

**PUBLIC RULE HEARING AND REGULAR BOARD MEETING**

**LEGAL NOTICE**

The New Mexico Board of Podiatry will hold a rule hearing on Friday, March 29, 2019, at 1:30 p.m. Following the rule hearing, the Board will convene a board meeting to adopt the rules and take care of regular business. The rule hearing and board meeting will be held at the New Mexico Regulation and Licensing Department, 2550 Cerrillos Road, Santa Fe, NM, in the Rio Grande Conference Room.

The Board of Podiatry is proposing the following amendments listed below to the New Mexico Podiatry rules and regulations to correct and update language, definitions and requirements. The proposed amendments include changed provisions applicable to all types of licensees. The amendments are intended to update continuing medical education, clarify definitions and provide uniformity in the application of the following rules. The amendments to the following rules listed below will be achieved through a repeal and replacement:

- 16.21.1 NMAC - General Provisions
- 16.21.3 NMAC - License by Exam
- 16.21.4 NMAC - License by Reciprocity
- 16.21.5 NMAC - Temporary License and Emergency License
- 16.21.8 NMAC - Continuing Education
- 16.21.10 NMAC - Lapse of License and Reinstatement
- 16.21.11 NMAC - Disciplinary Proceedings
- 16.21.12 NMAC - Management of Medical Records

To obtain and review copies of the proposed changes and public comments, you may go to the Board's website at: [http://www.rld.state.nm.us/boards/Podiatry\\_Rules\\_and\\_Laws.aspx](http://www.rld.state.nm.us/boards/Podiatry_Rules_and_Laws.aspx), or contact the Boards and Commissions Division at (505) 476-4622.

The Board is currently accepting public comments on the proposed amendments. Please submit written comments on the proposed changes to Roberta Perea, Board Administrator, via electronic mail at [podiatryboard@state.nm.us](mailto:podiatryboard@state.nm.us), or by regular mail at P.O. Box 25101, Santa Fe, NM 87504, no later than Thursday, March 28, 2019. Persons will also be given the opportunity to present their comments at the rule hearing. All public comments received in the board office will be posted on the board's website at: [http://www.rld.state.nm.us/boards/Podiatry\\_Rules\\_and\\_Laws.aspx](http://www.rld.state.nm.us/boards/Podiatry_Rules_and_Laws.aspx).

An individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service to attend or participate in the hearing, please contact Roberta Perea, Board Administrator at (505) 476-4622.

**Statutory Authority:** Legal authority for this rulemaking can be found in the Podiatry Act, Sections 61-8-1 through -17 NMSA 1978 (1977, as amended through 2015), which, among other provisions, specifically authorizes the Board to "adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Podiatry Act." Paragraph (2) of Subsection E of Section 61-8-6 NMSA 1978. The Board also shall, "adopt and promulgate rules setting standards of preliminary and professional qualifications for the practice of podiatry," Paragraph (10) of Subsection E of Section 61-8-6 NMSA 1978, and "determine by rule all qualifications and requirements for applicants seeking licensure as podiatrists or podiatric assistants," Paragraph (12) of Subsection E of Section 61-8-6 NMSA 1978. The Board may adopt regulations regarding temporary licensure. *See* Subsection D of Section 61-8-8, NMSA 1978 ("A podiatrist duly licensed in another state may, on a temporary basis, consult, advise or cooperate in patient treatment with a podiatrist licensed in New Mexico, subject to rules adopted and promulgated by the board."); and Subsection B of Section 61-8-14, NMSA 1978 ("In cases of emergency, as defined by board rule, the board may grant a temporary license to practice podiatry"). The Board may adopt rules regarding licensure by reciprocity. *See* Section 61-8-9, NMSA 1978.

**Summary of Proposed Changes:**

**16.21.1.1 NMAC, 16.21.3.1 NMAC, 16.21.4.1 NMAC, 16.21.5.1 NMAC, 16.21.8.1 NMAC, 16.21.10.1 NMAC, 16.21.11.1 NMAC, 16.21.12.1**

The changes for the above removed the word “NM” before “Board of Podiatry”, which is consistent with the title used in Podiatry Act.

**16.21.1 NMAC - General Provisions**

New “Board” definition was added for clarification throughout the document. A change to the “Scope of Practice” to bring increased clarification as to the anatomic location covered by the practice of podiatry. Also a change to “Responsibility of Licensee” adding “mailing” prior to address for clarification and “or email address” to update to current acceptable communication methods. “Public Records” and “Non-Public Records” were removed, In *Republican Party v. N.M. Taxation & Revenue Dep’t*, 2012-NMSC-026, 13, 283 P.3d 853, the New Mexico Supreme Court noted that the provision of the Inspection of Public Records Act that allows an agency to withhold public records “as otherwise provided by law” may include “regulatory bars to disclosure.” However, administrative rules only rarely provide an adequate justification to redact or withhold records. As noted in the Office of the New Mexico Attorney General’s Inspective of Public Records Act Guide, at 20 (8th ed. 2015), “In most cases, a regulation or ordinance, by itself, may not be used to deny access to public records.” Therefore, requests to inspect public records should be handled as provided by statute. Renumbering had to be made due to removing these sections.

**16.21.3 NMAC - License by Exam**

Updates have been made to the rule to align with current CPME residency training requirements. Clarifying the process for when applicants apply for licensure which will facilitate more expedient credentialing with hospitals and insurance plans.

**16.21.3 NMAC - License by Exam; 16.21.5 NMAC - Temporary License and Emergency License; 16.21.8 NMAC - Continuing Education; 16.21.10 NMAC - Lapse of License and Reinstatement; 16.21.11 NMAC - Disciplinary Proceedings**

Updating language to align rules with current board structure and expedite board processes.

**16.21.4 NMAC - License by Reciprocity**

Clarifying and updating rule language to align with current national testing requirements and practices. Also, updating language to align rules with current board practices and expedite board processes.

**16.21.5 NMAC - Temporary License and Emergency License**

Updating language and types of training programs that may be conducted in New Mexico. Clarifying temporary types of licenses. Removing redundant language and citing rules pertaining to temporary licenses. Updating language to align rules and expedite board processes.

**16.21.8 NMAC - Continuing Education**

Removing confusing language for clarification purposes. Updating language to align rules with current board structure and expedite board processes. Updating language and aligning process to current standards. Renumbering rules and updating syntax to be in correct format.

**16.21.11 NMAC - Disciplinary Proceedings**

Updating syntax, deleting unclear rule and renumbering.

**16.21.12 NMAC - Management of Medical Records**

Updating language, syntax and clarifying language