

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 17 OSTEOPATHIC MEDICINE
PART 5 REVOCATION OR REFUSAL OF LICENSURE

16.17.5.1 ISSUING AGENCY: Regulation and Licensing Department - New Mexico Board of Osteopathic Medicine.
[16.17.5.1 NMAC - N, 6-11-2018]

16.17.5.2 SCOPE: All licensed osteopathic physicians.
[16.17.5.2 NMAC - N, 6-11-2018]

16.17.5.3 STATUTORY AUTHORITY: These rules of practice and procedure govern the practice of osteopathic medicine in New Mexico and are promulgated pursuant to and in accordance with the Osteopathic Medicine Act, Sections 61-10-5 NMSA 1978.
[16.17.5.3 NMAC - N, 6-11-2018]

16.17.5.4 DURATION: Permanent.
[16.17.5.4 NMAC - N, 6-11-2018]

16.17.5.5 EFFECTIVE DATE: June 11, 2018, unless a later date is cited at the end of a section.
[16.17.5.5 NMAC - N, 6-11-2018]

16.17.5.6 OBJECTIVE: To establish causes for revoking, refusing, or suspending a license to practice osteopathic medicine in New Mexico.
[16.17.5.6 NMAC - N, 6-11-2018]

16.17.5.7 DEFINITIONS: [Reserved]
[16.17.5.7 NMAC - N, 6-11-2018]

16.17.5.8 REVOCATION OR REFUSAL OF LICENSE:

A. Causes for refusal or revocation of license. The board may either refuse to issue or may suspend or revoke any license for any one or more of the following causes, whether committed in the state of New Mexico or elsewhere:

- (1) conviction of a felony, as evidenced by a certified copy of the record of the court issuing conviction;
- (2) obtaining or attempting to obtain a license by fraudulent misrepresentation, or practicing in the profession by fraudulent misrepresentation;
- (3) gross malpractice which means gross and flagrantly improper treatment of a patient, or such culpable neglect of a patient as to indicate a willful act or injury to the patient; gross malpractice also means such incompetence on the part of the practitioner as to render him unfit to hold himself out to the public as a licensed osteopathic physician and surgeon; gross malpractice shall also consist of performing, aiding, or abetting the performance of any act or operation upon or on behalf of a patient expressly forbidden by state and federal penal laws, such as criminal operations, dispensing and prescribing of narcotics;
- (4) advertising, practicing, or attempting to practice under a name other than one's own;
- (5) habitual or excessive use or abuse of drugs or alcohol;
- (6) immoral, dishonorable or unprofessional conduct.

B. Dishonorable and unprofessional conduct shall include but shall not be limited to the following:

- (1) willful violation of the code of ethics of the American osteopathic association;
- (2) aiding unlicensed persons to practice medicine and surgery in the state of New Mexico;
- (3) violation of the law pertaining to dangerous drugs, narcotics, or intoxicating liquors;
- (4) the commission of any act involving moral turpitude; moral turpitude includes any act contrary to justice, honesty, modesty or good morals;
- (5) incompetency to act as an osteopathic physician and surgeon; failure to possess and or exercise the requisite degree of skill, learning, and care commonly possessed by osteopathic physicians and surgeons in the state of New Mexico or the rendering of treatment to patients in a manner contrary to accepted rules;

- (6) the performance of any act or omission which tends to degrade or place the physician and the osteopathic profession in bad public repute where the act or omission is contrary to the professional standards which an osteopathic physician and surgeon assumes;
 - (7) the unlawful use of the name "doctor of medicine" or its initials or emblems, either orally or otherwise;
 - (8) willful failure to comply with regulations of the department of health or the regulations of this board;
 - (9) continuing to practice while knowingly having an infectious or contagious disease;
- [16.17.5.8 NMAC - N, 6-11-2018]

16.17.5.9 SUMMARY SUSPENSION: This is a formal preliminary disciplinary action that immediately suspends a licensee's right to practice osteopathic medicine. The summary suspension remains in effect until a further order of the board is entered. The licensee has an opportunity for a full hearing before the board regarding the summary suspension.

A. The board may summarily suspend or restrict a license issued by the board without hearing, simultaneously with, or at any time after, the issuance of a notice of contemplated action and the initiation of proceedings for a hearing provided for under the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

- (1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;
- (2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction;
- (3) has pled guilty to or been found guilty of any offense related to their practice or for any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction; or
- (4) uses conversion therapy on a minor.

B. A licensee is not required to comply with a summary action until service of the action has been made personally or by certified mail, return receipt requested, to the licensee's last known address as shown in the board's records, or until the licensee has actual knowledge of the order of suspension or restriction, whichever occurs first. The board's chair may sign a summary suspension order that the board has authorized.

C. A licensee whose license is summarily suspended is entitled to a hearing before the board on the summary suspension order, pursuant to the Uniform Licensing Act, within 15 days from the date the licensee requests a hearing. The hearing request shall be in writing, addressed to the board, and delivered by certified mail, return receipt requested.

[16.17.5.9 NMAC - N, 6-11-2018]

HISTORY OF 16.17.5 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives:

BOSE 69-1, Practice Guide for Osteopathic Physicians and Surgeons in New Mexico, filed 06-05-69.

Rule 8, Revocation or Refusal of License, filed 12-07-88.

History of Repealed Material: Rule 8, Revocation or Refusal of License (filed 12-07-88) repealed 10-29-2004. 16.17.5 NMAC, Prescribing and Distribution of Controlled Substances, repealed effective 6-11-2018.

Other History:

Rule 8, Revocation or Refusal of License (filed 12-07-88) replaced by 16.17.6 NMAC, Revocation or Refusal of License, effective 10-29-2004.