TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 15 MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.16.15.1 ISSUING AGENCY: New Mexico Board of Optometry.
[16.16.15.1 NMAC - N, 04-24-2014]

16.16.15.2 SCOPE: The provisions in Part 15 of Chapter 16 apply to all New Mexico licensed optometrists.
[16.16.15.2 NMAC - N, 04-24-2014]

16.16.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 16 is promulgated pursuant to and in accordance with the Optometry Act, Section 61-2-3, NMSA 1978 and the Pain Relief Act, Sections 24-2D-1 through 24-2D-1-6, NMSA 1978.
[16.16.15.3 NMAC - N, 04-24-2014]

16.16.15.4 DURATION: Permanent.
[16.16.15.4 NMAC - N, 04-24-2014]

16.16.15.5 EFFECTIVE DATE: April 24, 2014, unless a later date is cited at the end of a section.
[16.16.15.5 NMAC - N, 04-24-2014]

16.16.15.6 OBJECTIVE: The objective of Part 15 of Chapter 16 is to set forth rules related to the prescribing and dispensing of controlled substances. It is the position of the board that optometrists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough evaluation has been completed.
[16.16.15.6 NMAC - N, 04-24-2014]

16.16.15.7 DEFINITIONS:

A. "Addiction" means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. "Acute pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and is generally time-limited.

C. "Chronic pain" means pain that persists after reasonable efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. "Chronic pain" does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

D. "Clinical expert" means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.

E. "Drug abuser" means a person who takes drugs or controlled substances for other than legitimate purposes.

F. "Pain" means acute or chronic pain or both.

G. "Physical dependence" means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. "Prescription monitoring program (PMP)" means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.

I. "Therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical treatment that conforms substantially to accepted guidelines for pain management.

J. **"Tolerance"** means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug's effects over time.
[16.16.15.7 NMAC - N, 04-24-2014]

16.16.15.8 GUIDELINES: The following regulations shall be used by the board to determine whether an optometrist's prescriptive practices are consistent with the appropriate treatment of pain.

A. The treatment of pain with drugs or controlled substances is a legitimate optometric practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance, who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following:

(1) An optometrist shall complete an evaluation. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication for or contra-indication against the use of controlled substance.

(2) An optometrist shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The optometrist shall consider an integrative approach to pain management.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) The optometrist shall discuss the risks and benefits of using controlled substances with the patient, his surrogate or guardian, and shall document this discussion in the record.

(5) Complete and accurate records of care provided and drugs or controlled substances prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for controlled substances shall include indications for use.

(6) The management of patients needing chronic pain control requires monitoring by the optometrist. The optometrist shall periodically review the course of treatment for chronic pain, the patient's state of health, and any new information about the etiology of the chronic pain at least every six months. Chronic pain patients shall receive all chronic pain management prescriptions from one optometrist and one pharmacy whenever possible.

(7) In addition, an optometrist shall consult, when indicated by the patient's condition, with health care professionals who are experienced in the area of chronic pain control; such professionals need not be those who specialize in pain control.

(8) If, in an optometrist's opinion, a patient is seeking pain medication for reasons that are not medically justified, the optometrist is not required to prescribe controlled substances for the patient.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate indication for the treatment prescribed; documented change or persistence of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the optometrist's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

D. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection.

E. An optometrist who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Optometry Act or board rules.
[16.16.15.8 NMAC - N, 04-24-2014]

16.16.15.9 OPTOMETRISTS TREATED WITH CONTROLLED SUBSTANCES: Optometrists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic, an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on controlled substances while continuing to practice.
[16.16.15.9 NMAC - N, 04-24-2014]

16.16.15.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS: The intent of the New Mexico (NM) board of optometry in requiring participation in balancing the safe use of controlled substances with the need to impede harmful and illegal activities involving these pharmaceuticals.

A. Any licensed NM optometrist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in PMP inquiry and reporting.

B. A licensed NM optometrist may authorize delegate(s) to access the PMP report consistent with board of pharmacy regulation 16.19.29 NMAC and document the receipt and review of a report in the patient's medical record.

C. Before a practitioner prescribes or dispenses for the first time, a controlled substance in Schedule II, III, or IV to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substances for 30 days of more, the practitioner shall review a PMP report for the patient for preceding 12 months and document the review and receipt of the reports in the patient's medical record.

D. A PMP report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in Schedule II, III, or IV for each patient and document these reports in the patient's medical record.

E. A practitioner does not have to obtain and review a PMP report before prescribing, ordering, or dispensing a controlled substance in Schedule II, III, or IV:

(1) for a period of four days or less; or

(2) to a patient in a nursing facility; or

(3) to a patient in hospice care.

F. Upon review of a PMP report for a patient, the practitioner shall identify and be aware of patient currently:

(1) receiving opioids from multiple prescribers;

(2) receiving opioids and benzodiazepines concurrently;

(3) receiving opioids for more than 12 consecutive weeks;

(4) receiving more than one controlled substance analgesic;

(5) receiving opioids totaling more than 90 morphine milligram equivalents per day; or

(6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such as over-utilization, requests to fill early, request for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in Paragraph F, the practitioner, using professional judgment based on prevailing standards of practice, shall take action as appropriate to prevent, mitigate, or resolve any potential problems of risks that may result in opioid misuse, abuse or overdose. These steps may involve prescription and training for naloxone.
[16.16.15.10 NMAC - N, 04-24-2014; A, 03-02-2016; A, 03-10-2017]

16.16.15.11 PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico optometrists who hold a federal drug enforcement administration registration to prescribe controlled substances. Pursuant to the Pain Relief Act in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

A. This requirement is effective for the 2015 renewal period beginning July 2, 2014. No later than July 1, 2015 all board licensees shall have completed at least one continuing education hour in a course that shall cover topics related to pain management, pharmacology and risks of controlled substances, state and federal regulations for the prescription of controlled substances, or awareness of the problems of abuse, addiction and diversion as stated in 16.16.13.9 NMAC.

B. The continuing education courses are subject to prior board approval and shall count toward the total continuing education requirements as set forth in 16.16.13.9 NMAC.
[16.16.15.11 NMAC - N, 04-24-2014]

16.16.15.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 15 of the New Mexico optometry board rule;

A. health care practitioners under its jurisdiction; and

B. a health care practitioner being investigated by the board in relation to the practitioner's pain management services.

[16.16.15.12 NMAC - N, 04-24-2014]

HISTORY of 16.16.15 NMAC: [RESERVED]