

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 19 PHARMACISTS
PART 28 SELLER OR DISPENSER OF CONTACT LENSES
(EXCLUDING LICENSED OPTOMETRISTS and PHYSICIANS)

16.19.28.1 ISSUING AGENCY: Regulation and Licensing Department - Board of Pharmacy.
[16.19.28.1 NMAC - N, 12-01-2003; A, 06/30/06]

16.19.28.2 SCOPE: All persons or entities selling or dispensing contact lenses pursuant to a valid prescription to patients in New Mexico.
[16.19.28.2 NMAC - N, 12-01-2003]

16.19.28.3 STATUTORY AUTHORITY: The board of pharmacy is authorized pursuant to the Optometry Act, Section 61-2-1 through Section 61-2-18 NMSA 1978 (1997 Repl. Pam.) to register sellers or dispensers of contact lenses and collect a fee for registration.
[16.19.28.3 NMAC - N, 12-01-2003]

16.19.28.4 DURATION: Permanent
[16.19.28.4 NMAC - N, 12-01-2003]

16.19.28.5 EFFECTIVE DATE: December 1, 2003, unless a different date is cited at the end of a section.
[16.19.28.5 NMAC - N, 12-01-2003]

16.19.28.6 OBJECTIVE: The objective of Part 28 of Chapter 19 is to establish the registration of sellers or dispensers of contact lenses.
[16.19.28.6 NMAC - N, 12-01-2003]

16.19.28.7 DEFINITIONS:

- A. "Board" means the New Mexico board of pharmacy, herein referred to as the board.
 - B. "Optometry Act" means NMSA 1978 Section 61-2-1 through 61-2-18 (1995 Repl. Pam.), herein referred to as the Optometry Act or Section 61-2-1 et seq.
 - C. "Contact lens prescription" means a prescription that shall explicitly state that it is for contact lenses; specify the lens type; include all specifications for the ordering and fabrication of the lenses; include the date of issue, the name and address of the patient and the name and address of the prescriber; and indicate a specific date of expiration, which shall be twenty-four months from the date of the prescription, unless, in the professional opinion of the prescriber, a longer or shorter expiration date is in the best interest of the patient.
 - D. "Replacement contact lens prescription" means a prescription prepared by a licensed optometrist containing the information specified in this section and written expressly for the purpose of providing lenses that have already been properly fitted.
 - E. "Contact lens" means any contact lens for which state law requires a prescription.
 - F. "Dispensing facility" means the building or structure for which contact lens are stored, shipped or distributed from.
 - G. "Seller/dispenser" means one who is in the business of the sale or distribution of contact lenses.
- [16.19.28.7 NMAC - N, 12-01-2003; A 06/30/06]

16.19.28.8 REGISTRATION:

- A. A person who is not a licensed optometrist or a licensed physician shall not sell or dispense a contact lens to a resident of this state unless he is registered with the board of pharmacy.
 - B. Pharmacies, hospitals and clinics licensed by the board are exempt from this regulation.
 - C. Registration will be submitted in forms provided by the board with the appropriate fee attached as a check or money order.
 - D. Fees for registration are listed in 16.19.12 NMAC.
 - E. Period of registration is for two years with renewals due by the last day of the expiration month listed on the registration.
 - F. Refer to NMSA 1978, Section 61-11-14F for application requirements.
- [16.19.28.8 NMAC - N, 12-01-2003; A, 06/30/06]

16.19.28.9 POLICY MANUAL: A policy manual containing at a minimum the information listed below shall be submitted with the registration application. The initial manual, must be approved by the board and any subsequent changes or modifications require prior approval of the board or its agent.

A. A contact lens may not be sold, dispensed, or distributed to a patient in this state by a seller of contact lenses unless one of the following has occurred:

(1) the patient has given or mailed the seller an original, valid, unexpired written contact lens prescription;

(2) the prescribing licensed optometrist has given, mailed or transmitted by facsimile transmission a copy of a valid, unexpired written contact lens prescription to a seller designated in writing by the patient to act on the patient's behalf; or

(3) the prescribing licensed optometrist has orally or in writing verified the valid, unexpired prescription to a seller designated by the patient to act on his behalf.

B. The prescription contains all the information necessary for the replacement contact lens prescription to be properly dispensed, including the:

(1) lens manufacturer;

(2) type of lens;

(3) power of the lens;

(4) base curve;

(5) lens size;

(6) name of the patient;

(7) date the prescription was given to the patient;

(8) name and office location of the licensed optometrist who writes the replacement contact lens prescription; and

(9) expiration date of the replacement contact lens prescription.

C. A person other than a licensed optometrist or physician who fills a contact lens prescription shall maintain a record of that prescription for three years.

D. Security requirements: restricting access, to all lenses and patient health records, to authorized personnel only.

E. Storage requirements: The registrant must have policies and procedures for maintaining the proper storage conditions for contact lenses. The lenses must be stored at the licensed location.

[16.19.28.9 NMAC - N, 12-01-2003; A, 06/30/06]

16.19.28.10 REGISTRATION LIST: The board shall maintain a current list of all registered sellers and dispensers of contact lenses.

[16.19.28.10 NMAC - N, 12-01-2003]

16.19.28.11 VIOLATION PENALTIES: Any person who violates any of the provisions of this part shall be subject to the provisions of the New Mexico Uniform Licensing Act.

[16.19.28.11 NMAC - N, 06/30/06]

HISTORY OF 16.19.28 NMAC: [RESERVED]