

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 39 ENGINEERING AND SURVEYING PRACTITIONERS
PART 7 MISC--PROCEDURES FOR REVOCATION, SUSPENSION, IMPOSITION OF FINES,
REISSUANCE OF CERTIFICATES AND DISCIPLINARY ACTION

16.39.7.1 ISSUING AGENCY: State Board of Licensure for Professional Engineers and Professional Surveyors, 2550 Cerrillos Road, Santa Fe, NM 875057, telephone no. (505) 476-4565.

[16.39.7.1 NMAC - Rp, 16 NMAC 39.7.1, 1/01/2002; A, 7/01/2006; A, 7/01/2015]

16.39.7.2 SCOPE: Provisions for Part 7 apply to persons certified as engineer interns or surveyor interns, persons licensed as, professional engineers or professional surveyors, applicants for either licensure or certification, and persons who engage in the business or act in the capacity of a professional engineer or professional surveyor without being licensed by the board.

[16.39.7.1 NMAC - Rp 16 NMAC 39.7.2, 1/01/2002; A, 7/01/2006]

16.39.7.3 STATUTORY AUTHORITY: Subsection B of Section 61-23-10 NMSA 1978 prescribes that "the board shall have the power to adopt and amend all bylaws and rules of procedure consistent with the constitution and the laws of this state that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and the conduct thereof. The board shall adopt and promulgate rules of professional responsibility for professional engineers and professional surveyors that are not exclusive to the practice of engineering or exclusive to the practice of surveying." Part 7 applies to both engineering and surveying.

[16.39.7.3 NMAC - Rp 16 NMAC 39.7.3, 1/01/2002; A, 7/01/2006; A, 12/28/2017]

16.39.7.4 DURATION: Permanent.

[16.39.7.4 NMAC - Rp, 16 NMAC 39.7.4, 1/01/2002]

16.39.7.5 EFFECTIVE DATE: January 1, 2002, unless a later date is cited at the end of a section.

[16.39.7.5 NMAC - Rp, 16 NMAC 39.7.5, 1/01/2002]

16.39.7.6 OBJECTIVE: The objective of Part 7 is to define procedures for revocation, suspension, imposition of fines, reissuance of certificates and disciplinary action. It is also to define actions constituting violations of the act.

[16.39.7.6 NMAC - Rp, 16 NMAC 39.7.6, 1/01/2002]

16.39.7.7 DEFINITIONS: [RESERVED]

[16.39.7.7 NMAC - Rp, 16 NMAC 39.7.7, 1/01/2002]

16.39.7.8 REVOCATION, SUSPENSION, IMPOSITION OF FINES, REISSUANCE OF LICENSES AND CERTIFICATES AND DISCIPLINARY ACTION:

A. The board may impose fines as may be determined by the nature of the violation pursuant to Section 61-23-24 and 61-23-27.11 NMSA 1978.

B. A lost, mutilated or destroyed certificate shall be replaced only upon the written request of the licensee and payment of the required fee. The reissued certificate shall show the original license number and original date, shall be signed by the current chair and secretary of the board in office at that date, and shall carry the notation "reissued (DATE)."

[16.39.7.8 NMAC - Rp, 16 NMAC 39.7.8, 1/01/2002; A, 7/01/2015]

16.39.7.9 VIOLATIONS:

A. For business entities using the words "engineering" or "surveying" in their titles or offering engineering or surveying services, the board's executive director shall write the business entity, enclosing an affidavit to be completed which identifies the member of the business entity who is licensed to practice in the state of New Mexico and who is an employee of and legally able to bind the business entity by contract. If no response to this request is received within 30 days, a second letter shall be sent by certified mail, return receipt requested. If the second letter does not result in a response 30 days from the receipt of a refusal, the matter may be turned over to the attorney general's office for action.

B. It shall be considered “a violation” under Paragraph (1) of Subsection A of Section 61-23-24 NMSA 1978 and Paragraph (1) of Subsection A of Section 61-23-27.11 NMSA 1978 of the Engineering and Surveying Practice Act for any engineer or surveyor to practice or offer to practice outside their field(s) of demonstrated competence or in contravention of any of the provisions of these rules. It shall also be considered “a violation” under Subsection A of Section 61-23-23.1 NMSA 1978 and Subsection A of Section 61-23-27.15 NMSA 1978 of the Engineering and Surveying Practice Act for any person to act in the capacity of a professional engineer or a professional surveyor without being licensed by the board.

C. The practice or offer to practice engineering by a licensee of the board in any state, territory or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board. The practice or offer to practice surveying by a licensee of the board in any state, territory, or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board.

D. Each applicant or licensee shall notify the board, in writing, within 90 days, of the imposition of any disciplinary action by any other applicable licensing board or any conviction of or entry of plea of nolo contendere to any crime under the laws of the United States, or any state, territory or county thereof, which is a felony, whether related to practice or not; any conviction of or entry of plea of nolo contendere to any crime, whether a felony, misdemeanor, or otherwise, an essential element of which is moral turpitude, or which is directly related to the practice of engineering or surveying.

E. The board shall comply with the provisions of the Parental Responsibility Act as they relate to the denial, suspension or revocation of certificates of licensure for non-payment of child support. [16.39.7.9 NMAC - Rp 16 NMAC 39.7.9, 1/01/2002; A, 7/01/2006; A, 7/01/2015; A, 12/28/2017]

HISTORY OF 16.39.7 NMAC:

Pre-NMAC History: The material in this part is derived from that previously filed with the state records center and archives under: PELS 67-2, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 6-22-67; PELS 68-1, By-Laws of State Board of Registration for Professional Engineers and Land Surveyors, filed 10-7-68; PELS 69-1, Bylaws of State Board of Registration for Professional Engineers and Land Surveyors, filed 7-3-69; PELS 71-1, Rules of Procedure Manual, filed 1-14-71; PELS 73-1, Rules of Procedure Manual, filed 1-4-73; PELS 75-1, Rules of Procedure Manual, filed 12-15-75; PELS 80-1, Regulations and Rules of Procedure, filed 1-28-80; Rule PE/PS Rule No. 89-1, filed 8-15-89; Rule No. 600.1, Regulations and Rules of Procedure - Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, filed 10-28-94; Rule No. 600.2, Regulations and Rules of Procedure - Violations, filed 10-28-94; Rule No. 600.2, Amendment 1, filed 10-18-95; and Rule No. 600.2, Amendment 2, filed 12-12-95.

History of Repealed Material:

16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 03-31-1998) was repealed 01-01-2002.

Other History:

Rule No. 600.1, Regulations and Rules of Procedure - Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 10-28-94) and Rule No. 600.2, Regulations and Rules of Procedure - Violations (filed 10-28-94); were renumbered, reformatted and replaced by 16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, effective 04-15-1998.

16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action (filed 03-31-1998) was renumbered, reformatted and replaced by 16.39.7 NMAC, 16 NMAC 39.7, Misc.--Procedures for Revocation, Suspension, Imposition of Fines, Reissuance of Certificates and Disciplinary Action, effective 01-01-2002.