

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 16 OPTOMETRIC PRACTITIONERS
PART 16 PRACTICE LOCATION; OWNERSHIP; PATIENT MEDICAL RECORDS RETENTION

16.16.16.1 ISSUING AGENCY: New Mexico Board of Optometry.
[10-14-95; 2-15-99; A, 6-26-00; 16.16.16.1 NMAC - Rn, 16 NMAC 16.16.1, 03-15-2001; A, 07-06-2012]

16.16.16.2 SCOPE: Part 16 of Chapter 16 applies to all optometrists licensed by the Board and practicing in New Mexico.
[10-14-95; 16.16.16.2 NMAC - Rn, 16 NMAC 16.16.2, 03-15-2001]

16.16.16.3 STATUTORY AUTHORITY: The authority for Part 16 of Chapter 16 is NMSA 1978, Section 61-2-14.B. (7) and Section 61-2-6.D. (2) (1995 Repl. Pamp.).
[11-17-73; 3-31-91; 8-21-92; 6-24-94; 10-14-95; 2-15-99; 16.16.16.3 NMAC - Rn, 16 NMAC 16.16.3, 03-15-2001]

16.16.16.4 DURATION: Permanent.
[10-14-95; 16.16.16.4 NMAC - Rn, 16 NMAC 16.16.4, 03-15-2001]

16.16.16.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a section.
[6-24-94...10-14-95; 10-15-97; 16.16.16.5 NMAC - Rn, 16 NMAC 16.16.5, 03-15-2001, A, 03-15-2004]

16.16.16.6 OBJECTIVE: The objective of Part 16 of Chapter 16 is to set forth the requirements related to practice location, ownership, leasing arrangements, purchase of practice, and so forth.
[10-14-95; 16.16.16.6 NMAC - Rn, 16 NMAC 16.16.6, 03-15-2001]

16.16.16.7 DEFINITIONS: [RESERVED]
[10-14-95; 16.16.16.7 NMAC - Rn, 16 NMAC 16.16.7, 03-15-2001]

16.16.16.8 LOCATION OF PRACTICE:

A. In accordance with the provisions of Section 61-2-14.B of the Optometry Act, an optometrist is prohibited from selling prescription eyeglasses or contact lenses, frames or mountings for lenses in an establishment in which the majority of its income is not derived from being engaged in that endeavor.

B. For purposes of this rule, an optometrist may engage in the sale of contact lenses or prescription eyeglasses from a space located adjacent to an establishment as set out in Subsection A provided the space is separated from the commercial establishment by solid, opaque partitions or walls from floor to ceiling.

C. The space referred to in this rule shall also have a separate entrance for patient access to the optometrist's practice from a public street, hall, lobby, corridor or shopping mall, or other public thoroughfare.

D. Repealed.

E. This rule supersedes all previous rules regarding the location of an optometric practice. Existing facilities operating on June 24, 1994, the effective date of this rule shall be exempted from the provisions of Subsection B of 16.16.16.8 NMAC.

[11-17-73; 12-6-87; 8-21-92; 6-24-94; 10-14-95; 10-15-97; A, 6-26-00; 16.16.16.8 NMAC - Rn, 16 NMAC 16.16.8, 03-15-2001; A, 03-15-2004; A 03-22-2008]

16.16.16.9 [RESERVED]

16.16.16.10 PURCHASE OF AN ESTABLISHED PRACTICE:

A. Upon the purchase or assumption of another optometrist's practice, the identification of the other optometrist's name with the practice shall be limited to a maximum period of four years.

B. Upon the death or permanent disability of a New Mexico licensed optometrist, the surviving spouse or estate of the optometrist may contract optometric services or employ a New Mexico licensed optometrist for a period not to exceed thirty-six (36) months from the time of death or permanent disability.

C. The surviving spouse or estate of the optometrist must file, with the New Mexico Board of Examiners in Optometry, an affidavit stating that the practice will be operated within the provisions of the Optometry Act, the Board's Rules and Regulations, and Board policies. Violations will result in the suspension of

the thirty-six month period.

[11-17-73; 6-24-94; 10-14-95; 16.16.16.10 NMAC - Rn, 16 NMAC 16.16.10, 03-15-2001]

16.16.16.11 PATIENT RECORDS MANAGEMENT:

A. Optometrists shall retain medical records they own for a period of at least five (5) years from the date of last treatment.

B. Thirty (30) days before the closing, selling, relocation or leaving of a practice an optometrist shall notify the board office and patients seen within the last five (5) years. Notices will be given pursuant to Subsection C of this section.

C. Notification shall be satisfied using any of the following methods:

(1) publication of at least one notice in a local newspaper, twice a month for a period of three months; notice should indicate how to obtain patient records and contact information for the individual with access to the patient records;

(2) written or electronic mail; or

(3) individual correspondence to the patient's last known physical or electronic mailing address.

[16.16.16.11 NMAC - N, 07-06-2012]

HISTORY of 16.16.16 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:

OEB 73-1, Rule No. 3 of the Administrative Rules and Regulations of the State Board of Examiners in Optometry, filed 10-18-73.

NMBO Rule 3, Board Rule No. 3 - Location of Practice, filed 7-22-92.

NMBO Rule 9, Board Rule No. 9 - Purchase of Established Practice, filed 5-25-94.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 16.16, Practice Location; Ownership, filed 9-21-95, replaced that relevant portion of NMBO Rule 3, Board Rule No. 3 - Location of Practice, and NMBO Rule 9, Board Rule No. 9 - Purchase of Established Practice.

16 NMAC 16.16, Practice Location; Ownership, filed 9-21-95, was renumbered and reformatted to 16.16.16 NMAC, Practice Location; Ownership, effective 03-15-2001.