

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 19 PHARMACISTS
PART 23 PARENTAL RESPONSIBILITY ACT COMPLIANCE

16.19.23.1 ISSUING AGENCY: New Mexico Board of Pharmacy.
[10-14-95; 16.19.23.1 NMAC - Rn, 16 NMAC 19.23.1, 03-30-02; A, 06-15-12]

16.19.23.2 SCOPE: All persons subject to licensure or registration by the board of pharmacy.
[10-14-95; 16.19.23.2 NMAC - Rn, 16 NMAC 19.23.2, 03-30-02; A, 06-15-12]

16.19.23.3 STATUTORY AUTHORITY: Section 61-11-6(A)(1) of the Pharmacy Act directs the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act after hearings open to the public. The board adopts part 23 of Chapter 19 pursuant to the Parental Responsibility Act (NMSA 1978, Sections 40-5A-1 through 40-5A-13, Ch. 25, Laws of 1995), that requires all professional licensing boards to promulgate rules and regulations to implement the Parental Responsibility Act.
[10-14-95, A, 04-30-98; 16.19.23.3 NMAC - Rn, 16 NMAC 19.23.3, 03-30-02; A, 06-15-12]

16.19.23.4 DURATION: Permanent
[10-14-95; 16.19.23.4 NMAC - Rn, 16 NMAC 19.23.4, 03-30-02]

16.19.23.5 EFFECTIVE DATE: October 14, 1995, unless a later date is cited at the end of a Section or Paragraph.
[10-14-95, A, 04-30-98; 16.19.23.5 NMAC - Rn, 16 NMAC 19.23.5, 03-30-02]

16.19.23.6 OBJECTIVE: The objective of part 23 of Chapter 19 is to ensure compliance with the Parental Responsibility Act by all persons licensed by, registered with, applying for licensure or registration from, the board of pharmacy.
[10-14-95; 16.19.23.6 NMAC - Rn, 16 NMAC 19.23.6, 03-30-02; A, 06-15-12]

16.19.23.7 DEFINITIONS:

- A. "Applicant"** means an individual seeking a license or registration issued by the board of pharmacy pursuant to either the Pharmacy Act, Controlled Substance Act or Drug Precursor Act.
 - B. "HSD"** means the New Mexico Human Services Department.
 - C. "License"** means a license or registration issued to an individual by the board of pharmacy pursuant to either the Pharmacy Act, Controlled Substance Act or Drug Precursor Act.
 - D. "Licensee"** means an individual holding any license issued by the board of pharmacy or an individual registrant holding any registration issued by the board of pharmacy.
 - E. "Statement of compliance"** means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support.
 - F. "Statement of non-compliance"** means a certified statement from HSD stating that an applicant or licensee is not in compliance with a judgment and order for support.
- [10-14-95; 16.19.23.7 NMAC - Rn, 16 NMAC 19.23.7, 03-30-02; A, 06-15-12]

16.19.23.8 DISCIPLINARY ACTION: If an applicant or licensee is not in compliance with a judgment and order for support, the board:

- A. shall deny an application for a license;**
 - B. shall deny the renewal of a license; and**
 - C. has grounds for suspension or revocation of the license.**
- [10-14-95; 16.19.23.8 NMAC - Rn, 16 NMAC 19.23.8, 03-30-02]

16.19.23.9 CERTIFIED LIST: HSD shall provide the board with a certified list of obligors not in compliance with a judgement and order for child support on a monthly basis. The board shall report to HSD the names of applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.
[10-14-95; 16.19.23.9 NMAC - Rn, 16 NMAC 19.23.9, 03-30-02; A, 06-15-12]

16.19.23.10 INITIAL ACTION: Upon determination that an applicant or licensee appears on the certified list, the board shall:

A. Commence a formal proceeding under section 11 of part 23 to take the appropriate action under section 8 of part 23; or

B. For current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance from HSD by the earlier of the application for license renewal or a specified date not to exceed sixty (60) days. If the licensee fails to provide this statement, the board shall commence a formal proceeding under section 11 of part 23.

[10-14-95; 16.19.23.10 NMAC - Rn, 16 NMAC 19.23.10, 03-30-02; A, 06-15-12]

16.19.23.11 NOTICE OF CONTEMPLATED ACTION: Prior to taking any action specified in section 8 of part 23, the board shall serve upon the applicant or licensee a written notice stating that:

A. The board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:

(1) mails a letter (certified mail return receipt requested) within twenty (20) days after service of the notice requesting a hearing; or

(2) provides the board, within thirty (30) days of the date of the notice, with a statement of compliance from HSD; and

B. If the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

[10-14-95; 16.19.23.11 NMAC - Rn, 16 NMAC 19.23.11, 03-30-02; A, 06-15-12]

16.19.23.12 EVIDENCE AND PROOF: In a hearing under this section, relevant evidence is limited to the following:

A. a statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under section 8 of part 23, unless

B. the applicant or licensee provides the board with a subsequent statement of compliance which shall preclude the board from taking any action under this part.

[10-14-95; 16.19.23.12 NMAC - Rn, 16 NMAC 19.23.12, 03-30-02; A, 06-15-12]

16.19.23.13 ORDER: When a disciplinary action is taken under part 23 solely because the applicant or licensee is not in compliance with a judgment and order for support, the board's order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplications or reinstatement of lapsed licenses.

[10-14-95; 16.19.23.13 NMAC - Rn, 16 NMAC 19.23.13, 03-30-02; A, 06-15-12]

16.19.23.14 PROCEDURES: Proceedings under this part shall be governed by the Uniform Licensing Act, NMSA 1978, Section 61-1-1 through 61-1-31.

[10-14-95; 16.19.23.14 NMAC - Rn, 16 NMAC 19.23.14, 03-30-02; A, 06-15-12]

HISTORY OF 16.19.23 NMAC:

Pre NMAC History: none

History of Repealed Material: [RESERVED]

Other History: 16 NMAC 19.23, Pharmacists - Parental Responsibility Act Compliance, filed 09-22-95, reformatted and renumbered to 16.19.23 NMAC, Parental Responsibility Act Compliance, effective 03-30-2002.