

**TITLE 15            GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 1        GAMES AND GAMING GENERAL PROVISIONS**  
**PART 11           LIST OF EXCLUDED PERSONS UNDER THE GAMING CONTROL ACT**

**15.1.11.1           ISSUING AGENCY:** New Mexico Gaming Control Board.  
[N, 12/31/98; 15.1.11.1 NMAC - Rn, 15 NMAC 1.11.1, 2/14/02]

**15.1.11.2           SCOPE:** This rule applies to all licensees and gaming establishments under the New Mexico Gaming Control Act.  
[N, 12/31/98; 15.1.11.2 NMAC - Rn, 15 NMAC 1.11.2, 2/14/02]

**15.1.11.3           STATUTORY AUTHORITY:** Section 60-2E-7(B)(3) of the Gaming Control Act authorizes the board to develop, adopt and promulgate all regulations necessary to implement and administer the provisions of the Gaming Control Act. Section 60-2E-34(A) directs the board to adopt regulations that provide for the establishment of a list of persons who are to be excluded or ejected from a gaming establishment. Section 60-2E-34.1 of the Gaming Control Act requires the board to develop rules to permit a person who is a compulsive gambler to be self-excluded from a gaming establishment.  
[15 NMAC 1.11.3 - N, 12/31/98; 15.1.11.3 NMAC - Rn, 15 NMAC 1.11.3, 2/14/02; A, 10/15/15]

**15.1.11.4           DURATION:** Permanent.  
[N, 12/31/98; 15.1.11.4 NMAC - Rn, 15 NMAC 1.11.4, 2/14/02]

**15.1.11.5           EFFECTIVE DATE:** December 31, 1998, unless a later date is cited at the end of a section.  
[N, 12/31/98; 15.1.11.5 NMAC - Rn & A, 15 NMAC 1.11.5, 2/14/02]

**15.1.11.6           OBJECTIVE:** This rule provides for the establishment of a list of persons to be excluded or ejected from gaming establishments and grounds for exclusion or ejection.  
[N, 12/31/98; 15.1.11.6 NMAC - Rn, 15 NMAC 1.11.6, 2/14/02]

**15.1.11.7           DEFINITIONS:** Unless otherwise defined below, terms used in this rule have the same meanings as set forth in the Gaming Control Act:

- A.            “act”** means the Gaming Control Act.
- B.            “candidate”** means any person whom the board believes should be placed on the list.
- C.            “involuntarily excluded person”** means any person placed by the board on the involuntary exclusion list pursuant to Section 60-2E-34 of the act and who has failed to timely request a hearing as set forth in this rule or who remains on the involuntary exclusion list after a final determination by the board.
- D.            “involuntary exclusion list”** means a list of names of persons who are required to be excluded or ejected from gaming establishments pursuant to Section 60-2E-34 of the act.
- E.            “self-exclusion list”** means a list of names of persons who have been placed on the voluntary exclusion list pursuant to Section 60-2E-34.1 of the act.
- F.            “self-excluded person”** means a person who has excluded themselves from a gaming establishment pursuant to Section 60-2E-34.1 of the act.
- G.            “person”** means an individual.
- H.            “petitioner”** means a person who files a request for hearing before the board.
- I.            “state”** means the state of New Mexico.

[15 NMAC 1.11.7 - N, 12/31/98; 15.1.11.7 NMAC - Rn, 15 NMAC 1.11.7, 2/14/02; A, 10/15/15]

**15.1.11.8           ENTRY OF NAMES ON INVOLUNTARY EXCLUSION LIST:**

- A.            The board may place on the involuntary exclusion list the name of any person who, because of any of the criteria set forth in this rule, is to be excluded or ejected from a licensed premise, upon the board’s determination that such exclusion or ejection is in the best interest of the state or licensed gaming activity.**
- B.            Before a name is placed on the involuntary exclusion list, the board shall informally review the information and evidence in its possession to determine whether there is sufficient reason to believe that any one of the criteria set forth in this rule is applicable to the candidate.**

C. Except as otherwise provided in this rule, no person on the involuntary exclusion list shall be excluded or ejected from a gaming establishment until the person has had notice and an opportunity for a hearing as provided for in this rule and the board has issued a final decision.

D. The filing of a petition for judicial review of the board's decision does not stay enforcement of any board action placing an excluded person on the list. The board may grant such a stay under circumstances it deems appropriate.

[15 NMAC 1.11.8 - N, 12/31/98; 15.1.11.8 NMAC - Rn, 15 NMAC 1.11.8, 2/14/02; A, 10/15/15]

**15.1.11.9 CONTENTS AND DISTRIBUTION OF INVOLUNTARY EXCLUSION LIST:**

A. The involuntary exclusion list shall be open to public inspection and shall be distributed by the board to every licensed gaming establishment within the state and to the department of public safety for distribution to law enforcement agencies located in the state.

B. The following information shall be provided for each excluded person:

- (1) the person's full name and all aliases the person is believed to have used;
- (2) the person's physical description, including height, weight, type of build, color of hair and eyes, and any other physical characteristics that may assist in the identification of the person;
- (3) date of birth;
- (4) effective date the person's name was placed on the list; and
- (5) a photograph and the date of the photograph.

[15 NMAC 1.11.9 - N, 12/31/98; 15.1.11.9 NMAC - Rn, 15 NMAC 1.11.9, 2/14/02; A, 10/15/15]

**15.1.11.10 NOTICE OF CANDIDACY FOR INVOLUNTARY EXCLUSION LIST:**

A. After the board has determined that an individual should be placed on the involuntary exclusion list, notice of the determination shall be given to the person by personal service or by certified mail to the person's address last known to the board, or by service by publication if personal service or service by certified mail is unsuccessful.

B. Notice of candidacy shall be in substantially the following form:

TO: (Name of candidate, including any aliases)

You are hereby notified that the New Mexico Gaming Control Board deems you to be a person to be excluded from licensed gaming establishments within the State of New Mexico, pursuant to Section 60-2E-34(A) of the Gaming Control Act, Sections 60-2E-1 through 60-2E-61 NMSA 1978. The grounds for exclusion are as follows: (designate subsections of the Act or board rules as grounds). You are further advised that you may request, within thirty (30) days from the date of service of this notice, a hearing before the Gaming Control Board pursuant to Section 60-2E-59 of the Act to show cause why your name should not be placed on the involuntary exclusion list.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Board Member

C. If a candidate does not request a hearing, the board shall issue a final written decision as to the candidate's placement on the involuntary exclusion list. The person's exclusion or ejection from gaming establishments shall become effective the date of issuance of the board's final order.

[15 NMAC 1.11.10 - N, 12/31/98; 15.1.11.10 NMAC - Rn, 15 NMAC 1.11.10, 2/14/02; A, 7/31/02; A, 10/15/15]

**15.1.11.11 HEARING FOR PLACEMENT ON THE INVOLUNTARY EXCLUSION LIST:**

A. The procedures, rights, and remedies specified in Section 60-2E-59(B) of the act and rule 15.1.14 NMAC promulgated by the board shall apply to any hearings provided to the candidate for placement on the involuntary exclusion list. As used in those provisions, "petitioner" means the candidate.

B. The board's final written order shall be given to the candidate and to all licensed gaming establishments within the state.

[15 NMAC 1.11.11 - N, 12/31/98; 15.1.11.11 NMAC - Rn, 15 NMAC 1.11.11, 2/14/02; A, 10/15/15]

**15.1.11.12 PETITION TO REMOVE NAME FROM THE INVOLUNTARY EXCLUSION LIST:**

**A.** Any person who, after a final determination by the board, has been placed on the involuntary exclusion list may petition the board in writing and request that his or her name be removed from the list. The petition shall be verified and state the specific grounds believed by the petitioner to constitute good cause for removal of his or her name.

**B.** The board shall have ninety (90) days in which to entertain the petition. After ninety (90) days, the board shall either set the petition for hearing or deny the petition. If the board decides to entertain the petition, it shall specify a hearing date and, thereafter, the procedures set forth in 15.1.15 NMAC shall apply. As used in those provisions, “appellant” means the excluded person.

**C.** The record of evidence and testimony, if any, used by the board in making its original determination of exclusion may be considered by the board at the petition hearing; provided, however, the record may not be reopened except upon the express consent of the board. Unless otherwise allowed by the board, only evidence relevant to the grounds specified in the petition may be heard. However, the board may request any additional investigation it deems necessary or useful in making its decision. The petitioner bears the burden of showing good cause for removal from the involuntary exclusion list.

**D.** When the board determines that a person should be removed from the involuntary exclusion list, notice of the decision shall be made in the same manner as notice under 15.1.11.10 NMAC. In addition, in the case of removal proceedings pursuant to 15.1.11.12 NMAC, the board shall give notice to all licensed gaming establishments and to the department of public safety for distribution to law enforcement agencies located in the state.

[15 NMAC 1.11.12 - N, 12/31/98; 15.1.11.12 NMAC - Rn, 15 NMAC 1.11.12, 2/14/02; A, 10/15/15]

**15.1.11.13 RESTRICTION ON FILING ADDITIONAL PETITIONS AFTER DENIAL:**

**A.** Any person whose petition for removal from the involuntary exclusion list has been denied may not file another such petition with the board until one (1) year has expired from the date of denial.

**B.** The board may, in its discretion and upon written request for waiver, waive the one (1)-year restriction.

[15 NMAC 1.11.13 - N, 12/31/98; 15.1.11.13 NMAC - Rn, 15 NMAC 1.11.13, 2/14/02; A, 10/15/15]

**15.1.11.14 DUTY OF LICENSEE TO EXCLUDE PERSON ON INVOLUNTARY EXCLUSION LIST:**

**A.** The involuntarily excluded person shall be excluded from the area of the gaming establishment designated as the licensed premises.

**B.** Whenever an involuntarily excluded person enters, attempts to enter, or is on the licensed premises, and the licensee or its agent or a gaming employee knows or has reason to know that the person is an involuntarily excluded person, the licensee or its agents or employees shall do the following:

(1) immediately notify the board’s enforcement division of the excluded person’s presence in the gaming establishment;

(2) ask the person to not enter the licensed premises, or if on the licensed premises, to immediately leave; and

(3) notify the state department of public safety or the appropriate local law enforcement agency and the board’s enforcement division if the excluded person fails to comply with a request not to enter the licensed premises or to immediately leave the licensed premises.

**C.** The duty to exclude involuntarily excluded persons requires that each gaming operator licensee does the following:

(1) ensure that the gaming operator licensee and its agents and gaming employees have reviewed and are familiar with the involuntarily excluded persons list as developed and updated by the board;

(2) adequately train its agents and employees as to the requirements of this part; and

(3) develop and maintains appropriate security measures to minimize the risk that an involuntarily excluded person will enter or remain on the licensed premises.

**D.** As used in this section, “knows or has reason to know” means the gaming operator licensee, agent, or employee:

(1) has actual knowledge of the fact that the person is an involuntarily excluded person; or

(2) would have obtained that knowledge had the person complied with the duties set forth in

this section.

[15 NMAC 1.11.14 - N, 12/31/98; 15.1.11.14 NMAC - Rn, 15 NMAC 1.11.14, 2/14/02; A, 6/30/08; A, 10/15/15]

**15.1.11.15 GROUND FOR INVOLUNTARY EXCLUSION OR EJECTION:**

**A.** The board may include on the involuntary exclusion list any person whose presence in a gaming establishment is determined by the board to pose a threat to the public interest or licensed gaming activities.

**B.** In determining whether to include a person on the involuntary exclusion list, the board may consider:

(1) prior conviction of a felony under state or federal law, a crime involving moral turpitude, or a violation of the gaming laws of any jurisdiction;

(2) violation or conspiracy to violate the provisions of the Act or board rules relating to willful evasion of fees, fines, or taxes, or the failure to disclose an interest in a gaming activity for which the person must obtain a license;

(3) notorious or unsavory reputation that would adversely affect public confidence and trust that the gaming industry is free from criminal or corruptive influences;

(4) written order of any governmental agency of the state or any other state that authorizes the exclusion or ejection of the person from an establishment at which gaming is conducted; or

(5) any other grounds determined by the board to pose a threat to the public health, safety, morals, or general welfare.

[15 NMAC 1.11.15 - N, 12/31/98; 15.1.11.15 NMAC - Rn, 15 NMAC 1.11.15, 2/14/02; A, 10/15/15]

**15.1.11.16 ENTRY OF NAMES ON SELF-EXCLUSION LIST:**

**A.** Any person may apply to the board to have their name placed on the self-exclusion list.

**B.** A person applying to the board to have their name placed on the self-exclusion list shall file an application on a form supplied and approved by the board, and shall meet the following requirements:

(1) An applicant for self-exclusion shall be required to submit a written application for self-exclusion on their own behalf.

(2) An applicant for self-exclusion shall be required to submit the written application in person by bringing the application to the board's offices or by meeting with an agent of the board for the purpose of submitting the application.

(3) An applicant for self-exclusion shall be required to provide a photo identification when submitting the written application.

**C.** Upon submission of the completed application, the board chair shall enter an order placing the applicant's name on the self-exclusion list for the specific facility from which the applicant has self-excluded himself. The self-exclusion order shall specify the term of the self-exclusion order.

[15.1.11.16 NMAC - N, 10/15/15]

**15.1.11.17 CONTENTS AND DISTRIBUTION OF SELF-EXCLUSION LIST:**

**A.** The self-exclusion list shall not be a public record open to inspection pursuant to the Inspection of Public Records Act.

**B.** The name of a person on the self-exclusion list shall be confidential and shall only be made available to authorized agents of the board and authorized personnel of a gaming establishment from which the person has self-excluded himself.

**C.** A gaming operator licensee shall establish written policies and procedures to ensure that the information contained in the self-exclusion list is maintained in a secure manner and is disseminated only to authorized persons on a need-to-know basis.

[15.1.11.17 NMAC - N, 10/15/15]

**15.1.11.18 DUTY OF LICENSEE TO EXCLUDE PERSON ON SELF-EXCLUSION LIST:**

**A.** A self-excluded person shall be excluded from the area of the gaming establishment designated as the licensed premises.

**B.** Whenever a self-excluded person enters, attempts to enter, or is on the licensed premises, and the licensee or its agent or a gaming employee knows or has reason to know that the person is a self-excluded person, the licensee or its agents or employees shall do the following:

(1) immediately notify the board's enforcement division of the self-excluded person's presence in the gaming establishment;

(2) ask the self-excluded person to not enter the licensed premises, or if on the licensed premises, to immediately leave;

(3) notify the state department of public safety or the appropriate local law enforcement agency and the board's enforcement division if the self-excluded person fails to comply with a request not to enter the licensed premises or to immediately leave the licensed premises; and

(4) confiscate the winnings and any gaming machine credits of the self-excluded person; a gaming operator licensee shall dedicate all winnings confiscated to supplement the gaming operator licensee's contributions to fund or support programs for the treatment and assistance of compulsive gamblers.

C. The duty to exclude self-excluded persons requires that each gaming operator licensee do the following:

(1) ensure that the key personnel and surveillance and security personnel of the gaming operator licensee have reviewed and are familiar with the self-excluded persons list as developed and updated by the board;

(2) adequately train its agents and employees as to the requirements of this part;

(3) develop and maintain appropriate security measures to minimize the risk that an self-excluded person will enter or remain on the licensed premises;

(4) remove the self-excluded person's name from any mailing list, e-mail list or other promotional list;

(5) disenroll the self-excluded person from any players club or other promotional activity; and

(6) ensure that no marketing activity is directed toward the self-excluded person.

D. As used in this section, "knows or has reason to know" means the gaming operator licensee, agent, or employee:

(1) has actual knowledge of the fact that the person is an self-excluded person; or

(2) would have obtained that knowledge had the person complied with the duties set forth in

this section.

[15.1.11.18 NMAC - N, 10/15/15]

#### **15.1.11.19 PETITION TO REMOVE NAME FROM THE SELF-EXCLUSION LIST:**

A. Any person who has been placed on the self-exclusion list may petition the board in writing and request that his or her name be removed from the list. The petition shall be verified and state the specific grounds believed by the petitioner to constitute good cause for removal of his or her name.

B. The board shall have ninety (90) days in which to entertain the petition. Within ninety (90) days, the board shall review the petition and make a determination as to whether to remove the self-excluded person's name from the self-exclusion list. The petitioner bears the burden of proving that removal from the self-exclusion list is in the public interest. The board shall not grant a petition for removal if less than one (1) year has passed since entry of the order placing the person on the self-exclusion list.

C. When the board determines that a person should be removed from the self-exclusion list, the board shall give notice to all licensed gaming establishments to which the self-exclusion was applicable and shall remove the person's name from the electronic database maintained by the board pursuant to 15.1.19 NMAC. [15.1.11.19 NMAC - N, A, 10/15/15]