognition.

C. "Audit": a verification of continuing education documents and work hour requirements.

D. "Board": New Mexico board of nursing (NMBON).

E. "Central Venous Catheter": a synthetic tube place into a high flowing central vein used to provide hemodialysis.

F. "Certificate": a document issued by the board identifying legal privilege and authorization to perform specific certified hemodialysis technician functions and procedures in the state of New Mexico.

G. "Certification examination": a board-approved tool designed to evaluate an applicant's knowledge of a specific subject.

H. "Certified hemodialysis technician (CHT)": refers to a person who is certified by the board to assist in the direct care of patients undergoing hemodialysis, under the supervision and at the direction of a registered nurse or licensed practical nurse, according to the rules adopted by the board.

I. "Certified hemodialysis technician II (CHT

II): refers to a person who has met the requirements of a certified hemodialysis technician (CHT) and has successfully completed the training for the expanded scope of practice as defined in the rules from an approved hemodialysis technician training program and receives certification from the board for the expanded scope of practice.

J. “Clinical experience”: refers to the supervised skills component of the hemodialysis training program.

K. “Clinical preceptor”: a registered nurse who supervises and observes hemodialysis technician students providing hemodialysis patient care.

L. “Competency”: the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

M. “Continuing Education (CE)”: a planned learning experience for certified hemodialysis technicians which includes experiences designed to promote the development, knowledge, skills, and attitudes for the enhancement of care to the patient.

N. “Contact hour”: a 60 minute clock hour.

O. “Curriculum”: a detailed course outline, description or syllabus, which, includes objectives, content, teaching-learning activities and evaluation strategies, and includes the minimum required program hours.

P. “Delegation”: means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation.

Q. “Direct supervision”: refers to the supervision by a licensed nurse who is physically present, and readily accessible to the certified hemodialysis technician and hemodialysis technician student when providing patient care. Direct supervision includes observing, evaluating and directing the care being provided.

R. “Faculty”: any

professional or paraprofessional person(s) who teaches for the hemodialysis technician program including clinical preceptors.

S. “Hemodialysis technician advisory committee (HTAC)”: a board-appointed committee.

T. “Hemodialysis technician training program”: an educational program approved by the board for persons seeking initial certification as hemodialysis technicians.

U. “License”: a document identifying the legal privilege and authorization to practice within a professional category.

V. “National Certification”: a certification obtained through a nationally recognized certifying organization which indicates a certified hemodialysis technician has knowledge and competence in providing care to patients undergoing hemodialysis as evidenced by passing an examination and maintaining a minimum number of work hours and continuing education during the renewal period.

W. “NPA”: Nursing Practice Act.

X. “Nurse educator”: the registered nurse who is responsible for the development, implementation and evaluation of a hemodialysis technician training program and retains ultimate responsibility for determining hemodialysis technician student’s competency.

Y. “Reactivation”: the process of making a certificate current which has been in a lapsed status as result of the certificate holder failing to comply with renewal requirements. This does not involve board action.

Z. “Reinstatement”: the process whereby a certificate which has been subject to revocation or suspension is returned to its former status by individual board action; this process always involves board action.

AA. “Site visit”: visit made directly to the hemodialysis technician training program by board staff.

BB. “Standards of function”: a range of tasks or activities performed by certified hemodialysis technicians for patients who are stable and predictable, supervised by a licensed nurse who may need to limit the range of tasks based on the patient’s needs.

CC. “ULA”: means the Uniform Licensing Act. [16.12.4.7 NMAC - Rp, 16.12.4.7 NMAC, 10/1/2016]

16.12.4.8 FEES: Payment of fees will be accepted in the form as specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant’s birth month. Fee may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

A. Initial certification by state examination/national certification CHT I \$45.00

B. Re-examination \$30.00

C. Renewal of certificates \$45.00

D. Reactivation from lapsed or inactive status \$60.00

E. Reinstatement of certificate following board action \$60.00

F. Initial program review for approval \$250.00

G. Biennial program evaluation and visit per agency \$200.00

H. Biennial program evaluation per satellite \$100.00

I. Certification by exam CHT II \$60.00

[16.12.4.8 NMAC - Rp, 16.12.4.8 NMAC, 10/1/2016]

16.12.4.9 CERTIFICATION REQUIREMENTS FOR HEMODIALYSIS TECHNICIANS: New Mexico certification of hemodialysis technicians is mandatory.

A. Prerequisites.
(1) Be a high school graduate or complete the general education development course or provide proof of higher education.

(2) Successfully complete a board-approved hemodialysis technician training program and complete the required application form and complete the required application form and remit the required fee.

(3) Complete the required application form in the specified deadline or hold a current national certification as a hemodialysis technician and complete the required application form and remit the required fee.

B. Upon receiving the application and fee, board staff will notify the applicant of the next available test date.

(1) Applications containing fraudulent or misrepresented information could be the basis for denial of certification.

(2) Incomplete applications for certification will be returned.

(3) Written verification of successful completion according to the minimum standards for approval of hemodialysis technician programs indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator in the board office at least 30 days prior to the examination date.

(4) An admission letter, which includes the time, date and place of examination, shall be issued to all eligible applicants.

(5) A re-examination fee will be charged for all re-examinations and non-excused absences.

(6) Results of the examination shall be reported by mail or on the board website to the applicants no later than four weeks following the examination date.

(7) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

C. Hemodialysis technician initial certification examination.

(1) The board shall develop and maintain the board-approved certification examination for hemodialysis technicians.

(2) Board approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.

(3) Applicants for certification as a hemodialysis technician shall be required to pass the hemodialysis technician certification examination with a minimum score of eighty percent.

(4) Applicants must obtain New Mexico state certification within six months of successfully completing a board approved training program.

(a) Applicants who fail the examination may repeat the examination one time within a two month period without repeating an approved training program.

(b) Applicants must remain under the supervision of a board-approved clinical preceptor until they successfully pass a hemodialysis technician certification examination.

(5) Applicants observed giving or receiving unauthorized assistance during the writing of the examination shall be dismissed from the examination center and the individual(s) shall be referred to the board by a sworn complaint filed by the proctor.

D. Certification by examination for CHT II.

(1) CHT II shall be required to pass a certification examination with a minimum score of eighty percent that is specific to their expanded scope of practice as defined in the core curriculum 16.12.4.16 NMAC.

(2) CHT II applicants who fail the exam may repeat the examination one time within a two month period without repeating an approved training program. If the CHT II does not pass the second examination they must take a refresher course specific

to the expanded scope of practice. Applicants must remain under the supervision of a board approved clinical preceptor while practicing their extended scope of practice until they successfully pass the CHT II state exam.

(3) Written verification of successful completion according to the minimum standards for approval of the CHT II programs indicating the date of completion must be received, directly from the hemodialysis technician program, and signed by the nurse educator in the board office at least 30 days prior to the examination date.

(4) Complete the required application form in the specified deadline and remit the required fee.

(5) An admission letter, which includes the time, date and place of examination, shall be issued to all eligible applicants.

(6) A re-examination fee will be charged for all re-examinations and non-excused absences.

(7) Results of the examination shall be reported, by mail or on the board website to the applicants no later than four weeks following the examination date.

E. Requirements for hemodialysis technicians' renewal.

(1) Certified hemodialysis technicians (CHTs) renewing their certificate shall be required to complete the process by the end of their renewal month. CE and work hour requirements may be prorated to commensurate with the length of the renewal period.

(2) Renewal notification forms shall be sent to CHTs at least six weeks prior to the end of the renewal month.

(a) Failure to receive the notification for renewal shall not relieve the CHT of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the CHT does not hold a valid certificate and

shall not function as a CHT in New Mexico until the lapsed certificate has been reactivated.

(3) Continuing education requirements.

(a) 16 contact hours of continuing education must be accrued within the 24 months immediately preceding renewal. CE may be prorated to commensurate with the length of the renewal period.

(b) Recertification by a national CHT certifying body will meet the mandatory CE requirements for New Mexico certification renewal. Continuing education obtained for national certification is applicable if completed during the renewal period.

(c) Continuing education records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit.

(d) CHT II shall accrue four additional contact hours of continuing education within the 24 months that preceded the expiration of the certificate.

These additional contact hours must be specific to their expanded scope of function and may be prorated to commensurate with the length of the renewal period if less than 24 months.

(4) Work requirement. Applicant must provide evidence of a minimum of 1,000 hours work as a CHT during the 24 month period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board. Work hours may be prorated to commensurate with the length of the renewal period if less than 24 months.

(b) Certificate holders may be subject to disciplinary action by the board if noncompliant within 60 days of the first notification of the audit.

(5) Remit the required fee.

(6) Failure to meet the continuing education or employment requirements for

recertification shall result in denial of recertification until completion of a refresher course with the appropriate application and fee have been submitted to the board.

F. Refresher course requirements.

(1) Completion of a minimum of 80 hours of supervised clinical practice in a board approved hemodialysis technician training program under the supervision of an approved clinical preceptor.

(2) Successful completion of the hemodialysis technician training program's skills list identified in the core curriculum 16.12.5.16 NMAC.

(3) Successful completion of the hemodialysis technician training program final examination.

(4) Written verification, on agency letterhead, of successful completion of supervised clinical practice, skills list, and the final examination results shall be provided to the board by the program's board-approved nurse educator.

(5) Completion of a refresher course shall meet both the employment and continuing education requirements for the two year renewal period.

(6) Remit the required application and fee. [16.12.4.9 NMAC - Rp, 16.12.4.9 NMAC, 10/1/2016]

16.12.4.10 STANDARDS OF FUNCTION FOR THE CERTIFIED HEMODIALYSIS TECHNICIAN:

A. Purpose.
(1) To establish standards for supervision and direction of the CHT I and CHT II.

(2) To identify basic functions for the CHT I and CHT II.

(3) To identify prohibited functions for the CHT I and CHT II.

(4) To identify the expanded role of the CHT II.

B. Authorized functions of the CHT I and CHT II with supervision of a registered nurse:

(1) perform arteriovenous punctures for dialysis access;

(2) inject intradermal lidocaine in preparation for dialysis access;

(3) administer a heparin bolus;

(4) administer a fluid bolus of isotonic saline;

(5) connect a dialysis access to isotonic saline or heparinized isotonic saline;

(6) administer oxygen;

(7) collect data for the nursing assessment;

(8) initiate and discontinue treatment via arteriovenous access;

(9) re-infusion of blood upon termination of treatment of central venous catheters.

C. Prohibited functions of the certified hemodialysis technician:

(1) shall not administer medications by oral, intramuscular, intravenous or subcutaneous routes except those agents addressed in authorized functions of these rules;

(2) shall not take orders for dialysis treatments;

(3) shall not alter dialysis orders as prescribed by a health care provider;

(4) CHT I shall not initiate or discontinue via central venous catheters.

(5) shall not perform hemodialysis treatments without direct supervision of an licensed nurse.

D. Supervision or direction of the certified hemodialysis technician. A registered nurse or licensed practical nurse shall provide direct supervision of the certified hemodialysis technician who is providing care for the patient undergoing hemodialysis.

E. Certified hemodialysis technician II - expanded scope of function.

(1) The expanded role is a privilege and not a requirement for all CHT I's to meet.

(2) The nurse educator shall approve the CHT I assuring the CHT I meets specific criteria.

(a) CHT I must provide proof of one year experience post certification.

(b) Must fulfill all CHT II requirements per Subsection D of 16.12.4.9 NMAC and have a current New Mexico hemodialysis technician certificate.

(3) Authorized functions shall include performing hemodialysis treatment via central venous catheter.

(4) CHT II may remove catheter dressing to evaluate for potential complication, but may not redress the site.

(5) Must complete board approved curriculum and pass the board examination with eighty percent or better.

(6) Shall not initiate or discontinue a central venous catheter that is not functioning as intended. Under no circumstance should there be any attempt to manipulate a malfunctioning catheter. [16.12.4.10 NMAC - Rp, 16.12.4.10 NMAC, 10/1/2016]

16.12.4.11 DISCIPLINARY ACTION: The board shall conduct hearings upon charges relating to discipline of a CHT I and CHT II, and may deny, place on probation, suspend or revoke a hemodialysis technician certificate in accordance with the Uniform Licensing Act Section 61-1-1 NMSA 1978.

A. Grounds for disciplinary action.

(1) Incapable of functioning as a CHT I and CHT II which is defined to include, but not limited to, the following:

(a) inability to function with reasonable skill and safety as a CHT I and CHT II for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of patients receiving dialysis treatments or failure to conform to the essential and prevailing standards of CHT Is and CHT IIs;

(c) omitting to record information regarding procedures performed and care provided which could be relevant to the patient's care;

(d) failure to report information regarding the consumer's treatment or health status to appropriate person which could be relevant to the patient's care and status;

(e) demonstrating a lack of competence in providing care to patient's receiving a dialysis treatment.

(2) Incapable of functioning as a responsible member of the health care team which is defined to include, but not limited to, the following:

(a) falsifying or altering patient records or personnel record for the purpose of reflecting incorrect or incomplete information;

(b) misappropriation of money, drugs, or property;

(c) obtaining or attempting to obtain any fee for patient services for one's self or for another through fraud, misrepresentation or deceit;

(d) obtaining, possessing, administering or furnishing prescription drugs to any person, including, but not limited to one's self, except as directed by a person authorized by law to prescribe;

(e) obtaining or attempting to obtain a certificate to function as a CHT I or CHT II for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the certification or recertification process;

(f) functioning as a CHT I and CHT II in NM without a valid, current New Mexico certificate, or aiding, abetting

or assisting another to function as a CHT I and CHT II without a valid, current New Mexico certificate;

(g) failure to report a CHT I and CHT II who is suspected of violating the NPA or rules for certification of hemodialysis technicians;

(h) exceeding the scope of function of a CHT I and CHT II;

(i) intentionally abusing, neglecting or exploiting a patient;

(j) intentionally engaging in sexual contact toward or with a patient;

(k) felony conviction;

(l) dissemination of a patient's health information or treatment plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law or hospital/agency policy from disclosure;

(m) failure to maintain appropriate professional boundaries which may cause harm to the patient.

B. Disciplinary proceedings are conducted in accordance with 16.12.2 NMAC Nurse Licensure. [16.12.4.11 NMAC - Rp, 16.12.4.11 NMAC, 10/1/2016]

16.12.4.12 APPROVAL FOR HEMODIALYSIS PROGRAMS:

A. Statement of purpose: The purpose of this article is to establish minimum standards and evaluation criteria for hemodialysis technician training programs. The standards and criteria will be used to evaluate programs for compliance in accordance with the Nurse Practice Act, Section 61-3-10.1 NMSA 1978.

B. Objectives.

(1) To promote safe and effective care of patients receiving hemodialysis.

(2) To establish minimum standards for the evaluation and approval of hemodialysis technician training

programs.

(3) To facilitate continued approval of hemodialysis technician programs.

(4) To grant recognition and verification that a hemodialysis technician training program meets the minimum standards and rules as determined by the board.

C. Initial program approval. A proposed hemodialysis technician training program shall submit an application for approval to the board's hemodialysis technician advisory committee (HTAC). The hemodialysis technician advisory committee (HTAC) shall evaluate the application, evaluate the site visit report and make a recommendation to the board regarding the approval of the program. The board shall consider the recommendation of the hemodialysis technician advisory committee at a regularly scheduled board meeting.

(1) The initial application shall be consistent with the minimum standards for approval of hemodialysis technician programs 16.12.4.14 NMAC, and shall contain the following:

(a) objectives of the program;

(b) organizational chart;

(c) names of the medical director, administrator, and nursing director;

(d) names and resumes of the nurse educator(s) and other faculty to include clinical preceptor(s);

(e) verification of state licensure; and

(f) program curriculum;

(2) Representatives of the program may be scheduled to meet with the HTAC to present the proposed program.

(a) Following the HTAC review of the application, a recommendation for approval shall be made to the board of nursing.

(b) Programs not recommended for

approval must provide evidence that the identified deficiencies have been corrected.

(3) After receipt of the HTAC recommendation(s), the board may:

(a) grant approval of the program;

(b) defer a decision regarding approval;

(c) deny approval;

(d) direct staff to make a pre-approval visit.

D. Criteria for full approval, probationary approval, and denial or withdrawal of approval.

(1) Criteria for full approval.

(a) Full approval shall be granted for no more than two years to a program when, in the opinion of the board, the program demonstrates compliance with the minimum standards for approval of hemodialysis technician programs.

(b) To ensure continued compliance with the minimum standards for approval, the program shall be evaluated at least every two years with a site visit or as directed by the board.

(c) A report of the site visit shall be made to the board regarding continuation of the program's approval.

(d) The board is the final authority regarding continued approval or probation.

(e) The board may authorize unannounced site visits be made to the approved hemodialysis technician programs. Programs that do not meet or maintain any minimum standards will be placed on full approval with warning.

(f) Full approval with warning.

(i) the program must correct all the deficiencies of the minimum standards not met;

(ii) certified hemodialysis technician

program shall provide a corrective action plan (CAP) to the board;

(iii) the board of nursing will evaluate the program for deficiencies;

(iv) maintain minimum standards for certified hemodialysis technician program as previously approved by the board;

(v) full approval with warning shall not exceed two years;

(vi) any other discretion or conditions deemed necessary by the board may be imposed.

(2) Criteria for probationary approval.

(a) A program may be given probationary approval when there is evidence of:

(i) substantial non-compliance with the minimum standards for approval of hemodialysis technician programs;

(ii) continuous disruptions in retaining qualified faculty resulting in disorganization of the program and a breakdown of supervision and teaching of the program;

(iii) non-compliance with the program's stated philosophy, objectives, policies and curriculum resulting in unsatisfactory student achievement;

(iv) failure to provide clinical experiences or supervision necessary to meet the objectives of the program;

(v) failure of seventy five percent of first time writers of the examination to correctly answer at least eighty percent of the items over a one year period.

(b) The program shall be advised, in writing, of the reason(s) for the probationary approval.

(c) The board shall designate a reasonable time period, not to exceed one year, in which the program must correct deficiencies and meet the minimum standards for approval.

(d)

At least 60 days prior to the end of the probationary approval a site visit shall be made by representatives of the board.

(e) The HTAC shall review the site visit evaluation, and make a recommendation to the board.

(f) The board may grant approval to the program or it may withdraw approval of the program. All decisions of the board and recommendations of the HTAC shall be advised in writing of the reasons for probationary approval.

(g) Probationary approval is not renewable. Failure to correct deficiencies will result in withdrawal of approval.

(3) Criteria for denial or withdrawal of approval.

(a) The board may deny approval of a program when a program fails to provide evidence of compliance or fails to correct deficiencies resulting in non-compliance with the minimum standards for approval of hemodialysis technician programs.

(b) A written notice detailing the reasons for denial or withdrawal of approval shall be provided to the agency.

(c) The program shall be removed from the list of board approved hemodialysis technician programs.

The certified hemodialysis technician program shall wait 12 months before the program can re-apply for initial approval.

[16.12.4.12 NMAC - Rp, 16.12.4.12 NMAC, 10/1/2016]

16.12.4.13 CHANGES REQUIRING NOTIFICATION:

A. Changes requiring notification of the board or the advisory committee:

- (1) curriculum changes;
- (2) changes in the program's objectives or goals;
- (3) changes in required didactic or clinical practice hours;
- (4) changes in

the nurse educator;
(5) changes in the hemodialysis technician job description.

B. Procedure for requesting board approval for program changes.

(1) The advisory committee shall be notified in writing of changes in the program requiring board approval. The notification shall include:

- (a) the proposed change(s);
- (b) rationale for the proposed change(s);
- (c) anticipated effect on the current program; and

(d) timetable for implementation of the proposed change(s);

(e) presentation of the differences between the current system and proposed change(s);

(f) method of evaluation which will be used to determine the effect of the change;

(g) a description of the study or method used to determine need for a change;

(h) plans for continuing to meet the minimum standards for approval of the hemodialysis technician program.

(2) Major changes and recommendations will be presented to the board of nursing at a regularly scheduled board meeting.

C. Changes requiring notification to the advisory committee or board of nursing.

(1) Changes in the internal administration or organizational plan of the hemodialysis clinic or unit which affects the program.

(2) Changes of New Mexico, department of health licensure status.

[16.12.4.13 NMAC - Rp, 16.12.4.13 NMAC, 10/1/2016]

16.12.4.14 MINIMUM STANDARDS FOR APPROVAL OF HEMODIALYSIS TECHNICIAN PROGRAMS:

A. Objectives. There shall be written objectives for the program which serve as the basis for planning, implementing and evaluating the program.

(1) The objectives shall be developed by the nurse educator.

(2) The program objectives shall describe the knowledge and skills expected of the CHT I and CHT II, and shall be consistent with the authorized functions of the CHT I and CHT II and the board approved core curriculum.

(3) The program objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum.

(1) The curriculum shall be developed, implemented and evaluated by the nurse educator within the framework of the rules and the core knowledge statements.

(2) The curriculum shall extend over a period of time sufficient to provide essential, learning experiences which enable a hemodialysis technician student to develop competence in hemodialysis practice.

(3) There shall be a minimum of 80 hours of theory, and a minimum of 160 hours of supervised clinical experience for CHT I.

(4) Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a health care setting and shall include clinical learning experiences to develop the skills required by technicians to provide safe care. The nurse educator or clinical preceptor must be physically present and accessible to the hemodialysis technician student when the hemodialysis technician student is caring for the patient undergoing hemodialysis.

(5) The nurse educator shall develop a written plan for curriculum and program evaluation.

(6) The CHT II curriculum shall include a minimum of 16 additional hours of theory related to the expanded scope of practice and a minimum of 80 additional hours of supervised clinical experience. The clinical experience will include the initiation, monitoring and disconnection of a central venous catheter for a minimum of 20 times. The nurse educator must verify the successful completion of training with a written letter to the board with the application to test.

C. Administration and organization.

(1) The hemodialysis technician training program shall provide hemodialysis technician students opportunities to acquire clinical experiences caring for patients receiving hemodialysis at a licensed and accredited facility. These experiences should enhance the hemodialysis technician students' clinical skills and knowledge base and be under the direct supervision of a registered nurse.

(2) Each program shall have a board approved nurse educator to administer the program who shall be responsible for the development, implementation, teaching and evaluation of the program, arrangements for and supervision of student's clinical experiences and communication with the board and the hemodialysis technician advisory committee.

D. Qualifications and competencies of faculty.

(1) The nurse educator shall be a registered nurse and shall hold a current New Mexico or multistate license to practice nursing in New Mexico or hold a current compact state license.

(2) The nurse educator shall have at least two years of recent nursing practice experience including at least one year of nursing experience in hemodialysis. Previous nursing experience in nursing education is desirable.

(3) The nurse educator shall have a minimum of nine contact hours of continuing education annually in nephrology, or

have current national certification in nephrology or dialysis.

(4) All new approved nurse educators shall participate in an orientation that is presented by the board staff.

(5) Clinical preceptor(s) shall be a registered nurse and shall hold a current New Mexico nursing license or hold a current compact state license.

(a) Clinical preceptors shall have a least one year of nursing practice experience including at least six months of nursing experience in dialysis.

(b) Clinical preceptors shall demonstrate knowledge and skills in dialysis nursing.

(6) A certified hemodialysis technician under supervision of the nurse educator or approved clinical preceptor may be assigned to assist with the clinical experience/orientation of hemodialysis technician trainees.

(7) The nurse educator or the clinical preceptor must be physically present in the agency while students are engaged in the clinical experience.

[16.12.4.14 NMAC - Rp, 16.12.4.14 NMAC, 10/1/2016]

16.12.4.15 HEMODIALYSIS TECHNICIAN ADVISORY COMMITTEE:

A. Composition and appointment of committee members. The board of nursing shall appoint a minimum of a five member, three of which should be registered nurses, voluntary advisory committee which shall be composed of licensed nurses with expertise in dialysis nursing and certified hemodialysis technicians in New Mexico.

(1) There shall be no more than one licensed nurse and one certified hemodialysis technician representative employed by one hemodialysis unit serving on the advisory committee at any one time.

(2) Members of the committee shall serve for staggered terms of two years, and

may be reappointed to the advisory committee.

B. Responsibility of advisory committee.

(1) The advisory committee shall review applications for initial approval, program evaluations, and changes in approved hemodialysis technician training programs, and shall provide recommendations to the board.

(2) The advisory committee shall provide consultation to programs as requested or as directed by the board.

(3) Members of the advisory committee shall serve as site visitors to hemodialysis technician training programs for approval, consultation and evaluation visits.

[16.12.4.15 NMAC - Rp, 16.12.4.15 NMAC, 10/1/2016]

16.12.4.16 HEMODIALYSIS TECHNICIAN CURRICULUM SUBJECT AREAS:

A. Initial certification overview of the hemodialysis technician role and responsibilities.

(1) Objectives of the hemodialysis technician programs to include:

(a) federal, state and local regulations;

(b) nurse's role and hemodialysis technician role including the meaning of delegation;

(c) standards of function for hemodialysis technician;

(d) certification expectations and requirements; and

(e) hemodialysis technician students must have a current basic life support credential prior to and while the student has contact with patients.

(2) Orientation to the hemodialysis technician position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c)

<p>role of the health care team and the hemodialysis technician;</p> <p>(i) roles and contributions of other health team members;</p> <p>(ii) observation and reporting.</p> <p>B. Legal roles and responsibilities of hemodialysis technicians including:</p> <p>(1) patient's rights;</p> <p>(2) negligence and malpractice;</p> <p>(3) ethical issues relating to patients including but not limited to:</p> <p>(a) confidentiality;</p> <p>(b) OSHA;</p> <p>(4) documentation;</p> <p>(5) identification of errors and required reporting of errors to the nurse.</p> <p>C. Orientation to the patient population.</p> <p>(1) Identifies major anatomical components of the renal system and the role of the normal kidney in maintaining homeostasis;</p> <p>(2) Recognizes the physiological changes that occur in the body as a result of end stage renal disease;</p> <p>(3) Verbalizes the principles of hemodialysis;</p> <p>(4) Recognizes the psychosocial considerations that affect the hemodialysis patient/family and lifestyle;</p> <p>(5) Identifies changes in the patient's diet.</p> <p>D. Introduction to dialysis therapy.</p> <p>(1) Demonstrates efficient, accurate and safe preparation of the dialysis machine including but not limited to the discontinuation of dialysis;</p> <p>(2) Demonstrates accurate and safe technique when performing arteriovenous punctures for dialysis access;</p> <p>(3)</p>	<p>Identifies patient complications and communicates with a registered nurse;</p> <p>(4) Identifies and responds appropriately to machine alarms and other potential emergency situations to include but are not limited to:</p> <p>(a) air leaks;</p> <p>(b) power failures;</p> <p>(c) temperature changes;</p> <p>(d) unconscious patient;</p> <p>(e) needle dislodgement; or</p> <p>(f) air embolism;</p> <p>(5) Identifies infection control principles and practices. Including but not limited to the use of personal protective equipment;</p> <p>(6) Demonstrates the method of medication administration and identifies potential adverse reactions for medications used in hemodialysis therapy.</p> <p>E. Hemodialysis technician procedures/skills check list for certification in New Mexico.</p> <p>(1) identification of machine parts and functions;</p> <p>(2) preparation of machine and extracorporeal circuit equipment monitoring and testing prior to initiation of treatment and disinfection of machine post dialysis;</p> <p>(3) data collection for registered nurse assessment;</p> <p>(4) vascular access and specimen collection;</p> <p>(5) initiation, monitoring and termination of treatment;</p> <p>(6) appropriate response to real and potential emergency care situations that can impact the patient, staff and the physical building;</p> <p>(7) administration of medications required for dialysis therapy within the scope of practice as stated in</p>	<p>Subsection B of 16.12.4.10 NMAC;</p> <p>(8) correct practice of infection control principles;</p> <p>(9) identification and comprehension of principles of water treatment system.</p> <p>F. Certification for hemodialysis technician (CHT II) including their role and responsibilities.</p> <p>(1) Philosophy and objectives of the advanced hemodialysis technician programs to include:</p> <p>(a) federal, state and local regulations;</p> <p>(b) nurse's role and advanced hemodialysis technician role;</p> <p>(c) standards of function for advanced hemodialysis technician;</p> <p>(d) certification expectations and requirements.</p> <p>(2) Orientation to the (CHT II) position including:</p> <p>(a) review of job specifications;</p> <p>(b) expectation and responsibilities;</p> <p>(c) role of the health care team and the hemodialysis technician;</p> <p>(i) roles and contributions of other health team members;</p> <p>(ii) observation and reporting;</p> <p>(3) Expanded roles and responsibilities of the advanced hemodialysis technicians (CHT II) including:</p> <p>(a) patient's rights;</p> <p>(b) negligence and malpractice;</p> <p>(c) ethical issues relating to patient including but not limited to confidentiality and OSHA;</p> <p>(d) documentation;</p> <p>(e) identification of errors and required reporting or errors to the nurse.</p> <p>(4) Review the</p>
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concepts and practices of infection control.

(5) Understand the principles and rationale for the clamping and care of central venous line catheters.

(a) positive thoracic pressure;

(b) risk of complications with clamping/unclamping catheters;

(c) antiseptic solutions and catheter material;

(6) Understanding and administering heparin to central venous catheters.

(a) pre-dialysis blood work;

(b) identification of arterial and venous catheter ports;

(c) connection to dialysis blood lines.

(7) Preparation, initiation, monitoring and termination of dialysis with the central venous catheters.

(a) arterial pressure monitoring;

(b) documentation;

(c) verification with registered nurse of correct placement of a new central venous catheter.

(8) Maintaining central venous catheter patency including injection of heparin or saline into catheter ports.

(9) Identification of complications including, but not limited to:

(a) emergency life threatening care;

(b) access recirculation;

(c) inadequate flow;

(d) clotting; or

(e) catheter dislodgement.

G. CHT II procedures/skills check list for certification in New Mexico.

temporary central venous catheters;

(2) Demonstrate ability to maintain an aseptic field;

(3) Demonstrate correct infection control practices throughout all procedures including the proper selection of approved antiseptic solutions;

(4) Demonstrate aspiration of heparin or saline with the correct sized syringe;

(5) Demonstrate ability to maintain positive pressure in the catheter lumen;

(6) Identify and respond appropriately to complications with the central venous catheter;

(7) Determine correct lumen volume and instill heparin or saline aseptically post treatment;

(8) Correctly demonstrates catheter ports are capped, clamped and secured after termination of hemodialysis treatment.

[16.12.4.16 NMAC - Rp, 16.12.4.16 NMAC, 10/1/2016]

HISTORY OF 16.12.4 NMAC:
Pre-NMAC History: The material in this part was derived from the previously filed with the state records center and archives under: BON Manual #90-1, New Mexico Board of Nursing Rules and Regulations for Hemodialysis Technicians, filed 01-29-1990; BON Manual 93-2, New Mexico Board of Nursing Rules and Regulations for Hemodialysis Technicians, filed 08/25/1993.

History of Repealed Material:
 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs repealed, 02/17/2006.
 16.12.4 NMAC, N Hemodialysis Technicians, filed 12/21/2005 - Repealed effective 10/01/2016.

Other History:
 BON Manual 93-2, New Mexico Board of Nursing Rules and

Regulations for Hemodialysis Technicians (filed 08/25/1993) was renumbered, reformatted to 16 NMAC 12.4, Certification of Hemodialysis Technicians and Training Programs, effective 01/01/1998.
 16 NMAC 12.4 amended Certification of Hemodialysis Technicians and Training Programs (filed 12/10/1997), renumbered, reformatted, amended and replaced by 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs, effective 07/30/2001.
 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs (filed 06/12/2001) replaced by 16.12.4 NMAC Certification of Hemodialysis Technicians and Training Programs, effective, 02/17/2006.
 16.12.4 NMAC Certification of Hemodialysis Technicians, effective, 10/01/2016.

NURSING, BOARD OF

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 12 NURSING AND HEALTH CARE RELATED PROVIDERS
PART 5 MEDICATION AIDES

16.12.5.1 ISSUING
AGENCY: New Mexico Board of Nursing.
 [16.12.5.1 NMAC - Rp, 16.12.5.1 NMAC, 10/1/2016]

16.12.5.2 SCOPE: The rule applies to medication aides and medication aide training programs which serve consumers in various health care and community settings except acute care facilities.
 [16.12.5.2 NMAC - Rp, 16.12.5.2 NMAC, 10/1/2016]

16.12.5.3 STATUTORY AUTHORITY: Section 61-3-10-2 NMSA, permits the operation of a program for certification of medication aides and training

programs. Section 61-3-10-2 NMSA directs the board of nursing to provide for the operation of a statewide program for certification of medication aides and training programs. Section 61-2-6 NMSA (1995) Pamphlet and the Uniform Licensing Act Section 61-1-1 NMSA, *et seq.*, sets forth conditions for hearing and discipline. [16.12.5.3 NMAC - Rp, 16.12.5.3 NMAC, 10/1/2016]

16.12.5.4 DURATION:
Permanent.
[16.12.5.4 NMAC - Rp, 16.12.5.4 NMAC, 10/1/2016]

16.12.5.5 EFFECTIVE DATE: October 1, 2016, unless a later date is cited at the end of a section.
[16.12.5.5 NMAC - Rp, 16.12.5.5 NMAC, 10/1/2016]

16.12.5.6 OBJECTIVE:
Pursuant to the Nursing Practice Act this part establishes the requirements for fees, examination, recertification, standards and functions, supervision/direction, and disciplinary action for medication aides who serve in multiple health care settings except acute care facilities. It also establishes requirements for approval of medication aide programs, minimum standards for medication aide programs, and the medication aide advisory committee for medication aides.
[16.12.5.6 NMAC - Rp, 16.12.5.6 NMAC, 10/1/2016]

16.12.5.7 DEFINITIONS:

A. "Administrator"
means the operating officer of an agency. This includes, but is not limited to a licensed nursing facility.

B. "Agency" means a board approved facility that utilizes medication aides who serves consumers in various health care and community settings.

C. "Approval" means the review and acceptance of specific activity.

D. "Audit" means a verification of continuing education

documents and work requirements.

E. "Board" means the NM board of nursing.

F. "Certificate"
means a document issued by the board identifying the legal privilege and authorization to perform specific certified medication aide functions and procedures in the state of New Mexico.

G. "Certification examination" means a board-approved tool designed to evaluate an applicant's knowledge of a specific subject.

H. "Certified medication aide (CMA)" means a person who receives specialized training preparing for a role of medication administration under the supervision/direction of a registered nurse, is permitted to administer medications as outlined in these rules.

I. "Certified medication aide II (CMA II)" means a person who meets the requirements of a CMA as defined in these rules. The CMA II candidate is selected by the nurse educator, and receives additional training with the expanded scope of function of subcutaneous insulin delivery, upon successful completion of a board approved examination; additional certification is mandatory.

J. "Clinical experience" means the supervised clinical proficiency/quality assurance skills component of the certified medication aide program which takes place in a board approved agency.

K. "Clinical preceptor" means a licensed nurse at each participating nursing agency that is physically present and providing one clinical preceptor to two students with direct supervision.

L. "Competency"
means the demonstration of knowledge in a specific area and the ability to perform specific skills and tasks in a safe, efficient manner.

M. "Consumer"
means any person domiciled, residing or receiving care or treatment from a certified medication aide in an agency. This includes but is not limited to residents, clients or students.

N. "Contact hour"
means a 60 minute clock hour.

O. "Continuing education (CE)" means a planned learning experience for medication aides which include medication information and medication administration. These experiences are designed to promote the development of knowledge, skills and attitudes for the enhancement of care to the consumer.

P. "Curriculum"
means a detailed course outline, description, or syllabus, which includes objectives, content, teaching-learning activities and evaluation strategies.

Q. "Delegation"
means transferring to a competent individual the authority to perform a delegated nursing task in a selected situation. The licensed nurse retains accountability for the delegation.

R. "Medication aide advisory committee (MAAC)"
means a board appointed advisory committee.

S. "Medications"
means substances intended for use in diagnosis, care, mitigation, treatment or prevention of a disease.

T. "Medication aide program" means the formal program of study, certification, continuing education, standards of functions, disciplinary action, and minimum standards. A board approved nurse is required for the supervision and observation of the medication aide.

U. "NPA" means the Nursing Practice Act.

V. "Nurse educator"
means a registered nurse who is the program administrator for a specific agency that develops, coordinates and teaches the medication aide program or participant program. Retains ultimate responsibility for determining competency of medication aides.

W. "OTC medications" means medications can be purchased over-the-counter without a prescription. OTC medications must be stored in original manufacturer's packaging and affixed with the original manufacturer's

labeling. Provider's orders with adequate instructions must be obtained prior to the administration of OTC medications by the certified medication aide.

X. "Participant program" means a board approved medication aide program that does not involve teaching of a board approved curriculum but retains all responsibility of maintaining a medication aide program.

Y. "Population specific care" means the standards of care regarding medication administration requirements for specific consumer care groups.

Z. "Prn" means administering medication on an as needed basis. Instruction to administer by a certified medication aide requires licensed nurse judgment and prior approval.

AA. "Program review" means the process whereby the program at the agency is evaluated to assure compliance with the rules and regulations governing the CMA program. This may include a site visit with or without official notification to an agency.

BB. "Properly labeled container" means a medication container which includes the name, address and telephone number of the pharmacy, the name of the prescriber, the full name of the consumer, the date the order was filled, the brand and generic name of the drug, the dosage of the drug, strength of the drug, lot number, expiration date, adequate instructions for use and cautionary label as necessary.

CC. "Reactivation" means the process of making a certificate current which has been in lapsed status as a result of failure to comply with the necessary renewal requirements; this action does not involve board action.

DD. "Reinstatement" means the process whereby a certificate, which has been subject to revocation or suspension, is returned to its former status by individual board action; this process always involves board action.

EE. "Routine

medication" means a medication for which the frequency of administration, amount, strength, and method of administration are specifically fixed as determined by the health care provider authorized by the state to prescribe medications. Routine does not include medications for which the time of administration, the amount, the strength of dosage, the method of administration or the reason for administration is left to judgment or discretion.

FF. "Standards of function" means a range of tasks/ activities performed by certified medication aides for consumers who are stable and predictable, supervised by a licensed nurse who may need to adjust the range of tasks based on the consumer's need.

GG. "Supervision/ direction" means initial and ongoing verification of a person's knowledge and skills in the performance of a specific function or activity as demonstrated by periodic observation, direction and evaluation of that person's knowledge and skills as related to the specific function or activity.

HH. "ULA" means the Uniform Licensing Act. [16.12.5.7 NMAC - Rp, 16.12.5.7 NMAC, 10/1/2016]

16.12.5.8 FEES: Payment of fees will be accepted in the form specified by the board. The initial application fee will be for a period of one year, plus the months to the applicant's birth month. Fees may be collected in whole or prorated to commensurate with the length of the renewal period. Fees are not refundable.

A.	Initial certification by examination	\$45.00
B.	Certification by exam for CMA II	\$60.00
C.	Re-examination	\$30.00
D.	Renewal of medication aide certificate	\$45.00
E.	Reactivation of a lapsed certificate	\$50.00
F.	Reactivation of a lapsed certificate following board	

action	\$60.00	
G.	Initial program review and approval	\$250.00
H.	Biennial program renewal	\$200.00
[16.12.5.8 NMAC - Rp, 16.12.5.8 NMAC, 10/1/2016]		

16.12.5.9 CERTIFICATION BY EXAMINATION REQUIREMENTS FOR MEDICATION AIDES:

- A.** Prerequisites.
- (1) Be a minimum of 18 years of age.
 - (2) Be a high school graduate or complete the general education development (GED) course or proof of higher education.
 - (3) Provide documentation of a minimum of six months health care experience working at a board approved agency within the last year.
 - (4) Successfully complete a board-approved program for the preparation of medication aides.
 - (5) Complete the required application form within the specified deadline and according to all policies.
 - (6) Provide proof of current CPR certification.
 - (7) Remit the required fee.
- B.** Application and fee for the medication aide examination must be submitted to the board office at least 30 days prior to the date of the examination.
- (1) Any application containing fraudulent or misrepresented information could be the basis for denial of certification.
 - (2) Incomplete applications for certification will be returned.
 - (3) Verification of successful completion of the medication aide program including date of completion must be received in the board office directly from the agency which provided the program, at least 30 days prior to the exam date.
 - (4) An

admission letter which includes the time, date and place of the examination will be issued to all eligible candidates.

(5) The reexamination fee will be charged for all failed examinations and non-excused applicants.

(6) If an applicant is scheduled for the medication aide examination and is unable to attend, the applicant must notify the board on or before the examination date. Lack of notification will result in a reexamination fee.

(7) Results of the examination shall be reported by mail only to the individual applicant no later than four weeks following the examination date. Successful candidates shall be issued an initial certificate.

(8) Successful completion of the examination can be verified through the board's website.

(9) An initial certificate shall be valid until the last day of the applicant's birth month after the first anniversary of the initial certificate.

C. Medication aide certification examination.

(1) The board shall develop and maintain the board-approved examination for medication aides.

(2) Board-approved examination centers shall comply with the security procedures developed by the board for distribution and administration of the examination.

(3) The MAAC shall set the examination dates.

(4) Applicants for certification as a medication aide shall be required to pass the medication aide examination with a minimum of eighty percent of the items answered correctly.

(5) Failed examinations must be repeated in their entirety on all subsequent attempts.

(6) Unsuccessful candidates may not

repeat the examination for two months.

(7) The examination may be taken a maximum of three times. After the third failure, the applicant must provide verification of repeating and successfully completing the theory and clinical portion of a board-approved medication aide program to be eligible to sit for the exam.

(8) Applicants observed giving or receiving unauthorized assistance during the writing of the examination shall be physically removed from the examination center and the individual(s) shall be referred to the board by a sworn complaint(s) filed by the examiner.

D. Certification by examination for CMA II.

(1) CMA II shall be required to pass a certification examination with a minimum score of eighty percent that is specific to their expanded scope of function as defined in the core curriculum (16.12.5.16 NMAC).

(2) CMA II applicants who fail the exam may repeat the examination one time within a two month period without repeating an approved training program. If the CMA II does not pass the second examination they must provide verification of repeating and successfully completing the theory and clinical portion of a board approved CMA II program to be eligible to retake the examination.

E. Requirements for medication aide recertification.

(1) Applicants for recertification as a medication aide must meet the continuing education and work requirements as stated in these rules.

(2) In order to meet the CE requirement for recertification as a medication aide, the applicant must provide evidence of having accrued 16 clock hours of CE within the two years renewal period immediately preceding recertification. CE may be prorated to commensurate with the length of the renewal period.

(a) The agency shall grant opportunities for CE.

(b) Acceptable courses shall be those with topics related to medications and medication administration.

(c) CE requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit.

(d) Failure to meet the CE requirements for recertification shall result in denial of recertification. Individuals who do not meet the continuing education requirement may not function as a medication aide until such time as the CE requirement has been met.

(e) CMA II shall accrue four additional contact hours of continuing education within the 24 months preceding recertification. These additional contact hours must be specific to their expanded scope of function. CE may be prorated to commensurate with the length of the renewal period.

(3) In order to meet the work requirement for recertification as a medication aide, the applicant must administer medications a minimum of 100 hours during the two year period immediately preceding certification renewal.

(a) Work requirement records are subject to audit by the board. Certificate holders may be subject to disciplinary action by the board if non-compliant within 60 days of the first notification of the audit. Work hours may be prorated to commensurate with the length of the renewal period if less than 24 months.

(b) Failure to meet the employment requirement shall result in denial of recertification.

(c) Individuals who have not met the employment requirement may not function as a medication aide, until a 24 hour refresher course has been

completed and a recertification application and fee have been submitted, processed, and accepted by the board. Completion of a refresher course shall meet both the employment and CE requirement for the renewal period.

(4) Refresher course.

(a) CMA I - completion of a minimum of 12 hours of classroom studies and 12 hours of supervised clinical practice in a board-approved medication aide program under the direction of the nurse educator to include authorized and prohibited functions of a medication aide. CMA II - completion of eight hours of theory to include the expanded scope of function and 20 hours of supervised insulin injections.

(b) A passing score of eighty percent on the agency's final examination.

(c) Refresher course requirements are found in 16.12.5.20 NMAC.

(d) The nurse educator shall provide verification on agency letterhead to the board of nursing about the medication aide's completion of the refresher course before a new certificate is issued.

(e) Failure to meet any of the requirements for the refresher course shall require the individual to complete a board-approved training program curriculum in its entirety.

(5) Renewal notifications may be mailed to the medication aide at least six weeks prior to the end of the renewal month. Renewal applications are available on the board's website.

(a) Failure to receive the notification for renewal shall not relieve the medication aide of the responsibility of renewing the certificate by the expiration date.

(b) If the certificate is not renewed by the end of the renewal month, the medication aide does not hold a valid certificate and shall not function as

a medication aide in NM until the lapsed certificate has been reactivated.

(c) Renewal application and fee must be submitted, processed, and accepted by the board.

(6) Medication aides shall be required to complete the renewal process by the end of their renewal month every two years.

(7) Initial certificates are issued by mail only.

(8) Medication aides with expired certificates of over six months duration shall complete the refresher course in order to be recertified.

(9) Remit the required fee.

F. Individuals who have practiced as medication aides in other states or who have been certified in another state may apply for certification in the state of New Mexico if they:

(1) provide a current CMA certificate from another state;

(2) submit written verification of 100 hours as a medication aide during the 24 month period immediately preceding request to become certified in New Mexico directly to the board by their employer;

(3) provide written verification by the board approved agency, on agency letterhead, of successful completion of 20 hours of supervised clinical practice, skills list, and the final examination results;

(4) successfully complete the board's medication aide certification examination with a score of eighty percent or better;

(a) upon completion of requirements identified in Paragraphs (1) through (4) of Subsection F of 16.12.5.9 NMAC the medication aide must apply within six months to take the next available board approved medication aide certification examination; an initial certification by examination application with fee must be submitted, processed and accepted

by the board according to examination required deadline;

(b) upon successful completion of the examination with a score of eighty percent or higher a certificate will be mailed to the medication aide;

(c) failure to successfully pass the medication aide certification examination shall require the medication aide to complete a board approved training program curriculum in its entirety.

G. Graduate nurses or nursing students currently enrolled in a school of nursing may be certified as medication aides if they meet the following criteria.

(1) Graduate nurses or student nurses who have successfully completed a nursing pharmacology course and two of the following may apply for medication aide certification:

(a) nursing courses to include: pathophysiology (I), anatomy (II) and physiology (III);

(b) completed a nursing fundamentals course; or

(c) certified nursing assistant course.

(2) Complete the required application form and remit the required fee.

(3) Written verification of successful completion of courses with a "C" or higher must be submitted by the nursing school on letterhead. In lieu of verification, official transcripts will be accepted.

(4) If completed certified nursing assistant course, must provide verification of a current certificate in good standing with the state department of health.

(5) Provide proof of a current CPR card.
[16.12.5.9 NMAC - Rp, 16.12.5.9 NMAC, 10/1/2016]

16.12.5.10 STANDARDS OF FUNCTIONS FOR THE MEDICATION AIDE:

A. The purpose of this section is to establish standards for the

supervision/direction of medication aides; to identify basic authorized functions for the medication aide and; to identify prohibited functions for the medication aide.

B. Authorized functions of the medication aide - medication aides who have been certified by the New Mexico board of nursing may under the supervision/direction of a registered nurse administer routine medications.

(1) The medications must have been ordered by a person authorized in the state to prescribe medications.

(2) The medication must be prepared by the person who will administer it.

(3) Medication administration errors must immediately be reported to the licensed nurse by the medication aide.

(4) Adverse reactions must immediately be reported to the licensed nurse by the medication aide.

(5) Administer PRN medications only after contacting and receiving authorization from licensed nurse to administer the PRN medication. Authorization is required for each individual instance of PRN administration of a medication.

C. Prohibited functions of the medication aide:

(1) shall not administer medication by intramuscular, intravenous, subcutaneous or nasogastric routes; **exception:** certified medication aides may administer insulin with a prefilled insulin pen if they have successfully completed a current CMA II board approved certification program;

(2) shall not take medication orders;

(3) shall not alter medication dosage as ordered by the prescriber;

(4) shall not perform any function or service for consumers for which a nursing license is required under the Nurse Practice Act;

(5) shall not

administer medication without the supervision/direction of a licensed nurse;

(6) shall not administer medications in any agency other than a board approved agency.

D. Supervision/direction.

(1) A nurse educator shall periodically provide supervision/direction to the certified medication aide administering medication(s):

(a) a licensed nurse shall be available 24 hours a day (on call) to supervise medication aides as determined by the agency work hours;

(b) develop and institute a yearly performance evaluation of each CMA; the performance evaluation shall be based upon the standards listed in these rules; the performance evaluation shall also include a review of the number of medication errors committed by the CMA.

(2) A nurse educator shall monitor an agency's medication aides as directed by the board to include the following:

(a) review all medication administration errors and incident reports filed since the nurse educator's last review;

(b) meet with each medication aide to review and discuss problems, difficulties, or irregularities in administering medications and to provide appropriate instruction;

(c) prepare and submit to the board of nursing a written, signed report of findings, observations, problems, irregularities, safety violations and recommendations in medication administration

(3) The registered nurse may delegate to the licensed practical nurse the supervision/direction of the medication aide.

E. Certified medication aide II - expanded scope of function.

(1) The expanded role is a privilege and not a requirement for all CMA's to meet.

(2) The nurse educator shall approve the CMA assuring the CMA meets specific criteria.

(3) CMA must be employed full-time for one year in a board approved facility.

(4) Must have been a CMA for one year and have fulfilled all CMA requirements and have a current NM certificate.

(5) Authorized functions shall include subcutaneous injection of insulin by prefilled insulin pens only.

(6) Must complete board approved curriculum and pass the board examination with eighty percent or better.

[16.12.5.10 NMAC - Rp, 16.12.5.10 NMAC, 10/1/2016]

16.12.5.11 DISCIPLINARY ACTION:

A. The board shall conduct hearings upon charges relating to discipline of a CMA/ CMA II or the denial, suspension or revocation of a medication aide certificate in accordance with the ULA (61-3-10, NMSA, 1978) for the purpose of protecting the public.

B. Grounds for action.
(1) Incapable of functioning as a medication aide which is defined to include, but not limited to, the following:

(a) inability to function with reasonable skill and safety as a medication aide for any reason including, but not limited to, the use of drugs, alcohol or controlled substances which could impair judgment;

(b) performance of unsafe or unacceptable care of consumers in the administration of medications or failure to conform to the essential standards and prevailing standards of medication aides, in which actual injury need not be established;

(c) omitting deliberately and failing to record information regarding medications and medication administration which could be relevant to the consumer's care;

(d) demonstrating a lack of competence through repeated medication errors.

(2) Incapable of functioning as a responsible member of the health care team which is defined to include, but not limited to, the following:

(a) falsifying or altering consumer records or personnel records for the purpose that reflect incorrect or incomplete information;

(b) misappropriation of money, medications or property;

(c) obtaining or attempting to obtain any fee for consumer services for one's self or for another through fraud, misrepresentation or deceit;

(d) obtaining, possessing, administering or furnishing prescription medications to any person, including, but not limited to one's self, except as directed by a person authorized by law to prescribe;

(e) failure to follow established procedures and documentation regarding controlled substances;

(f) obtaining or attempting to obtain a certificate to function as a medication aide for one's self or for another through fraud, deceit, misrepresentation or any other act of dishonesty in any phase of the certification by examination or recertification process;

(g) failure to report a medication aide, who is suspected of violating the NPA, administrative rules or 16.12.5 NMAC;

(h) exceeding the scope of functions of a medication aide;

(i) intentionally abusing, neglecting or exploiting a consumer;

(j) intentionally engaging in sexual contact toward or with a consumer;

(k) administering medications without the supervision/direction of a licensed nurse;

(l) conviction of a felony;

(m) dissemination of a patient/client's health information or treatment plan acquired during the course of employment to individuals not entitled to such information and where such information is protected by law or hospital/agency policy from disclosure.

C. Disciplinary proceedings - disciplinary proceedings are conducted in accordance with the administrative rules of the New Mexico board of nursing and pursuant to the Uniform Licensing Act.
[16.12.5.11 NMAC - Rp, 16.12.5.11 NMAC, 10/1/2016]

16.12.5.12 APPROVAL OF MEDICATION AIDE PROGRAMS:

A. The purpose of the rules is to set reasonable requirements that protect the health and well-being of the consumers that receive services from medication aides in board approved programs. NPA (Section 61-3-10.2 NMSA 1978). The objectives include promoting safe and effective care of consumers receiving medications from CMAs; establishing minimum standards for the evaluation and approval of medication aide programs; facilitating continued approval and improvement of the medication aide programs; granting recognition and approval that a medication aide program is meeting the required minimum standards; and establishing eligibility of graduates of the training portion of a medication aide program to apply for certification by examination.

B. Board approved nurse educators of all new medication aide participant program's shall participate in an orientation that is presented by board staff.
[16.12.5.12 NMAC - Rp, 16.12.5.12 NMAC, 10/1/2016]

16.12.5.13 TYPES OF APPROVAL:

A. Initial program approval - any agency wishing to

obtain approval of a medication aide program shall submit, in writing, an application for approval to the board's MAAC. Incomplete applications will not be reviewed. The MAAC shall evaluate the application and make a recommendation to the board regarding the approval of the medication aide program. The board of nursing shall approve medication aide programs at regularly scheduled board meetings.

(1) The initial application for approval shall be consistent with the minimum standards for medication aide programs and shall contain the following:

(a) objectives of the medication aide program;

(b) organizational chart;

(c) name of the administrator and the director of nursing;

(d) name and resume of the nurse educator(s) and clinical preceptors;

(e) program curriculum;

(f) number of hours to be spent on each topic;

(g) evaluation tools that demonstrate written and clinical proficiency to include a quality assurance program;

(h) policies and procedures that outline the scope of function of medication aide in the board approved agency;

(i) job description of medication aide; and

(j) required fee.

(2) Representatives of the medication aide program may be scheduled to meet with the MAAC to present the proposed program.

(a) Upon the MAAC's approval of the application, a recommendation for approval shall be made to the board.

(b) Applications not approved will be

returned and may be resubmitted for approval when complete and deficiencies have been corrected.

(3) After receipt of the MAAC's report and recommendation(s), the board may:

- (a) grant approval of a program;
- (b) defer a decision regarding approval;
- (c) deny approval;
- (d) direct staff to make a pre-approval evaluation visit.

B. Full approval, for a period not to exceed two years, shall be granted to medication aide programs if, in the opinion of the board, the program demonstrates compliance with 16.12.5.17 NMAC minimum standards for medication aide programs.

(1) To ensure continued compliance with 16.12.5.17 NMAC minimum standards for medication aide programs, medication aide programs shall be evaluated through a written report or as determined by the board or the advisory committee.

(a) During the period of full approval, the MAAC may determine if annual medication aide program site visits are necessary to evaluate compliance with these rules.

(b) A representative of the medication aide program may request or be requested to meet with the MAAC to clarify and respond to questions regarding the evaluation.

(c) After the MAAC's review of the evaluation, a report shall be made to the board regarding continuation of the medication aide program's approval.

(d) The board is the final authority regarding continued approval or probation.

(2) Prior to the expiration of full approval, a program review shall be conducted by a representative from the board of nursing to evaluate programmatic

compliance. The report of the visit shall be submitted to the MAAC for review and recommendation to the board regarding approval.

C. Probationary approval.

(1) A medication aide program may be given probationary approval when there is evidence of:

- (a) non-compliance with the minimum standards for medication aide programs;
- (b) continuous disruptions in retaining qualified nurse educators;
- (c) noncompliance with the medication aide program's stated philosophy, objectives, policies, and curriculum resulting in unsatisfactory student achievement;
- (d) failure to provide clinical experience or supervision;
- (e) non-compliance with any portion of these rules.

(2) The medication aide program shall be advised, in writing, of the reason(s) for probationary approval.

(3) The board shall designate a reasonable time period, not to exceed one year, in which the medication aide program must correct deficiencies and meet the minimum standards for approval.

(a) Prior to the end of the period of probationary approval, a program site visit shall be conducted.

(b) The committee shall review the site visit evaluation and make a recommendation to the board through the staff.

(4) Probationary approval is not renewable. Failure to correct deficiencies will result in withdrawal of approval.

[16.12.5.13 NMAC - Rp, 16.12.5.13 NMAC, 10/1/2016]

16.12.5.14 DENIAL OR WITHDRAWAL OF PROGRAM APPROVAL:

A. The board may deny approval of a medication aide program when a program fails to provide evidence of compliance with the minimum standards for medication aide programs or any other portion of these rules.

B. The board may withdraw approval of a medication aide program if the program fails to correct deficiencies resulting in non-compliance with the minimum standards for medication aide programs or any other portion of these rules.

C. When the board denies or withdraws approval, a written notice detailing the reasons shall be provided to the officials of the medication aide program.

D. The medication aide program shall be removed from the list of board approved medication aide programs.

[16.12.5.14 NMAC - Rp, 16.12.5.14 NMAC, 10/1/2016]

16.12.5.15 PROGRAM REVIEWS:

A. Types.
(1) Approval assessment: made to a medication aide program by representatives of the board for the purpose of determining board approval.

(2) Evaluation review: made to medication aide program by board representatives at the request of the board for the purpose of evaluating a program's progress and approval status.

(3) Consultation assessment: made to the medication aide program by the board representatives at the request of the program officials.

(4) Course visit: visit which may be done at any time to a participating medication aide program.

(5) Program review: conducted to assess compliance with programmatic requirements and to assess the status of the program at the agency.

B. The board reserves the right to make unannounced visits.

C. A report of the visit

made by representative(s) of the board shall be provided to the medication aide program, MAAC, and the board for final disposition regarding approval status.

D. Visits shall be conducted by a minimum of one professional board staff member. [16.12.5.15 NMAC - Rp, 16.12.5.15 NMAC, 10/1/2016]

16.12.5.16 CHANGES REQUIRING NOTIFICATION TO THE ADVISORY COMMITTEE OR THE BOARD FOR APPROVAL:

A. Program changes requiring notification to the advisory committee or board for approval.

(1) Major curriculum changes or reorganization of the curriculum.

(2) Major changes in the program's objectives or goals.

(3) Changes in the required didactic or clinical hours.

(4) Changes in the internal, administrative or organizational plan of the agency.

(5) Changes in the licensure status of the agency.

(6) Changes in the medication aide program nurse educator.

B. Procedure for requesting board approval for program changes.

(1) The MAAC shall be notified, in writing, of changes in the program requiring board approval. The MAAC shall present the changes and recommendations to the board of nursing at a regularly scheduled meeting.

(2) The notification shall include:
(a) a proposed change(s);

(b) rationale for the proposed change(s);

(c) anticipated effect to the current program;

(d) timetable for implementation of the proposed change(s);

(e) presentation of the differences between the current system and proposed change(s);

(f) method of evaluation which will be used to determine the effect of the changes; and

(g) the required fee. [16.12.5.16 NMAC - Rp, 16.12.5.16 NMAC, 10/1/2016]

16.12.5.17 MINIMUM STANDARDS FOR MEDICATION AIDE PROGRAMS:

A. Objectives - there shall be written objectives for the medication aide program which serve as the basis for the planning, implementation, and evaluation of the program.

(1) The objectives shall be developed by the medication aide program nurse educator and shall describe the competencies of the medication aide and shall include:

(a) principles of safety in the administration of medication;

(b) rights in preparing and administering medications;

(c) methods commonly used to safeguard medications;

(d) process of infection control;

(e) terms related to administration of medications;

(f) abbreviations commonly used when prescribing and administering medications;

(g) uses, dosages, and necessary precautions in administering medications;

(h) ability to correctly calculate dosages;

(i) appropriately reporting changes in a consumer's condition;

(j) importance of remaining with consumer while administering

medication;

(k) accurate documentation of medication administration;

(l) legal parameters of the medication aide role;

(m) authorized and prohibited functions;

(n) responsibility for own actions;

(o) maintenance of confidential information;

(p) appropriate skills in medication administration;

(q) understanding of the consumer population; and

(r) confidentiality issues.

(2) The objectives shall be written clearly, and shall identify expected competencies of the beginning medication aide.

(3) The objectives shall be reviewed annually and revised as necessary by the nurse educator.

B. Curriculum.

(1) The curriculum shall be developed, implemented, evaluated by the medication aide program nurse educator within the framework of the objectives.

(2) The curriculum shall extend over a period of time sufficient to provide essential, sequenced learning experiences which enable a student to develop competence consistent with principles of learning and sound educational practice.

(a) There shall be a minimum of 60 hours of classroom study of which 40 hours is the medication administration curriculum and 20 hours of population specific care curriculum.

(b) There shall be a minimum of 20 hours of supervised clinical experience. The nurse educator retains accountability and determines the need for additional clinical experience hours.

(c)

Supervised clinical experience shall provide opportunities for the application of theory and for the achievement of stated objectives in a population specific care setting and shall include clinical learning experiences to develop the proficiency/quality assurance required by the individual to function safely as a medication aide. A nurse educator or clinical preceptor must be physically present and accessible to the student in the population specific care area.

(d)

The CMA II curriculum shall include a minimum of 16 additional hours of classroom study and a minimum of 20 supervised insulin injections. The CMA II student shall successfully administer insulin to one or more consumers a minimum of 20 times. The nurse educator must verify the successful completion of training by submitting a written letter to the board with the application to test as a CMA II.

(3) The

curriculum shall provide, at a minimum, instruction in the subject areas listed in 16.12.5.19 NMAC.

(4) The nurse

educator shall develop a written plan for curriculum and program evaluation.

C. Administration and organization.

(1) There

shall be a current organizational chart showing the position of the medication aide program within the overall structure of the agency, clearly indicating the lines of authority and responsibility and channels of communication.

(2) The agency

administration shall provide support for the medication aide program to obtain the resources needed for the program to achieve its purpose.

(3) There shall

be a nurse educator to administer the program that shall be responsible for:

(a)

the development, implementation and evaluation of the medication aide program;

(b)

creation and maintenance of an environment conducive to teaching and learning;

(c)

liaison with other personnel;

(d)

arrangement for direct supervision of the student's clinical experience by a licensed nurse;

(e)

provision for a system of permanent records and reports essential to the operation of the medication aide program; and

(f)

communication with the board of nursing.

(4) Should the

nurse educator leave their position, the administrator shall notify the board. Failure to notify the board may result in a monetary penalty imposed by the board.

D. Faculty.

(1) Each

program shall have a nurse educator that is a registered nurse and holds a current license to practice nursing in NM or a current compact state license.

(2) The nurse

educator shall have at least two years of recent, within the last five years, nursing practice experience.

(3) The nurse

educator shall select the clinical experience for students.

(4) The nurse

educator or clinical preceptor must be physically present in the agency while students are engaged in clinical experience.

(5) The

ratio of faculty to students, during supervised clinical experience shall not be more than one faculty to two students.

(6) The nurse

educator shall be responsible for instruction and evaluation of student performance, termination, grading and progression.

(7) Other

health care providers, in addition to the nurse educator, may be appropriate faculty for classroom instruction such as physicians, nurse practitioners and pharmacists.

(8) The nurse

educator will have accountability/responsibility in the final selection/determination of any CMA candidate chosen for advancement to CMA II.

E. Records.

(1) The nurse

educator's record shall include:

(a)

verification of current licensure as a registered nurse in New Mexico or compact state;

(b)

continuing education record;

(c)

resume;

(d)

teaching experience;

(e)

verification of board of nursing orientation for nurse educators;

(f)

board of nursing appointment letter to position of nurse educator.

(2) The

student's record shall include:

(a)

admission date;

(b)

testing and evaluation records;

(c)

classroom and clinical attendance;

(d)

final course grade;

(e)

certificate that documents proof of attendance and successful program completion;

(f)

copy of application for certification examination;

(g)

continuing education attendance records;

(h)

current CPR certification.

(3) The

clinical preceptor's record shall include:

(a)

verification of current licensure as a registered or licensed practical nurse in New Mexico or compact state;

(b)

resume;

(c)

verification of orientation for clinical preceptors conducted by nurse

educator.
 (4) The CMA's records shall include but not be limited to:
 (a) current NM CMA certifications;
 (b) biannual med pass observations;
 (c) continuing education records;
 (d) current CPR certification.
 [16.12.5.17 NMAC - Rp, 16.12.5.17 NMAC, 10/1/2016]

16.12.5.18 MEDICATION AIDE PROGRAM ADVISORY COMMITTEE:

A. Composition and appointment of committee members. The board shall appoint a minimum of a five member voluntary advisory committee which shall be composed of at least three registered nurses and other representatives. The committee shall include one member not employed by a participating agency.

(1) There shall be no more than one representative from any one agency serving on the advisory committee at any one time.

(2) Members of the committee shall serve for staggered terms of two years, and may be reappointed to the advisory committee.

B. Responsibility of advisory committee.

(1) The advisory committee shall review applications for initial approval, program evaluations, and changes in medication aide programs, and shall make recommendations to the board.

(2) The advisory committee shall provide consultation to medication aide programs as requested or directed by the board.

(3) Members of the advisory committee may serve as survey visitors to medication aide programs for approval, consultation and evaluation visits.

[16.12.5.18 NMAC - Rp, 16.12.5.18 NMAC, 10/1/2016]

16.12.5.19 MEDICATION ADMINISTRATION CURRICULUM SUBJECT AREAS:

A. Overview of the medication aide role and responsibilities.
 (1) Objectives of the medication aide training programs to include:

(a) federal, state and local regulations;

(b) nurse's role and medication aide role including the meaning of delegation;

(c) standards of function for medication aides;

(d) certification expectations and requirements.

(2) Orientation to the medication aide position including:

(a) review of job specifications;

(b) expectation and responsibilities;

(c) role of the health care team and the CMA;

(i) roles and contributions of other health team members;

(ii) observation and reporting;

(iii) health team meetings.

B. Legal roles and responsibilities of medication administration including:

(1) consumer's rights;

(2) negligence and malpractice;

(3) ethical issues relating to consumers including, but not limited to:

(a) confidentiality;

(b) OSHA;

(4) documentation;

(5) identification of medication errors and required reporting of errors to the nurse.

C. Fundamentals of medication administration.

(1) Terminology.

(2) Definitions/abbreviations.

(3) Rights of medication administration.

(4) Observations while administering medications.

(5) Follow-up after administering medications.

(6) Consumer refusal of medication.

(7) OTC and prn medications.

(8) Controlled substances.

(9) Medication classifications/identification.

(10) Medication effects.

(11) Medication side effects and contraindications including, but not limited to allergic reaction/adverse reactions.

(12) Medication interactions shall include but not limited to:

(a) food and herb;

(b) synergistic;

(c) antagonistic;

(d) additive.

(13) Utilization of available resources of medication information shall include but not limited to:

(a) supervising nurse;

(b) written materials;

(c) internet;

(d) pharmacist;

(e) poison control.

(14) Medication nomenclature including:

(a) trade;

(b) generic;

over-the-counter.	(c)	suppositories;		to the specific population;	
(15) Methods of distribution and storage shall include but not limited to:		topical agents;	(i)	common medications given to the specific population including:	(c)
unit dose;	(a)	metered dose inhalers;	(j)	generic and trade names;	(i)
medication carts;	(b)	gastrostomy and jejunostomy medications;	(k)	dosage range;	(ii)
bubble packs;	(c)	nebulizer medications.	(l)	action;	(iii)
prescription bottles;	(d)	tablets.	(4) Crushing	side effects;	(iv)
others.	(e)	lotion;	(5) Applying:	contraindications.	(v)
D. Basic introduction to anatomy and physiology including:		liniment;	(a)	(2) Body systems.	
(1) structure;		ointment/cream;	(b)	(3) Nutrition/hydration/herbal supplements.	
(2) function;		transdermal patches.	(c)	I. Certification	
(3) common health care problems/concerns;		recording vital signs as needed.	(d)	for certified medication aide (CMA II) including their role and responsibilities.	
(4) disease processes.		Documentation.	(6) Taking and	(1) Objectives of the certified medication aide training program to include:	
E. First aid and emergency procedures including review of:		administration situations requiring notification of the nurse:	(7)	(a) federal, state, and local regulations;	
(1) cardiac and respiratory emergencies;		consumer medical/mental health condition change;	(8) Medication	(b) nurse's role and certified medication aide II role;	
(2) choking victims;		discontinued medication;	(a)	(c) standards of function for certified medication aide II;	
(3) first aid.		medications appear to be contaminated;	(b)	(d) certification expectations and requirements.	
F. Medication administration procedures/skills check list.		p.r.n. medication is requested.	(c)	(2) Orientation to the certified medication aide (CMA-II) position including:	
(1) Review the rights for each skill.		G. Orientation to population specific care including, but not limited to:	(d)	(a) review of job specifications;	
(2) Hand washing and proper uses of personal protective equipment.		(1) specific health care concerns for the population being served;		(b) expectations and responsibilities;	
(3) Administering:		(2) life developmental stages;		(c) role of the health care team and the certified medication aide II;	
(a) oral tablets/capsules;		(3) types of consumers specific to the agency.		(i) roles and contributions of other health team member;	
(b) liquids;		H. Population specific medication classifications and relationship to body systems.		(ii) observation and reporting.	
(c) powdered medications;		(1) Content shall include, but is not limited to:		(3) Expanded roles and responsibilities of the certified medication aide (CMA II) including:	
(d) ophthalmic ointments;		basic review of anatomy and physiology;	(a)	(a) consumer's rights;	
(e) ear medications;		common medical disorders as related	(b)	(b)	
(f) instilling liquid eye medications;					
(g) nasal medications/dropper and atomizer;					
(h) vaginal and rectal creams and					

negligence and malpractice;
 (c)
 ethical issues relating to consumers including but not limited to confidentiality and OSHA;
 (d)
 documentation;
 (e)
 identification and required reporting of errors to the nurse.
 (4) Review the concepts and practices of infection control.
 (5) Understand the principles and rationale for administration of insulin.
 (6)
 Identification of complications.
J. Certified medication aide II procedures/skills check list for certification in New Mexico.
 (1)
 Administration of insulin by pen.
 (2)
 Demonstrate ability to maintain a clean/sterile field of care.
 (3)
 Demonstrate correct infection control practices throughout all procedures including the selection of correct antiseptic solutions.
 (4)
 Demonstrate appropriate site selection for administration of insulin.
 (5)
 Demonstrate correct administration of insulin.
 (6)
 Identify and respond appropriately to complications of insulin administration.
 [16.12.5.19 NMAC - Rp, 16.12.5.19 NMAC, 10/1/2016]

16.12.5.20 REFRESHER COURSE REQUIREMENTS:

A. Authorized functions of the certified medication aide (see Subsection B of 16.12.5.10 NMAC).
B. Prohibited functions of the certified medication aide (see Subsection C of 16.12.5.10 NMAC).
C. Medication administration procedures (see Subsection F of 16.12.5.19 NMAC) including location of agency resource materials and documentation. Any

additional training and procedures to safely administer medications as determined by the agency nurse educator.
D. Medication review as determined by agency nurse educator.
 [16.12.5.20 NMAC - Rp, 16.12.5.20 NMAC, 10/1/2016]

16.12.5.21 [RESERVED]
 [16.12.5.21 NMAC - Rp, 16.12.5.21 NMAC, 10/1/2016]

HISTORY OF 16.12.5 NMAC: Pre-NMAC History:

The material in this part was derived from that previously filed with the state records center & archives under: BON MANUAL 91-1, New Mexico Board of Nursing Rules and Regulations for Medications Aides in Intermediate Care Facilities for the Mentally Retarded (filed 10/3/1991).

History of the Repealed Material:
 16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs (filed 6/12/01), repealed 8/16/2005.
 16.12.5 NMAC, Nurse Licensure, filed 6/29/2005 - Repealed effective 10/1/2016.

Other History:
 16 NMAC 12.5, Developmentally Disabled Medicaid Waiver Medication Aides, effective 2/15/1996.
 16 NMAC 12.5, Developmentally Disabled Medicaid Waiver Medication Aides (filed 1/26/1996) and that applicable portion of BON MANUAL 91-1, New Mexico Board of Nursing Rules and Regulations for Medications Aides in Intermediate Care Facilities for the Mentally Retarded (filed 10/3/1991) were merged into part number 16 NMAC 12.5 and renamed as Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs, effective 1/1/1998.
 16 NMAC 12.5, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally

Disabled Medicaid Waiver Programs (filed 12/10/1997) was renumbered, reformatted, and amended as 16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs, effective 7/30/2001.
 16.12.5 NMAC, Medication Aides in Intermediate Care Facilities for the Mentally and Developmentally Disabled Medicaid Waiver Programs (filed 6/12/2001) was replaced by 16.12.5 NMAC, Medication Aides, effective 8/16/2005.

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.1 NMAC, Section 9, effective September 15, 2016. In 15.2.1.9 NMAC, Subsection A, Paragraphs (1), (2) and (4) through (10) of Subsection B and Subsection C were not published as there were no changes.

15.2.1.9 DUE PROCESS AND DISCIPLINARY ACTION:

B. PROCEEDINGS BEFORE THE STEWARDS:

(3) Summary suspension.

(a) If the stewards determine that a licensee's actions constitute an immediate danger to the public health, safety, or welfare, the stewards may summarily suspend the license pending a hearing.

(b) A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive their right to a hearing on the summary suspension within the three-day limit.

(c)

The stewards shall conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling.

(d)

If a positive test arises in a trial race, the horse is eligible for entry into a race for which the trial was conducted unless that positive test requires the horse to be placed on the steward's list pursuant to Subsection [D] C of 15.2.6.9 NMAC. The purse for both the trial and the race for which the trial was conducted will be held until the case has been adjudicated.

[15.2.1.9 NMAC - Rp, 15 NMAC 2.1.9, 03/15/2001; A, 03/31/2003; A, 05/30/2003; A, 06/15/2004; A, 06/30/2009; A, 09/15/2009; A, 12/1/2010; A, 05/01/2013; A, 01/01/2014; A, 03/16/2015; A, 05/01/2015; A, 09/16/15; A, 03/15/2016; A/E, 06/28/16; A, 09/16/15]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.3 NMAC, Section 8, effective September 15, 2016. In 15.2.3.8 NMAC, Subsection A, Paragraphs (1) through (8) of Subsection B, Subsections C through M, Subsection P and were not published as there were no changes.

15.2.3.8 FLAT RACING OFFICIALS GENERAL PROVISIONS:

B. Stewards.

(9) **Stewards' list.**

(a)

[A] The stewards shall maintain

a stewards' list of the horses which are ineligible to be entered in a race because of poor or inconsistent performance [or] behavior on the racetrack that endangers the health or safety of other participants in racing or for positive tests pursuant to Subsection C of 15.2.6.9 NMAC.

(b)

The stewards may place a horse on the stewards' list when there exists a question as to the exact identification or ownership of said horse.

(c)

A horse which has been placed on the stewards' list because of inconsistent performance or behavior, may be removed from the stewards' list when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing.

(d)

A horse which has been placed on the stewards' list because of questions as to the exact identification or ownership of said horse, may be removed from the stewards' list when, in the opinion of the stewards, proof of exact identification or ownership has been established.

(e)

A horse that has been placed on the steward's list for a positive test pursuant to Subsection [D] C of 15.2.6.9 NMAC may only be removed if the criteria set forth in that subsection are met or in the event of a split sample result which does not confirm the official laboratory's original finding of a positive test.

N. Official veterinarian. The official veterinarian shall:

(1) be

employed by the commission;

(2) be a

graduate veterinarian and be licensed to practice in the state;

(3)

recommend to the stewards any horse deemed unsafe to be raced, or a horse that it would be inhumane to allow to race;

(4) supervise

the taking of all specimens for testing according to procedures approved by the commission;

(5) provide

proper safeguards in the handling of all laboratory specimens to prevent tampering, confusion or contamination;

(6) have the

authority and jurisdiction to supervise the practicing licensed veterinarians within the enclosure;

(7) report

to the commission the names of all horses humanely destroyed or which otherwise expire at the meeting and the reasons therefore;

(8) refuse

employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(9) place

horses on the bleeder list and remove horses from the bleeder list;

(10) place

horses on the veterinarian's list that have been treated for a therapeutic purpose for any medication pursuant to Paragraph (9) of Subsection [D] C of 15.2.6.9 NMAC and remove horses from the veterinarian's list when the criteria for removal pursuant to that subsection have been met; and

(11) be

authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing the horse to so act.

O. Racing

veterinarian.

(1) **General**

authority. At the discretion of the commission, the racing veterinarian may be an employee of the commission. At the discretion of the commission, the duties of the racing veterinarian may be assumed by the official veterinarian.

(2) The

association may employ an additional racing veterinarian in order to further ensure the safety of racing.

(3) The racing

veterinarian shall:

(a) be directly responsible to the official veterinarian;

(b) be a graduate veterinarian and be licensed to practice in the state;

(c) be available to the racing secretary and [f or] the stewards prior to scratch time each racing day, at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards;

(d) be present in the paddock during saddling, on the racetrack during the post parade and at the starting gate until the horses are dispatched from the gate for the race;

(e) inspect any horse when there is a question as to the physical condition of such horse;

(f) recommend scratching a horse to the stewards if, in the opinion of the racing veterinarian, the horse is physically incapable of exerting its best effort to win;

(g) inspect any horse which appears in physical distress during the race or at the finish of the race; and shall report such horse together with his/her opinion as to the cause of the distress to the stewards and to the official veterinarian;

(h) refuse employment or payment, directly or indirectly, from any horse owner or trainer of a horse racing or intending to race in this jurisdiction while employed as the official veterinarian for the commission;

(i) refrain from directly treating or prescribing for any horse scheduled to participate during his/her term of appointment at any recognized meeting except in cases of emergency, accident or injury;

(j) be authorized to humanely destroy any horse deemed to be so seriously injured that it is in the best interests of racing to so act;

(k) conduct soundness inspections on

horses participating in races at the meeting; and

(l) with approval of the official veterinarian, place horses on the bleeders list.

(4) The racing veterinarian shall place horses on the veterinarian's list, when necessary, and may remove from the list those horses which are, in the racing veterinarian's opinion, able to satisfactorily compete in a race.

(5) The racing veterinarian shall be present at the office of the racing secretary [and/] or stewards prior to scratch time each racing day at a time designated by the stewards, to inspect any horses and report on their condition as may be requested by the stewards.

(6) The restrictions of Paragraph (3) of Subsection O of 15.2.3.8 NMAC may be waived for a temporary appointment to replace an absent racing veterinarian or in the event of an emergency situation with prior approval from the director of the commission.

(7) Veterinarian's list.

(a) The racing veterinarian shall maintain a list of all horses which are determined to be unfit to compete in a race due to physical distress, unsoundness, infirmity or medical condition.

(b) A horse may be removed from the veterinarian's list when, in the opinion of the racing veterinarian, the horse has satisfactorily recovered the capability of performing in a race.

[15.2.3.8 NMAC - Rp, 15 NMAC 2.3.8, 04/13/2001; A, 11/15/2001; A, 08/30/2007; A, 06/15/2009; A, 06/30/2009; A, 12/01/2010; A, 05/01/2015; A/E, 06/28/2016; A, 09/15/16]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.4 NMAC, Section 8, effective September 15, 2016. In 15.2.4.8 NMAC, Paragraphs (1) through (3) of Subsection A and Subsections B through G were not published as there were no changes.

15.2.4.8 CLAIMING RACES:

A. GENERAL PROVISIONS:

(4) The successful claimant of a horse that tests positive for a substance that requires the horse to be placed on the steward's list pursuant to Subsection [D] C of 15.2.6.9 NMAC shall be notified at the time the horse is placed on the steward's list. Once notified, the successful claimant has 72 hours in which to request the stewards to void the claim. If the claim is voided the stewards may also, in their discretion, make a further order for the costs of maintenance and care of the horse as they may deem appropriate. If the claim is not voided, all applicable time requirements and procedures pursuant to Subsection [D] C of 15.2.6.9 NMAC shall follow the horse.

[15.2.4.8 NMAC - Rp, 15 NMAC 2.4.8, 03/15/2001; A, 10/31/2006; A, 06/15/2009; A, 06/30/2009; A, 01/01/2013; A, 06/01/2016; A/E, 06/28/16; A, 09/15/16]

RACING COMMISSION

Explanatory paragraph: This is an amendment to 15.2.5 NMAC, Section 12, effective September 15, 2016. In 15.2.5.12 NMAC, Subsections A and C through Y were not published as there were no changes.

15.2.5.12 HORSES INELIGIBLE: A horse shall be

ineligible to start in a race when:

B. its breed registration certificate is not on file with the racing secretary or horse identifier; unless [it has been verified that the certificate] the racing secretary has [been] submitted the certificate to the appropriate breed registry for correction; the stewards may waive this requirement if the information contained on the registration certificate is otherwise available; and the horse is otherwise correctly identified to the stewards' satisfaction;

Z. there is no current negative test certificate for equine infectious anemia [~~attached to its breed registration certificate~~] on file with the racing office, as required by the commission.
[15.2.5.12 NMAC - Rp, 15 NMAC 2.5.12, 03/15/2001; A, 07/15/2002; A; 08/30/2007; A, 06/15/2009; A, 01/01/2014; A, 09/15/16]

RACING COMMISSION

This is an amendment to 15.2.6 NMAC, Section 9, effective September 15, 2016.

15.2.6.9 MEDICATIONS AND PROHIBITED SUBSTANCES: The “uniform classification guidelines for foreign substances and recommended penalties and model rule”, [~~December 2015, version 11.00~~] April 8, 2016, version 12.0 and “association of racing commissioners international inc. controlled therapeutic medication schedule for horses”, [~~version 2.2 revised April 2015 (furosemide has been modified in the “association of racing commissioners international inc controlled therapeutic medication schedule, refer to Subsection E of 15.2.6.9 NMAC for current rule) as issued~~] version 3.0, revised March 25, 2016 by the association of racing commissioners international, are

incorporated by reference. [~~Upon a finding of a violation of any medication and prohibited substances rule, which includes the possession of contraband as listed in 15.2.6.9 NMAC, the stewards shall consider the classification level of the violation as listed at the time of the violation by the uniform classification guidelines of foreign substances as promulgated by the association of racing commissioners international and impose penalties and disciplinary measures as determined by the New Mexico racing commission.~~] Any threshold herein incorporated by reference by inclusion in one of the documents above shall not supersede any threshold or restriction adopted by the commission as specified by this section.

A. [UNIFORM CLASSIFICATION GUIDELINES:

The following outline describes the types of substances placed in each category. This list shall be publicly posted in the offices of the official veterinarian and the racing secretary.

(1) Class 1 - Opiates, opium derivatives, synthetic opioids, psychoactive drugs, amphetamines and U.S. drug enforcement agency (DEA) scheduled I and II drugs. Also found in this class are drugs which are potent stimulants of the nervous system. Drugs in this class have no generally accepted medical use in the race horse and their pharmacological potential for altering the performance of a race is very high.

(2) Class 2 - Drugs in this category has a high potential for affecting the outcome of a race. Most are not generally accepted as therapeutic agents in the race horse. Many are products intended to alter consciousness or the psychic state of humans, and have no approved or indicated use in the horse. Some, such as injectable local anesthetics, have legitimate use in equine medicine, but should not be found in a race horse. The following groups of drugs are in this class:

(a) Opiate partial agonists, or agonist-antagonists.

(b) Non-opiate psychotropic drugs, which may have stimulant, depressant, analgesic or neuroleptic effects.

(c) Miscellaneous drugs which might have a stimulant effect on the central nervous system (CNS):

(d) Drugs with prominent CNS-depressant action:

(e) Antidepressant and antipsychotic drugs, with or without prominent CNS stimulatory or depressant effects:

(f) Muscle blocking drugs, which have a direct neuromuscular blocking action.

(g) Local anesthetics, which have a reasonable potential for use as nerve blocking agents (except procaine):

(h) Snake venoms and other biologic substances, which may be used as nerve blocking agents:

(3) Class 3 - Drugs in this class may or may not have an accepted therapeutic use in the horse. Many are drugs that affect the cardiovascular, pulmonary and autonomic nervous systems. They all have the potential of affecting the performance of a race horse. The following groups of drugs are in this class:

(a) Drugs affecting the autonomic nervous system which do not have prominent CNS effects, but which do have prominent cardiovascular or respiratory system effects (bronchodilators are included in this class).

(b) A local anesthetic, which has nerve blocking potential but also has a high potential for producing urine residue levels from a method of use not related to the anesthetic effect of the drug (procaine):

(c) Miscellaneous drugs with mild sedative action, such as the sleep inducing antihistamines:

(d) Primary vasodilating/hypotensive

agents: _____ (e)

Potent diuretics affecting renal function and body fluid composition: _____ (4) **Class 4** -

This category is comprised primarily of therapeutic medications routinely used in race horses. These may influence performance, but generally have a more limited ability to do so. Groups of drugs assigned to this category include the following: _____ (a)

Non-opiate drugs which have a mild central analgesic effect: _____ (b)

Drugs affecting the autonomic nervous system, which do not have prominent CNS, cardiovascular, or respiratory effects: _____ (i)

Drugs used solely as topical vasoconstrictors or decongestants: _____ (ii)

Drugs used as gastrointestinal antispasmodics: _____ (iii)

Drugs used to void the urinary bladder: _____ (iv)

Drugs with a major effect on CNS vasculature or smooth muscle of visceral organs: _____ (c)

Antihistamines, which do not have a significant CNS depressant effect (This does not include H1 blocking agents, which are listed in class 5): _____ (d)

Mineralocorticoid drugs: _____ (e)

Skeletal muscle relaxants: _____ (f)

Anti-inflammatory drugs--those that may reduce pain as a consequence of their anti-inflammatory actions, which include: _____ (i)

Non-steroidal anti-inflammatory drugs (NSAIDs), except for those specifically approved by the commission: _____ (ii)

Corticosteroids (glucocorticoids): _____ (iii)

Miscellaneous anti-inflammatory agents: _____ (g)

Anabolic or androgenic steroids and other drugs: _____ (h)

Less potent diuretics: _____ (i)

Cardiac glycosides and antiarrhythmics including: _____ (i)

Cardiac glycosides: _____ (ii)

Antiarrhythmics agents (exclusive of lidocaine, bretylium and propranolol): _____ (iii)

Miscellaneous cardiotoxic drugs: _____ (j)

Topical anesthetics--agents not available in injectable formulations: _____ (k)

Antidiarrheal agents: _____ (l)

Miscellaneous drugs including: _____ (i)

expectorants with little or no other pharmacologic action; _____ (ii)

stomachics; _____ (iii)

mucolytic agents: _____ (5) **Class 5** -

Drugs in this category are therapeutic medications for which concentration limits have been established as well as certain miscellaneous agents. Included specifically are agents, which have very localized action only, such as anti-ulcer drugs and certain antiallergic drugs. The anticoagulant drugs are also included.

B.] PENALTIES:

(1) In issuing penalties against individuals found guilty of medication and drug violations, a regulatory distinction shall be made between the detection of therapeutic medications used routinely to treat racehorses and those drugs that have no reason to be found at any concentration in the test sample on race day.

(2) The stewards or the commission will use the association of racing commissioner's international recommended penalty as a starting place in the penalty stage of the deliberations for a rule violation for any drug listed in the association of racing commissioners international

uniform classification guidelines for foreign substances.

(3) If a licensed veterinarian is administering or prescribing a drug not listed in the association of racing commissioners international uniform classification guidelines for foreign substances, the identity of the drug shall be forwarded to the New Mexico racing commission designee to be forwarded to the racing medication and testing consortium for classification.

(4) Any drug or metabolite thereof found to be presenting a pre- or post-race sample which is not classified in the association of racing commissioners international uniform classification guidelines for foreign substances shall be assumed to be an association of racing commissioners international class 1 drug and the trainer and owner shall be subject to those penalties as set forth in penalty category A unless satisfactorily demonstrated otherwise by the racing medication and testing consortium, with a penalty category assigned.

(5) The penalty categories and their related schedules, if applicable, shall be based on the following criteria:

(a) whether the drug is approved by the United States food and drug administration for use in the horse;

(b) whether the drug is approved by the United States food and drug administration for use in any species;

(c) whether the drug as approved has any legitimate therapeutic application in the equine athlete;

(d) whether the drug was identified as "necessary" by the racing medication and testing consortium veterinary advisory committee;

(e) whether legitimate, recognized therapeutic alternatives exist; and

(f) the association of racing commissioner's international classification of the drug.

(6) The

recommended penalty for a violation involving a drug that carries a category "D" penalty is a written warning to the trainer and owner. Multiple violations may result in fines or suspensions.

(7) When the penalty assessed against a licensee for a medication or drug violation in a trial race results in a disqualification and loss of purse, the licensee is subject to the same penalties for any race for which the trial race was conducted.

(8) Any licensee of the commission, including veterinarians, found responsible for the improper or intentional administration of any drug resulting in a positive test may, after proper notice and hearing, be subject to the same penalties set forth for the licensed trainer.

(9) The licensed owner, veterinarian or any other licensed party involved in a positive laboratory finding shall be notified in writing of the hearing and any resulting action. In addition their presence may be required at any and all hearings relative to the case.

(10) Any veterinarian found to be involved in the administration of any drug carrying the penalty category of "A" shall be referred to the state licensing board of veterinary medicine for consideration of further disciplinary action or license revocation. This is in addition to any penalties issued by the stewards or the commission.

(11) Any person who the stewards or the commission believe may have committed acts in violation of criminal statutes may be referred to the appropriate law enforcement agency. Administrative action taken by the stewards or the commission does not prohibit a prosecution for a criminal act, nor does a potential criminal prosecution stall administrative action by the stewards or the commission.

(12) Procedures shall be established to ensure that a licensed trainer is not able to benefit financially during the period for which the individual has been suspended. This includes, but is not

limited to, ensuring that horses are not transferred to a licensed person within the first degree of affinity (marriage relationship) or first degree of consanguinity (blood relationship):

(a) first degree of affinity shall mean the licensee's spouse or spouse's mother, father, brother, sister, son or daughter;

(b) first degree of consanguinity shall mean the licensee's mother, father, brother, sister, son or daughter.

Continued On the Following Page

(C) B. PENALTY RECOMMENDATIONS:

(1) Category A penalties will be assessed for violations due to the presence of a drug carrying a category A penalty. Recommended penalties for category A violations are as follows:
LICENSED TRAINER:
1st offense:
A minimum one-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum three-year suspension. A minimum fine of \$10,000 or ten percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$25,000 or twenty-five percent of total purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
2nd LIFETIME offense in any jurisdiction:
A minimum three-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a three-year period. A minimum fine of \$25,000 or twenty-five percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$50,000 or fifty percent of total purse (greater of the two), and may be referred to the commission for further action deemed necessary by the commission.
3rd LIFETIME offense in any jurisdiction:
A minimum five-year suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of license revocation with no reapplication for a five-year period. A minimum fine of \$50,000 or fifty percent of total purse (greater of the two) absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$100,000 or one hundred percent of the purse (greater of the two), and may be referred to the commission for any further action deemed necessary by the commission.
LICENSED OWNER:
1st offense:
Disqualification and loss of purse.
2nd LIFETIME offense in stable in any jurisdiction:
Disqualification and loss of purse.
3rd LIFETIME offense in stable in any jurisdiction:
Disqualification, loss of purse, \$50,000 fine, and referral to the commission with a recommendation of a suspension for a minimum of 90 days.
(2) Category B penalties will be assessed for violations due to the presence of a drug carrying a category B penalty and for the presence of more than one NSAID in a plasma/serum sample in accordance with Paragraphs (3) and (4) of Subsection P of 15.2.6.9 NMAC. Recommended penalties for category B violations are as follows:
LICENSED TRAINER:
1st offense:
A minimum 15-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 60-day suspension. A minimum fine of \$500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a \$1,000 fine.
2nd LIFETIME offense (365-day period) in any jurisdiction:
A minimum 30-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum 180-day suspension. A minimum \$1,000 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum fine of \$2,500.
3rd LIFETIME offense (365-day period) in any jurisdiction:
A 60-day suspension absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum of a one year suspension. A minimum fine of \$2,500 absent mitigating circumstances or the presence of aggravating factors could be used to impose a maximum \$5,000 fine or five percent of purse (greater of the two) and may be referred to the commission for any further action deemed necessary by the commission.
LICENSED OWNER:

1st offense:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
2nd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse (in the absence of mitigating circumstances)* and horse must pass a commission-approved examination before becoming eligible to be entered.
3rd LIFETIME offense in stable (365-day period) in any jurisdiction:
Disqualification, loss of purse, and in the absence of mitigating circumstances a \$5,000 fine* and horse shall be placed on the veterinarian's list for 45 days and must pass a commission-approved examination before becoming eligible to be entered.
(3) Category C penalties will be assessed for violations due to the presence of a drug carrying a category C penalty and overages for NSAID's, the presence of more than one NSAID in a plasma or serum sample in accordance with Subparagraph (f) of Paragraph (4) of 15.2.6.9 P NMAC and furosemide (all concentrations are for measurements in serum or plasma). Recommended penalties for category C violations are as follows:
LICENSED TRAINER:
1st offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum of a written warning to maximum fine of \$500: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11-50 ng/ml) furosemide (>101 ng/ml) no detectable furosemide concentration when identified as administered.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum of a written warning to maximum fine of \$750: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11-50 ng/ml) furosemide (>101 ng/ml) no detectable furosemide concentration when identified as administered.
3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of \$500 to a maximum fine of \$1,000: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11-50 ng/ml) furosemide (>101 ng/ml) no detectable furosemide concentration when identified as administered.
LICENSED OWNER:
1st offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11-50 ng/ml) furosemide (>101 ng/ml) no detectable furosemide concentration when identified as administered.
2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run: phenylbutazone (2.1-5.0 mcg/ml) flunixin (21-100 ng/ml) ketoprofen (11-50 ng/ml) furosemide (>101 ng/ml) no detectable furosemide concentration when identified as administered.

3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is disqualification, loss of purse and horse must pass a commission-approved examination before being eligible to run:

phenylbutazone (2.1-5.0 mcg/ml)

flunixin (21-100 ng/ml)

ketoprofen (11-50 ng/ml)

furosemide (>101 ng/ml)

no detectable furosemide concentration when identified as administered.

LICENSED TRAINER:

1st offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of \$1,000:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of \$1,500 and 15 day suspension:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

3rd offense (365-day period) in any jurisdiction in the following levels, the penalty is a minimum fine of \$2,500 and a 30 day suspension:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

LICENSED OWNER:

1st offense (365-day period) in any jurisdiction in the following levels, the penalty is the horse may be required to pass a commission-approved examination before being eligible to run:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

2nd offense (365-day period) in any jurisdiction in the following levels, the penalty is disqualification, loss of purse and if same horse, that horse shall be placed on veterinarian's list for 45 days and must pass a commission-approved examination before being eligible to run:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

3rd offense (365-day period) in any jurisdiction in the following levels the penalty is disqualification, loss of purse, minimum \$5,000 fine and if same horse that horse shall be placed on veterinarian's list for 60 days and must pass a commission-approved examination before being eligible to run:

phenylbutazone (5.1 mcg/ml or greater)

flunixin (101 ng/ml or greater)

ketoprofen (51 ng/ml or greater)

penalty class C violations.

(4) Any violation subsequent to a third violation will carry the same terms as imposed for a third violation. Penalties will run consecutively for a trainer or owner.

(5) If the trainer has not had more than one violation involving a drug that carries a category C penalty within the previous two years, the stewards are encouraged to issue a warning in lieu of a fine provided the reported level in phenylbutazone is below 3.0 micrograms per milliliter.

(6) After a two-year period, if a licensee has had no further violations involving a drug that carries a category C penalty, any penalty due to an overage in the 2.0-5.0 micrograms per milliliter range for phenylbutazone will be expunged from the licensee's record for penalty purposes.

[D] C. MEDICATION RESTRICTIONS:

(1) A finding by the commission approved laboratory of a prohibited drug, chemical or other substance in a test specimen of a horse is prima facie evidence that the prohibited drug, chemical or other substance was administered to the horse and, in the case of a post-race test, was present in the horse's body while it was participating in a race. Prohibited substances include: drugs or medications for which no acceptable levels have been established; therapeutic medications in excess of established acceptable levels; substances present in the horse in excess of levels at which such substances could occur naturally; substances foreign to a horse at levels that cause interference with testing procedures.

(2) Drugs or medications in horses are permissible, provided: the drug or medication is listed by the association of racing commissioners international's drug testing standards and practices program; the maximum permissible urine or blood concentration of the drug or medication does not exceed the published limit.

(3) Except as otherwise provided by this part, a person may not administer or cause to be administered by any means to a horse a prohibited drug, medication, chemical or other substance, including any restricted medication pursuant to this part during the 24-hour period before post time for the race in which the horse is entered.

(4) There is no permissible concentration of clenbuterol that is allowed to appear in any official sample.

(5) Any horse that is the subject of a positive test report from the official laboratory for a drug in one of the following categories shall be placed immediately on the steward's list:

(a) any drug categorized by the association of racing commissioner's international "uniform classification

guidelines for foreign substance and recommended penalties and model rule" incorporated by reference under 15.2.6.9 NMAC as a penalty class A substance;

(b) any prohibited anabolic androgenic steroid or any anabolic androgenic steroid in excess of the permitted concentrations listed in Subsection [H] G of 15.2.6.9 NMAC;

(c) clenbuterol or other beta-agonist drugs with significant anabolic effects that are not currently penalty class A drugs;

(d) other drugs designed to promote growth or muscle including, but not limited to, growth hormones, somatotropins, insulin growth factors and gene modifying agents;

(e) ~~cobalt~~ cobalt in excess of the allowable concentration specified pursuant to Subsection [N] M of 15.2.6.9 NMAC.

(6) Horses placed on the steward's list for a positive test for any of the substances listed in Paragraph (5) of Subsection [D] C above shall remain on the steward's list for 60 days. The first day shall be considered the day following the date of the signed report from the official laboratory.

(7) In order to be removed from the steward's list and prior to entry, the following conditions shall be met:

(a) a minimum of 60 days must have elapsed;

(b) the horse must be presented to the test barn on or after day 60 for the official veterinarian to obtain blood and urine samples;

(c) the collected samples must test negative for any substance identified in Paragraph (5) of Subsection [D] C above;

(d) the cost of the testing, including applicable shipping costs, shall be borne by the licensed owner and must be paid in full at the time of shipment.

(8) If a split sample obtained under Subsection D of 15.2.6.10 NMAC does not confirm the original finding of the official laboratory of a positive test, the horse shall be removed from the steward's list.

(9) A practicing veterinarian that is licensed by the commission may prescribe a drug identified by Paragraph (5) of Subsection [D] C above under the following conditions:

(a) the diagnosis justifying the prescribed drug, the dosage, the expected duration of treatment, the name of the horse and the name of the trainer must be submitted to the official veterinarian on a form prescribed by the commission;

(b) only FDA label-approved drugs for use in the horse may be prescribed;

(c) the horse shall be placed on the veterinarian's list for a period of time not less than 30 days after the last administration of the drug as prescribed;

(d) the horse must be presented to the test barn once eligible to be removed from the list for the official veterinarian to obtain blood and urine samples;

(e) the collected samples must test negative for the prescribed substance and any other substance identified in Paragraph (5) of Subsection [D] C above;

(f) the cost of testing, including applicable shipping costs shall be borne by the licensed owner and must be paid in full at the time of shipment;

(g) horses placed on the veterinarian's list for the therapeutic use of any substance identified in Paragraph (5) of Subsection [D] C above will be subject to out of competition sampling pursuant to Subsection [K] J of 15.2.6.9 NMAC to ensure that the concentration of drug found is within the range expected for the recognized therapeutic dose of the drug.

[E] D. FUROSEMIDE:

(1)

Furosemide may be administered intravenously to a horse, which is entered to compete in a race. Except under the instructions of the official veterinarian for the purpose of removing a horse from the veterinarian's list or to facilitate the collection of a post-race urine sample, furosemide shall be permitted only after the trainer enters the horse on the bleeder list by so declaring it as a bleeder on the entry card.

(2)

The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which the horse is entered. A horse qualified for furosemide administration must be brought to the detention barn one hour prior to the four-hour administration requirement specified above. After treatment, the horse shall be required by the commission to remain in the detention barn in the care, custody and control of its trainer or the trainer's designated representative under association or commission security supervision until called to the saddling paddock.

(3)

The use of furosemide shall be permitted under the following circumstances on association grounds where a detention barn is not utilized: furosemide shall be administered by the official veterinarian, the racing veterinarian, or practicing veterinarian no less than four hours prior to post in which a horse is entered; the horse must be logged in at the stable gate with time and location no less than one hour prior to administration; the furosemide dosage administered shall not exceed 500 milligrams nor be less than 150 milligrams; the trainer of the treated horse shall cause to be delivered to the official veterinarian or his/her designee no later than one hour prior to post time for the race for which the horse is entered the following information under oath on a form provided by the commission:

the racetrack name, the date and time the furosemide was administered to the entered horse; the dosage amount of furosemide administered to the entered horse; the printed name and signature of the attending licensed veterinarian who administered the furosemide.

(4)

The specific gravity of post-race urine samples may be measured to ensure that samples are sufficiently concentrated for proper chemical analysis. The specific gravity shall not be below 1.010. If the specific gravity of the urine is found to be below 1.010 or if a urine sample is unavailable for testing, quantitation of furosemide in serum or plasma shall be performed.

(5)

Quantitation of furosemide in serum or plasma shall be performed when specific gravity of the corresponding urine sample is not measured or if measured below 1.010. Concentrations may not exceed 100 nanograms of furosemide per milliliter of serum or plasma.

[F:] E. BLEEDER LIST:

(1)

The official veterinarian shall maintain a bleeder list of all horses, which have been certified as bleeder horses. Such certified horses must have been entered by the trainer as a bleeder to obtain certification.

(2)

The confirmation of a bleeder horse must be certified in writing by the official veterinarian or the racing veterinarian and entered on the bleeder list. Copies of the certification shall be issued to the owner of the horse or the owner's designee upon request. A copy of the bleeder certificate shall be attached to the horse's certificate of registration.

(3)

Every confirmed bleeder, regardless of age, shall be placed on the bleeder list.

(4)

A horse may be removed from the bleeder list only upon the direction of the official veterinarian, who shall certify in writing to the stewards the recommendation for removal and only after remaining on the bleeder list for

a minimum of 60 days.

(5)

A horse, which has been placed on a bleeder list in another jurisdiction, may be placed on a bleeder list in this jurisdiction by entering the horse into a race by so declaring it on the entry card as a bleeder in another jurisdiction.

[G:] F. PERMISSIBLE MEDICATIONS WITH

ACCEPTABLE LEVELS: The official urine or blood test sample may contain one of the following drug substances listed below or the drugs listed on "association of racing commissioners international inc. controlled therapeutic medication schedule", their metabolites or analogs, in any amount that does not exceed the specified levels.

(1) **Atropine:**

The use of atropine shall be permitted under the following conditions: any horse to which atropine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of atropine shall not exceed 10 nanograms per milliliter of urine.

(2)

Benzocaine: The use of benzocaine shall be permitted under the following conditions: any horse to which benzocaine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of benzocaine shall not exceed 50 nanograms per milliliter of urine.

(3)

~~**[Promazine:** The use of promazine shall be permitted under the following conditions: any horse to which promazine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official~~

veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of promazine shall not exceed 25 nanograms per milliliter of urine.

(4)

Salicylates: The use of salicylates shall be permitted under the following conditions: any horse to which salicylates have been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of salicylates shall not exceed 750 micrograms per milliliter of urine.

(5)

Dipyrrone: The use of dipyrrone shall be permitted under the following conditions: any horse to which dipyrrone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of dipyrrone shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(6) (4)

Flumethasone: The use of flumethasone shall be permitted under the following conditions: any horse to which flumethasone has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of flumethasone shall be administered in such dosage amount that the official test sample shall not exceed 10 nanograms per milliliter of urine.

(7) (5)

Isoxsuprine: The use of isoxsuprine shall be permitted under the following conditions: any horse to which isoxsuprine has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of isoxsuprine shall be administered in such dosage amount that the official test sample shall not exceed 1000 nanograms per milliliter of urine.

(8) (6)

Naproxen: The use of naproxen shall be permitted under the following conditions: any horse to which naproxen has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of naproxen shall be administered in such dosage amount that the official test sample shall not exceed 5000 nanograms per milliliter of urine.

(9) (7)

Pentoxifylline: The use of pentoxifylline shall be permitted under the following conditions: any horse to which pentoxifylline has been administered shall be subject to having a blood sample or a urine sample or both taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pentoxifylline shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

(10) (8)

Pyrilamine: The use of pyrilamine shall be permitted under the following conditions: any horse to which pyrilamine has been administered shall be subject to having a blood sample or a urine sample or both

taken at the direction of the official veterinarian to determine the quantitative level(s) or the presence of other drugs, which may be present in the blood or urine sample. The permitted quantitative test level of pyrilamine shall be administered in such dosage amount that the official test sample shall not exceed 50 nanograms per milliliter of urine.

[H:] G. ANDROGENIC-ANABOLIC STEROIDS:

(1) No AAS

shall be permitted in test sample collected from racing horses except for residues of the major metabolite of **nandrolone**, and the naturally occurring substances **boldenone** and testosterone at concentrations less than the indicated thresholds.

(2)

Concentrations of these AAS shall not exceed the following urine threshold concentrations for total (i.e., free drug or metabolite and drug or metabolite liberated from its conjugates):

(a)

boldenone (Equipose® is the undecylenate ester of boldenone) in male horses other than geldings - 15 ng/ml in urine; no boldenone shall be permitted in geldings or female horses;

(b)

nandrolone (Durabolin® is the phenylpropionate ester and Deca-Durabolin® is the decanoate ester) (in geldings - 1 ng/ml in urine, in fillies and mares - 1 ng/ml in urine); in male horses other than geldings-45 ng/ml of metabolite, 5 alpha oestrane-3 beta, 17 alpha - diol in urine;

(c)

testosterone (in geldings - 20 ng/ml in urine, in fillies and mares - 55 ng/ml in urine).

(3) Any other

anabolic steroids are prohibited in racing horses.

(4)

The presence of more than one of the three AAS identified in Paragraph (2) of this subsection at concentrations greater than the individual thresholds indicated above shall not be permitted.

(5) Post-

race urine samples collected from intact males must be identified to the laboratory.

[H:] H. MEDICAL LABELING:

(1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in or upon association grounds which that person occupies or has the right to occupy, or in that person's personal property or effect or vehicle in that person's care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with this subsection. [This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person's personal property, effects or vehicle.]

(2) Any drug or medication which is used or kept on association grounds and which, by federal or state law, requires a prescription must have been validly prescribed by a duly licensed veterinarian, and in compliance with the applicable state statutes. All such allowable medications must have a prescription label which is securely attached to the medication container and clearly ascribed to show the following: [the name of the product; the name, address and telephone number of the veterinarian prescribing or dispensing the product; the name of each patient (horse) for whom the product is intended/prescribed; the dose, dosage, duration of treatment and expiration date of the prescribed/dispensed product; the name of the person (trainer) to whom the product was dispensed.]

- (a) name, address, and telephone number of the pharmacy or veterinarian;
- (b) prescription number when dispensed by a pharmacy if required by law;
- (c) date prescription filled;
- (d) name of the prescribing veterinarian;
- (e)

name of the horse for whom the medication is prescribed or dispensed;

(f) name of the trainer or owner of the horse for whom the product was dispensed;

(g) dose, dosage, route of administration, and duration of treatment of the prescribed product (instructions for use);

(h) name, active ingredient, quantity prescribed, expiration date (if applicable), beyond use date (if applicable), and lot number if applicable); and

(i) cautionary statements (if any), and if applicable, withdrawal time.

(3) The use of an expired medication is considered a violation of this rule.

(4) Any medication that has a label that is missing, illegible, tampered with or altered, or in any other way does not comply with this section shall be considered a violation of these rules.

(5) Any licensee that voluntarily surrenders any non-compliant medication shall not be considered to be in violation of the medication rules described in this section. A surrender shall not be deemed voluntary after a licensee has been advised or it is apparent that an investigatory search has commenced.

[J:] L. ALKALINIZING SUBSTANCES:

The use of agents that elevate the horses TCO2 above those existing naturally in the untreated horse at normal physiological concentrations is prohibited. The following levels also apply to blood gas analysis:

(1) the regulatory threshold for TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.

(2) the decision level to be used for the regulation of TCO2 is 37.0 millimoles per liter of plasma/serum plus the measurement uncertainty of the laboratory analyzing the sample.

(3) such

violation is that of a penalty class B drug.

[K:] J. OUT OF COMPETITION TESTING:

(1) A horse may be subject to out of competition testing without advance notice if the horse is:

(a) on the grounds of a racetrack or training center under the jurisdiction of the commission;

(b) under the care or control of a trainer or owner licensed by the commission; or

(c) any horse whose papers are filed in the racing office; or

(d) has been nominated to a stakes race.

(2) This rule applies to prohibited substances, practices and procedures as follows:

(a) penalty class A drugs as listed with the association of racing commissioners international "uniform classification guidelines for foreign substances and recommended penalties and model rule" and incorporated by reference under 15.2.6.9 NMAC;

(b) blood doping agents including, but not limited to, erythropoietin (EP), darbepoetin, oxylglobin, hempure, aranasep or any substance that abnormally enhances the oxygenation of body tissues;

(c) gene doping agents or the non-therapeutic use of genes, genetic elements, or cells that have the capacity to enhance athletic performance or produce analgesia

(d) clenbuterol present in a sample in a horse not previously placed on the veterinarian's list pursuant to Paragraph (9) of Subsection [D] C of 15.2.6.9 NMAC; and

(e) androgenic-anabolic steroids present in a sample in a [a] horse not previously placed on the veterinarian's list pursuant to Paragraph (9) of Subsection [D] C of 15.2.6.9 NMAC.

(3) The penalty for a positive test resulting from an out of competition sample will be determined by the penalty class of the drug listed in the association of racing commissioners international “uniform classification guidelines for foreign substances and recommended penalties and model rule” and incorporated by reference under 15.2.6.9 NMAC. Positive tests for substances identified under Paragraph (5) of Subsection [D] C of 15.2.6.9 NMAC will be placed on the steward’s list as per the conditions set forth in that subsection.

(4) Horses to be tested may be selected at random, with probable cause or as determined by the commission or an agent of the commission.

(5) The commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, may at any time take a urine, blood or hair sample from a horse for this purpose.

(6) Split samples shall be collected in accordance with Subsection B of 15.2.6.10 NMAC and shall be secured and made available for further testing in accordance with Subsection D of 15.2.6.10 NMAC.

(7) All horses selected for testing must be presented to the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, at the time designated, unless the trainer or owner provides verification of an extenuating circumstance that makes it impossible. Penalties for violations of this subsection include:

(a) any horse not presented for testing upon notification absent extenuating circumstances will be placed immediately on the steward’s list for a minimum of 60 days and shall be subject to all the requirements set forth in Paragraph (7) of Subsection [D] C of 15.2.6.9 NMAC; and

(b) the licensed trainer of a horse not presented for testing upon notification

and absent extenuating circumstances [~~shall be~~] is a maximum suspension of 180 days.

(8) Any licensee who does not comply with the rule or the commission veterinarian for a sample may be subject to disciplinary action.

(9) Cooperation with the commission veterinarian, or any licensed veterinarian or licensed veterinary technician authorized by the commission, includes:

(a) assisting in the immediate location and identification of the horse selected for out of competition testing; and

(b) assisting the veterinarian in properly procuring the samples.

(10) Out of competition samples will be sent to the official laboratory of the commission, or another laboratory as designated by the commission, with reports made in accordance with the provisions of the medication rules and the penalty provisions therefore.

~~[L]~~ **K. CONTRABAND:**

(1) No person on association grounds where horses are lodged or kept, excluding licensed veterinarians, shall have in that person’s care, custody or control, a drug, medication, chemical, foreign substance or other substance that is prohibited in a horse on a race day unless the product is labeled in accordance with Subsection [F] H of 15.2.6.9 NMAC. This restriction includes, but is not limited to, locations on the association grounds where that person occupies, in that person’s personal property, effects or vehicle.

(2) The New Mexico racing commission may confiscate any contraband named in Subsection [F] H of 15.2.6.9 NMAC and any drug or illegal substance that is found on association premises which a licensed trainer occupies or has the right to occupy, or in that trainer’s personal property, effects or vehicle in that trainer’s care, custody or control.

(3) Upon

finding a violation of this subsection, the stewards shall consider the classification level as it is listed in the uniform classification guidelines for foreign substances and recommended penalties as promulgated by the association of racing commissioners international.

(4) If the contraband is required to be tested by the official laboratory, payment of all costs for testing shall be borne by the licensee upon final decision by the stewards that the substance is prohibited pursuant to these rules.

~~[M]~~ **L. ENVIRONMENTAL CONTAMINANTS AND SUBSTANCES OF HUMAN USE:**

(1) Environmental contaminants are either endogenous to the horse or can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases.

(2) Substances of human use and addiction which may be found in the horse due to its close association with humans.

(3) If the preponderance of evidence presented in the hearing shows that a positive test is the result of environmental contamination, including inadvertent exposure due to human drug use, or dietary intake, or is endogenous to the horse, those factors should be consider in mitigation of any disciplinary action taken against the affected trainer. Disciplinary action shall only be taken if test sample results exceed the regulatory thresholds listed below:

(a) Arsenic - 0.3 micrograms per milliliter total arsenic in urine;

(b) Benzoylcegonine - 150 nanograms per milliliter in urine;

(c) Caffeine - 100 nanograms per milliliter of plasma or serum;

(d) Cathinone - 10 nanograms per milliliter in urine;

(e) Cobalt - 25 ppb in blood plasma or serum (penalties for cobalt vary depending on the concentration; see uniform classification guidelines for foreign substances for recommended penalty for concentrations of 25 parts per billion or greater of blood plasma or serum and for concentrations of 50 parts per billion of blood plasma or serum);

(f) Estranediol - 0.045 micrograms per milliliter, free + conjugated 5α-estrane-3β, 17 α-diol, in the urine of male horses other than geldings;

(g) Gamma Aminobutyric Acid - 110 nanograms per milliliter of plasma or serum;

(h) Hydrocortisone - 1 microgram per milliliter of urine;

(i) Methoxytyramine - 4 micrograms per milliliter, free + conjugated in urine;

(j) Morphine/morphine glucuronides - 100 nanograms per milliliter in urine;

(k) Salicylate/Salicylic Acid - 750 micrograms per milliliter of urine or 6.5 micrograms per milliliter of serum or plasma;

(l) Scopolamine - 75 nanograms per milliliter of urine;

(m) Strychnine - 100 nanograms per milliliter of urine;

(n) Theobromine - 2 micrograms per milliliter of urine or 0.3 micrograms per milliliter of serum or plasma; and

(o) Theophylline - 400 nanograms per milliliter of urine.

[N:] M. SUSPENSION OF AUTHORIZED MEDICATION:

(1) After a public meeting that has been noticed in accordance with the Open Meetings Act, Sections 10-15-1 through 10-15-4 NMSA 1978, the commission may, for any cause, temporarily suspend the authorized administration to a horse of any drug, substance or medication that is otherwise permitted

under the commission rules.

(2) The temporary suspension of the authorized administration of a drug, substance or medication may be for a race, breed, or race meeting, provided all horses in the same race compete under the same conditions.

(3) The commission shall notify in writing the racing association, the trainer's organization, and licensed veterinarians of any temporary suspension of authorization to administer a drug, substance or medication to a horse entered to race. The written notification shall include at minimum:

- (a) the authorized medication is temporarily suspended,
- (b) the period of time for which the use of the authorized medication is temporarily suspended; and
- (c) whether the temporary suspension is for a specific breed or a race meeting.

(4) A suspension of authorization to administer a drug, substance or medication to a horse entered to race shall not exceed 12 months.

[O:] N. Non-Steroidal Anti-Inflammatory Drugs

(NSAIDs): The use of NSAIDs shall be governed by the following conditions:

(1) NSAIDs included in the "association of racing commissioner's international inc controlled therapeutic medication schedule for horses" are not to be used in a manner inconsistent with the restrictions contained herein. NSAIDs not included on the "association of racing commissioner's international inc controlled therapeutic medication schedule for horses" are not to be present in a racing horse's official sample above the official laboratory limit of detection.

(2) The presence of more than one NSAID may constitute a NSAID stacking violation.

(3) A NSAID

stacking violation with a penalty class B occurs when two non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac - 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib - 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin - 20 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen - 2 nanograms per milliliter of plasma or serum;
- (e) Phenylbutazone - 2 micrograms per milliliter of plasma or serum; or
- (f) all other non-steroidal anti-inflammatory drugs - official laboratory limit of detection.

(4) A NSAID stacking violation with a penalty class B occurs when three or more non-steroidal anti-inflammatory drugs are found at individual levels determined to exceed the following restrictions:

- (a) Diclofenac - 5 nanograms per milliliter of plasma or serum;
- (b) Firocoxib - 20 nanograms per milliliter of plasma or serum;
- (c) Flunixin - 3 nanograms per milliliter of plasma or serum;
- (d) Ketoprofen - 1 nanogram per milliliter of plasma or serum;
- (e) Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum; or
- (f) all other non-steroidal anti-inflammatory drugs - official laboratory limit of detection.

(5) A NSAID stacking violation with a penalty class C occurs when any one substance noted in at or below the restrictions in Subparagraphs (a) through (e) of Paragraph 3 above is found in excess of the restrictions contained therein in combination with any one of the following substances at levels below

the restrictions so noted but in excess of the following levels:

(a)

Flunixin - 3 nanograms per milliliter of plasma or serum;

(b)

Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c)

Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(6) A NSAID

stacking violation with a penalty class C (fines only) occurs when any combination of two of the following non-steroidal anti-inflammatory drugs are found at or below the restrictions in Subparagraphs (a) through (e) of Paragraph 3 above but in excess of the noted restrictions:

(a)

Flunixin - 3 nanograms per milliliter of plasma or serum;

(b)

Ketoprofen - 1 nanogram per milliliter of plasma or serum;

(c)

Phenylbutazone - 0.3 micrograms per milliliter of plasma or serum.

(7) Any

horse to which a NSAID has been administered shall be subject to having a blood sample or urine sample, or both blood and urine sample(s), taken at the direction of the official veterinarian to determine the quantitative NSAID level(s).

[15.2.6.9 NMAC - Rp, 15 NMAC 2.6.9, 04/13/2001; A, 08/30/2001; A, 07/15/2002; A, 08/15/2002; A, 09/29/2006; A, 10/31/2006; A, 08/30/2007; A, 01/31/2008; A, 03/01/2009; A, 06/15/2009; A, 06/30/2009; A, 09/15/2009; A, 12/15/2009; A, 03/16/2010; A, 07/05/2010; A, 09/01/2010; A, 12/01/2010; A, 11/01/2011; A, 02/15/2012; A, 04/30/2012; A, 07/31/2012; A, 12/14/2012; A, 05/01/2013; A/E, 05/02/2013; A, 09/30/2013; A, 04/01/2014; A, 05/16/2014; A, 08/15/2014; A, 09/15/2014; A, 03/16/2015; A, 09/16/15; A, 03/15/2016; A, 06/15/2016; A/E, 06/28/2016; A, 09/15/16]

**END OF ADOPTED
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