

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 1 GENERAL PROVISIONS

16.16.1.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; A, 6-26-00; 16.16.1.1 NMAC - Rn, 16 NMAC 16.1.1, 03-15-2001; A, 07-06-2012]

16.16.1.2 SCOPE: Provisions for Part 1 of Chapter 16 apply to licensees, applicants, other agencies, professional associations, and any member of the general public.
[10-14-95; 16.16.1.2 NMAC - Rn, 16 NMAC 16.1.2, 03-15-2001]

16.16.1.3 STATUTORY AUTHORITY: Authority for Part 1 of Chapter 16 is the Optometry Act NMSA 1978 Section 61-2-6 (1995 Repl. Pamp.); the Inspection of Public Records Act NMSA 1978 Section 14-2-1 et seq. (1993 Repl. Pamp.); the Public Records Act NMSA Section 14-3-1 et seq. (1993 Repl. Pamp.) and the Uniform Licensing Act Section 61-1-1 et seq. (1993 Repl. Pamp.).
[8-21-92; 6-24-94; 10-14-95; 16.16.1.3 NMAC - Rn, 16 NMAC 16.1.3, 03-15-2001]

16.16.1.4 DURATION: Permanent.
[10-14-95; 16.16.1.4 NMAC - Rn, 16 NMAC 16.1.4, 03-15-2001]

16.16.1.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[8-21-92...10-14-95; 16.16.1.5 NMAC - Rn, 16 NMAC 16.1.5, 03-15-2001; A, 07-06-2012]

16.16.1.6 OBJECTIVE: The objective of Part 1 of Chapter 16 is to establish regulations for the general provisions which apply to all of the board of optometry's rules, policies, and procedures.
[10-14-95; 16.16.1.6 NMAC - Rn, 16 NMAC 16.1.6, 03-15-2001; A, 07-06-2012]

16.16.1.7 DEFINITIONS:

A. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, a patient to seek the services of an optometrist.

B. "Advertisement of Health Care Services Act" means NMSA 1978, Sections 57-21-1 to 57-21-3, and herein referred to as the Advertisement of Health Care Services Act.

C. [RESERVED]

D. "Board" means the New Mexico board of optometry, herein referred to as the board.

E. "Controlled substance" means any drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act.

F. "Controlled Substances Act" means NMSA 1978 Sections 30-31-1 to 30-31-41 and herein referred to as the Controlled Substances Act.

G. [RESERVED]

H. "Inspection of Public Records Act" refers to NMSA 1978 Sections 14-2-1 through 14-2-10 (1993 Repl. Pamp.), herein referred to as the Inspection of Public Records Act.

I. "New Mexico Drug, Device and Cosmetic Act" means Sections 26-1-1 to 26-1-26 NMSA 1978 (1987 Repl. Pamp.), herein referred to as the Drug, Device and Cosmetic Act.

J. "Optometric physician" means an optometrist who has been certified by the board to administer pharmaceutical medication in the diagnosis, treatment and management of ocular diseases.

K. "Open Meetings Act" means NMSA 1978 Sections 10-15-1 to 10-15-4 (1993 Repl. Pamp.), herein referred to as the Open Meetings Act.

L. "Optometry Act" means NMSA 1978 Sections 61-2-1 through 61-2-18 (1995 Repl. Pamp.), herein referred to as the Optometry Act or Section 61-2-1 et seq.

M. [RESERVED]

N. "Parental Responsibility Act" refers to Chapter 25 Laws of 1995, herein referred to as the Parental Responsibility Act or PRA.

O. "Prescription" as defined in Section 26-1-2.I of the Drug, Device and Cosmetic Act means an order given individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of an electronic or written order signed by the prescriber, and bearing the name and address of

the prescriber, his license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue.

P. “Public Records Act” refers to NMSA 1978 Sections 14-3-2 through 14-3-25 (1995 Repl. Pamp.) herein referred to as the Public Records Act.

Q. [RESERVED]

R. “State Rules Act” means NMSA 1978 Sections 14-4-1 to 14-4-9 (1995 Repl. Pamp.), herein referred to as the State Rules Act.

S. “Uniform Licensing Act” means NMSA 1978 Sections 61-1-1 to 61-1-33 (1993 Repl. Pamp.), herein referred to as the Uniform Licensing Act or ULA.
[10-14-95; 16.16.1.7 NMAC - Rn, 16 NMAC 16.1.7, 03-15-2001; A, 03-22-2008; A, 07-06-2012; A, 03-02-2016]

16.16.1.8 INSPECTION OF BOARD RECORDS:

A. Except as otherwise provided by law, all applications, pleadings, petitions, motions, exhibits, decisions and orders entered following formal disciplinary proceedings conducted pursuant to the Uniform Licensing Act are matters of public record as of the time of filing with or by the board.

B. [RESERVED]

C. Any person may examine all public records in the board's custody. The following procedure shall be followed by persons requesting inspection of public records.

(1) The request shall identify the records sought with reasonable particularity. The board will produce public records as required under the Inspection of Public Records Act, NMSA 1978, §§ 14-2-1 to -12.

(2) Upon request, the board may provide copies of public records, lists, labels, and verifications and may charge a reasonable fee to defray copying and mailing charges. The board is not obligated to create lists, labels, or materials which are not already in existence.

(3) No person shall be permitted to remove documents from the board's office.
[8-21-92; 10-14-95; 16.16.1.8 NMAC - Rn, 16 NMAC 16.1.8, 03-15-2001; A, 07-06-2012]

16.16.1.9 TELEPHONE CONFERENCES: As authorized by NMSA 1978 (1993 Repl. Pamp.) Section 10-15-1.C of the Open Meetings Act, when it is difficult or impossible for a Board member to attend a Board meeting in person, the member may participate by means of a conference telephone or similar communications equipment. Participation by such means shall constitute presence in person at the meeting. Each member participating by conference telephone must be identified when speaking. All participants must be able to hear each other at the same time, and members of the public attending the meeting must be able to hear any member of the Board who speaks during the meeting.

[N, 6-26-00; 16.16.1.9 NMAC - Rn, 16 NMAC 16.1.9, 03-15-2001]

HISTORY of 16.16.1 NMAC:

Pre-NMAC History:

Material in the part was derived from that previously filed with the commission of public records - state records center and archives:

NMBO Rule 20, Board Rule No. 20 - Inspection of Board Records, filed 7-22-92.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 16.1, General Provisions, filed 9-21-95, replaced that relevant portion of NMBO Rule 20, Board Rule No. 20 - Inspection of Board Records.

16 NMAC 16.1, General Provisions, filed 9-21-95, renumbered and reformatted to 16.16.1 NMAC, General Provisions, effective 03-15-2001.